

<Case Collection—2>

## **Unfair Labor Practice in the East Airlines Corporation\*\***

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### **The Seoul District Labor Committee**

Labor committees in Korea are established and operated in accordance with the provisions of the Labor Committee Law. The objectives of these committees include investigating complaints of unfair labor practices, conducting impartial arbitration, specifying labor dispute procedures, and issuing desist orders to employers found guilty of following unfair labor practices. Currently, one central labor committee is in charge of handling nationwide labor disputes. Under this central committee are eleven district labor committees scattered throughout the country. In addition, the government ministers concerned are authorized to establish special labor committees as the need arises. The Seoul District Labor Committee arbitrates labor disputes which occur within the boundaries of the City of Seoul.

The central labor committee and each of the district labor committees are composed of three representatives from labor, three representatives from management, and three to five governmentally appointed members to act as protectors of the public welfare (See Figure 1).

### **The Korea Federation of Labor Unions(KFLU) and the National Federation of Labor Unions (NFLU)**

The Korea Federation of Labor Unions consists of sixteen industrial trade unions, which, as of May 31, 1965, had a combined membership of 287,471. The National Federation of Labor Unions is one of these sixteen unions. It includes 21 local chapters plus 168 subchapters, including an aviation chapter, a

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barbers' chapter, and a shoemakers' chapter. The total membership of the NFLU stands at 24,776. The NFLU Chairman, Mr. Lee, is well-known for his experience in organizing labor and in settling labor disputes (See Table 1).

On July 8, 1965, the Seoul District Labor Committee received a petition filed by Mr. Lee. The petition alleged that East Airlines Corporation (EAC) was conducting unfair labor practices. According to the petition, EAC's offense was to relieve a Mr. Kim from his copilot position and to transfer him from the Navigation Division to the Business Division. The transfer was made quite suddenly on July 1, 1965. Professor Oh of Seoul National University, who represented the public interest on the Seoul District Labor Committee, was asked to investigate the case.

### **East Airlines Corporation(EAC)**

East Airlines Corporation is controlled and owned by the Korean Government. (There are 26 such corporations in Korea.) EAC operates both domestic and overseas flights and is one of the leading airlines in the country. The company consists of a head office and several branch offices and is organized into two principal functional divisions—navigation, and maintenance and supply (See Figure 1).

In July 1965, EAC operated five passenger planes and employed 403 persons, who were classified into ten different types of jobs. Of the 403 employees, 108, mostly from the two principal divisions already mentioned, were members of the recently organized labor union (See Table 2).

Mr. Park, president of EAC, formerly a pilot in the Korean Air Force, had retired as a brigadier general. Most of the other EAC pilots, engineers, and mechanics had also been connected with the Air Force before their association with EAC. Mr. Kim was a retired lieutenant colonel and had been an Air Force pilot before joining EAC on December 10, 1963. For the first three months of his association with the company, Mr. Kim had been on a probationary status. After six months with the company, he had been promoted to the position of copilot. His performance record was excellent.

Mr. Kim was considered by his co-workers to be a mild-tempered and good-natured man. He was convinced that a union was necessary to protect the interests of the pilots and other employees at EAC, and Mr. Kim had begun discussing the formation of a labor union with fellow workers and the NFLU

staff organizers. He was known as a man whose activities had substantially contributed to the organization of the EAC union chapter.

After studying the case, Professor, Oh noticed several discrepancies between the complaints lodged by Mr. Lee, the Chairman of NFLU, and the contentions made by Mr. Park, president of EAC. The following summarizes the conflicting assertions:

**Summary of the Petition Lodged by Mr. Lee against EAC  
President Park for Unfair Labor Practice against Mr. Kim**

1. Mr. Kim was a charter member of the EAC chapter of the labor union. Until the time of his transfer, he had served as the chapter secretary, following the formal instatement of the EAC chapter on May 18, 1965, under the authorization of and recognition by the City of Seoul.

