

# QIKJS-Part.IV.D

## Qualitative Inquiry of Korean Judicial System

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Mini-Project on the Qualitative Method

### Research Questions

How does the congress interact with other branches or interest group in shaping the PAKJS?

How is the PAKJS distinct from other areas of public policy?

How had the discursive power relations impacted the PAKJS?

How do we understand the PAKJS in terms of Weberian bureaucracy?

How do we view the policy network dealing with the PAKKS?

### Data Collection Tool: In-depth Interviews

The interviews have been conducted with three interviewees, who had grouped into the senior attorneys or administrators. Interestingly, they are characteristic that potentially have a different version of explication on the PAKJS. Since the topic requires investigating the actions, interactions and processes of policy actors and interested players, the interview tool would be indispensable to collect the data and thread the themes and patterns with the adequate strategies of analysis (Miles, Huberman, Saldana, 2013). Observation would be a less adequate means to collect the data that the words and interpretations or the kind of linguistic turn would be so stranded through the research questions. Three interviewees had been precious to give an important thread involved with the patterns and themes, as well as finally into the assertions and propositions (Hoover & Donovan, 2003).

One interviewee, designated A in my purpose, has been recently incumbent on the chair of judicial committee within KNA. He is an elected congressman who now has to be tough with a new election possibility in the coming election. He also has the background as a senior attorney leading the mid-size law firm. I consider he is serving the post most knowledgeable and conclusive in terms of PAKJS concerning the reform agenda and pending proposals. He is believed to give a top comment as the final authority of shaping the PAKJS recently. Another interviewee is also senior administrator, but has not a qualification as a

lawyer. He is one of respected local politicians with the background of decades to struggle as a democrat in Korea. He is regionally strong in his public profile that was allegedly discriminated from the political center and now role back to be contentious in terms of political regionalism. The days for 2016 election have currently turned fermented that brought a new party politics with the dissolution and reintegration of existing parties. This phenomenon perhaps would not be universal, but Korea had continued to experience. Since the election is politically most determining event, it could be understood positively in some light, but often ethically challenged by the conscientious democrats. The hindsight may suggest that the political regionalism and a recent decade of political restructuring through the two presidencies of traditionally opposing party between D.J. Kim and M.H. Noh would impact the transformation of opposing parties. In any case, B is a very promising candidate in the coming election and gave a comment for the various public issues including the judicial reform. The last interviewee, C in my case, is a useful figure, who would be the kind of living legacy through the modern Korean judicial system. He was educated and qualified as an attorney in the system of Japanese culture. He was a witness of legal acculturation that vividly lived through the age of that influence. The classic years in my characterization and the period of militaristic rule is also very pertinent to understanding his legal career. It is generally known that he is a successful lawyer, who built a personal wealth and earned a reputation as the managing partner for the large patent law firm. His social contribution also is remarkable that received the reputed international award as a Korean lawyer, who has been called, thereafter, a unique Nobel awardee of Korean origin in the law field. He may properly be viewed as one of inspirers to inculcate and promise the young attorneys closely relating with my topic. In that character, he wrought on his personal story with the book title, "Free Spirit" in 1990, which is one of best sellers in the top sales list of Korean book stores. Three interviewees were aged respectively, 60, 62, and 88. The Café was decorated in calm environment with the pictures on the wall, and can well be insulated from noise or other interruptions. We have ordered Orange juice, and the interview flows smoothly through two hours. I may provide some part of transcription later stored as the data, and the kinds of analysis on the responses.

### **Data Analysis Strategy**

Given my research would be a descriptive or interpretive qualitative one, the general approach had been applied. The flexibility during the analysis phase could allow (i) if the researcher needs to take the procedures in response to the ongoing analysis (ii) that he or she appreciates and accepts the critical challenges with self-reflection and emerging results (Miles, Huberman, Saldana, 2013). Checking and auditing with careful archiving of each step of the analysis for later is basic to increase the integrity and quality of research process, which has to be coupled with the systemic and organized manner of research process. It could make a benefit for the researcher, who had to easily locate information from the data set and trace the provisional results of the analysis. As one strategy to deal with my grounded theory research, I have adopted an axial coding, which takes the form of a set of general domains that are used to organize the data. As the backbone to analyze the