On June 25th, after formation of the EAC chapter, the company's union members asked President Park for the conclusion of a collective agreement and the establishment of a labor-management, joint council. President Park complied with the union's demands. He also transferred Mr. Kim, without any warning, to the Business Division from the Navigation Division, effective July 1st.

2. The petition requested that the Seoul District Labor Committee ordered the immediate reassignment of Mr. Kim to his original post. The reasons for the request were as follows:

- A. Mr. Kim's transfer to the Business Division had not been examined by EAC's Crew Qualification Examination Committee.
- B. The transfer was tantamount to a *de facto* deprivation of his pilot qualification.
- C. By the transfer, he lost a flight allowance averaging 15,000 won (about \$54) per month.
- D. There was no adequate reason for the transfer. The current number of pilots did not fill the number specified in the table of organization. Even if it were necessary to transfer a pilot to an administrative position, transferring the secretary of the branch labor union appeared to be a deliberate attempt to weaken the union. (See Appendix 1.)

**Summary of President Park's Reply**

1. Mr. Kim's transfer from one division to another within the corporation was

ordered strictly for internal administrative reasons. It did not adversely affect either Mr. Kim's pay scale or his status. The company had no intention of restricting the union's activities in any way.

2. Mr. Kim's transfer was not examined by the Crew Qualification Examination Committee because his transfer was not motivated by operational accident.

3. The loss of the flight allowance should not be considered a deprivation. Even a man assigned to the Navigation Division was not entitled to the allowance unless he actually boarded the plane. If Mr. Kim suffered economically, the opportunities for research in business activities offered to him in the new job should be adequate compensation.

4. Personnel changes are effected according to the personnel plan and policy of the corporation. The fact that the number of pilots was less than the number specified in the table of organization was irrelevant.

As a result of his investigation and interviews with various people, Professor Oh was able to add the following facts:

1. On July 3, 1965, just before submitting the petition, representatives of the union met with the President and demanded that Mr. Kim's transfer be cancelled within two days and that the union be notified of this action. An official written statement of these requests was delivered to the President in the afternoon of the same day. On July 6th, the President's answer was delivered to the union representatives. In it, President Park presented the same arguments which he later used with the Seoul District Labor Committee—that Mr. Kim's transfer was not unfair and that it, in no way, undermined activities of the EAC union chapter.

2. In an interview, President Part told Professor Oh that he felt that the union organizers had been extremely discourteous in failing to inform him that the union was being formed. The representatives, however, claimed that they did not tell the President because they were certain that he would object to the formation of a labor union. There was some evidence that, after learning of the union's formation, the President informally mentioned to key members that if pilots and copilots did not wish to be subject to personnel reshuffle, they should get out of the union. Because of this evidence, Professor Oh thought that it was reasonable for the charter union members to keep the President uninformed of their activities.

3. The Crew Qualification Examination Committee was an advisory council to the Director of Navigation, who was a member of the Personnel Committee, which, in turn, was an advisory council to the President. Therefore, personnel decisions were ultimately the President's. (See Appendix 2.)

4. Professor Oh learned that Mr. Kim did not wish to be transferred to an administrative job. Because Mr. Kim had not been given a particular assignment within the Business Division, he seemed to have few opportunities for promotion or research in business activities. Furthermore, Professor Oh did not believe that Mr. Kim's physical condition or age demanded a job change.

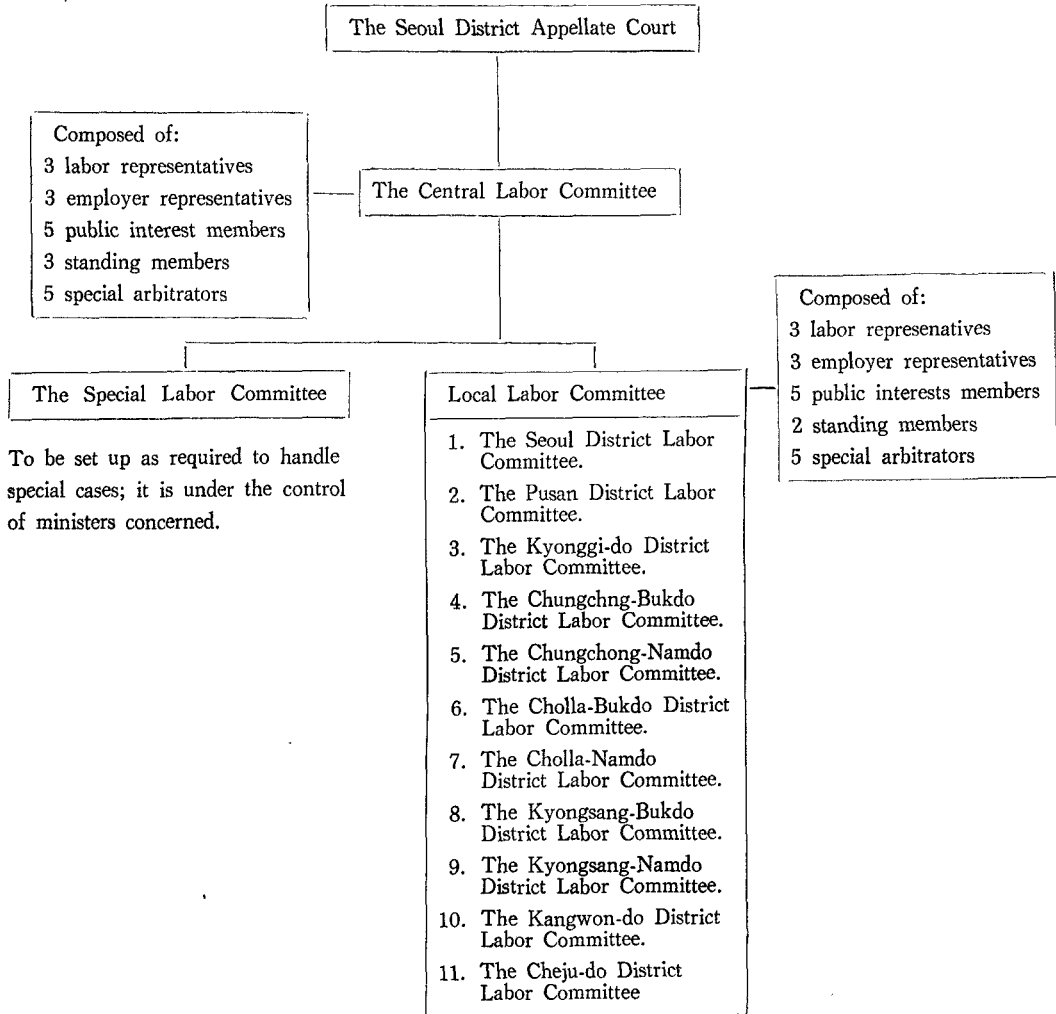
5. Since EAC is run by the government, its operational plan is subject to the approval of the Korean Economic Planning Board. According to the FY 1965 operational plan, EAC was to have 26 pilots against an annual flight time of 10,398 hours. At the time of Mr. Kim's transfer, EAC employed 23 pilots, which was not an unusually small number of pilots for normal operation. Eight of these pilots, however, were scheduled to depart in about a month for South Vietnam on a service contract with a Vietnamese airline. Five new pilots from the Korean Air Force were expected to join the corporation. Inasmuch as fighter pilots were not issued commercial pilot's licences without undergoing additional training, a shortage of pilots was expected soon.

6. EAC had a short history, and no precedent existed for a pilot being transferred to an administrative position.

**Questions :**

1. What is the verdict of the Seoul District Labor Committee on the petition for the unfair labor practice?
2. What do you think of EAC President Park's action taken against Mr. Kim? Were Mr. Park's attitude and policy toward the branch labor union proper and acceptable?

**Figure 1**  
**The Labor Committee and Its Organization**



**Table 1.**  
**The organization and membership of the Korea Federation of Labor Unions**  
 (As of May 31, 1965)

Unions by industry	Branches	Membership			
		sub-branches	male	female	total
1. National Federation of Labor Unions	31	168	20,060	4,716	24,776
2. Railroad Labor Union	12	181	29,194	902	30,095
3. Fiber Labor Union	23	42	5,050	28,397	33,447
4. Mining Labor Union	47	15	25,918	945	26,863
5. Electrical Labor Union	28	108	10,601	418	11,019
6. Foreign Agencies Labor Union	15	183	23,693	1,704	25,397
7. Communications Labor Union	4	117	7,105	2,703	9,808
8. Transportation Labor Union	13	252	13,997	174	14,171
9. Marine Labor Union	15	103	16,452	34	16,486
10. Banking Institutions Labor Union	10	297	5,061	2,765	7,826
11. Monopoly Labor Union	29	204	8,103	3,702	11,805
12. Chemical Labor Union	58	—	10,230	5,300	15,530
13. Metallic Labor Union	16	68	7,781	1,299	9,080
14. Harbor Labor Union	18	197	17,869	539	18,408
15. Publication Labor Union	8	4	1,278	297	1,575
16. Automobile Labor Union	13	197	23,168	8,017	31,185
<b>Total</b>	<b>340</b>	<b>2,136</b>	<b>225,560</b>	<b>61,911</b>	<b>287,471</b>

**Table 2.**  
**Number of EAC Employees by Job and Union Members**

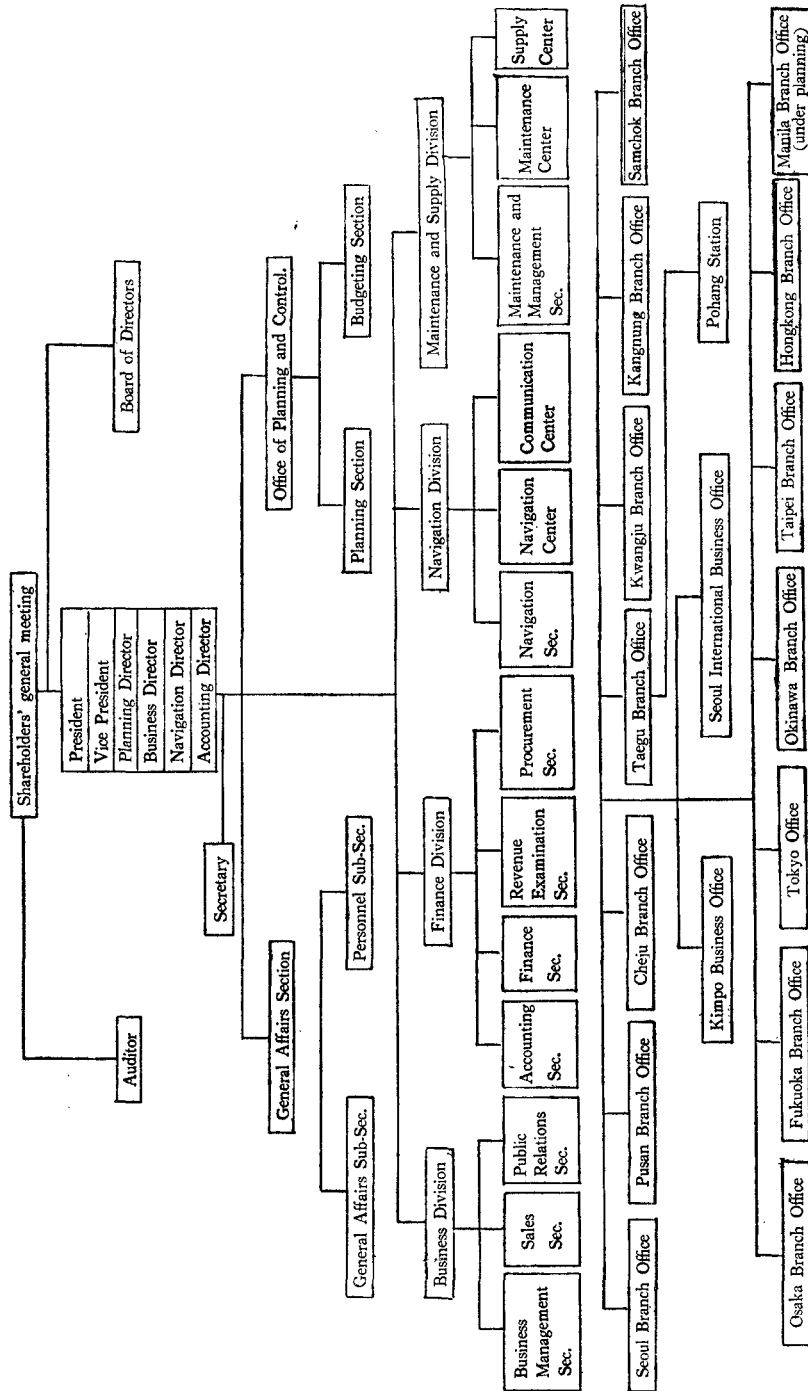
Job	Number	Union Members	Job	Number	Union Members
Clerk	53	—	Crew	17	—
Pilot	23	19	Supply	8	—
Engineer	13	65	Specialist	56	—
Mechanic	77	24	Others	20	—
Navigational management	4	—			
Business activities	132	—	<b>Total</b>	<b>403</b>	<b>108</b>

Note: Since the union was at the development stage, main effort was directed at the Navigation Division and Maintenance Division.

**The Number of Airplanes**

Type	Number
DC-3	2
DC-4	1
F-27	2
<b>Total</b>	<b>5</b>

Figure 3.  
Organization of the East Airlines Corporation





**Appendix 1**  
**The Labor Union Law**

Law No. 1329 Promulgated on April 17, 1963  
Amended by Law No. 1481, December 7, 1963

**Chapter IV**  
**Unfair Labor Practice**

Article 39. (Unfair Labor Practice). An employer shall not commit an act falling under the category of any of the following items (hereinafter referred to as “unfair act of labor”).

1. An act dismissing a laborer or an act discriminating against a laborer on the ground that the laborer has joined or tried to join a labor union, or has attempted to organize a labor union, or has committed a legitimate act in the operation of a labor union.

2. An act fixing a condition for employment that a laborer does not join, or withdraws from a specific labor union, or an act fixing a condition for employment that the laborer become a member of specific labor union. However, the provision of this item shall not be applied to the conclusion of a collective agreement which makes it a condition for employment that the laborer become a member of a labor union, in case the labor union represents two thirds or more of the laborers engaged in the workshop,

3. An act rejecting or neglecting, without justifiable reasons, conclusion of a collective agreement or any other collective negotiations with a representative of a labor union or with an officer by a labor union.

4. An act controlling, or interfering with the laborers in the formation or operation of a labor union, and an act subsidizing the operation of a labor union. The employer shall be permitted, however, to allow the laborer to conduct negotiations or bargaining with the employer during working hours, and the employer shall be permitted to donate welfare funds or funds for the prevention of or relief from economic troubles and other disasters, or the employer shall be permitted to offer an office building at minimum cost for the use of the labor union.

5. An act dismissing a laborer or an act discriminating against a laborer

because the laborer has joined in legitimate collective action, or because the laborer has reported or testified to the Labor Committee that the employer has violated or is violating provisions of this law, or because the laborer has presented evidence of violation to the administrative office.

Article 40. (Application for Relief).

1. A laborer or a labor union, whose rights have been infringed because of an employer's unfair labor practice, may request the labor committee for relief therefrom.

2. The application for relief prescribed in the foregoing paragraph shall have to be made within three (3) months from the date of the commission of the unfair labor practice (in case of a continuous act, from the date of the completion thereof).

Article 41. (Investigation and the Like).

1. Upon receiving an application for relief as prescribed in the foregoing article, the Labor Committee shall conduct necessary investigations and query the persons involved without delay.

2. When conducting the query prescribed in the foregoing paragraph, the Labor Committee may, upon the request of the persons involved or *ex officio*, have a witness present himself at the scene and question him on necessary matters.

3. When conducting the query prescribed in paragraph 1, the Labor Committee shall give adequate opportunity to the persons involved and the witness to present evidence and to conduct a query thereagainst, respectively.

4. Procedures concerning the investigation and the query by the Labor Committee as prescribed in paragraph 1 shall be in accordance with what has been independently stipulated by the Central Labor Committee.

Article 42. (Order of Relief).

1. Upon completing the query prescribed in the foregoing article and having determined that an unfair labor practice took place, the Labor Committee shall issue an order of relief to the employer; if, on the other hand, it is determined that an unfair labor practice did not exist, the application for relief shall be rejected.

2. The judgement, order, or rejection prescribed in the foregoing paragraph shall be made in written form, and the document shall be delivered to the

pertinent employer and the petitioners, respectively.

3. When an order prescribed in paragraph 1 has been issued, the persons involved shall be obliged to follow the order.

Article 43. (Finalization of an Order of Relief).

1. A person involved, who has an objection to the order of relief or the rejection of his petition by a Local Labor Committee or a Special Labor Committee as prescribed in the foregoing article, may request a review by the Central Labor Committee within 10 days after receiving notification of the order or the rejection.

2. With regard to the order of relief or ruling for dismissal given by the Central Labor Committee or the adjudication for review rendered by the Central Labor Committee as prescribed in the foregoing paragraph the person concerned may undertake administrative litigation in accordance with the provisions of the Administrative Litigation Law within 15 days from the date on which a written order, ruling, or written adjudication for review was served to him.

3. If an application for re-examination has not been made or administrative litigation has not been undertaken within the period prescribed in the two foregoing paragraphs, the said order of relief, rejection, or the judgement after review shall become final.

4. When the rejection or the judgement after review has become final in accordance with the provisions of the foregoing paragraph, the parties concerned shall be obliged to abide thereby.

Article 44. (Validity of an Order of Relief). The validity of the order of relief, rejection, or the judgement after review by the Labor Committee shall not be suspended by an application to the Central Labor Committee for review or by the undertaking of administrative litigation.

## Appendix 2

### **Regulations concerning EAC Crew Qualification Examination Committee**

Article 1. (Purpose). The Crew Qualification Examination Committee (hereunder referred to as the Committee) is an advisory organ responsible to the Navigation Director. The Committee shall conduct examinations for pilots and flight crew and their qualifications and shall supervise proper training and management of personnel administration for pilots and flight crew with primary

emphasis placed on maintaining safety in navigation.

Article 2. (Matters Subject to Committee Examination).

1. Promotion of copilot to the status of pilot.
2. Government examination for pilots. Examination of pilots and flight crew who apply for a second physical checkup after an unsuccessful initial physical examination, or those pilots or flight crew whose training shows slow progress, or those whose examination is considered necessary by the Committee.
3. Examination of other flight crew or trainees considered necessary by the Committee.

Article 3. (Organization).

1. The Committee shall be organized with the following members.
  - a) Chairman    Navigation Director
  - b) Members    Chief of the Navigation Division  
   Chief of the Navigation Stations  
   Senior Pilots
2. When it is considered necessary, the Committee chairman may permit attendance of the Committee sessions by observers whom the chairman selects.

Article 4. (Management).

Article 5. (Examination by Circular Bulletins).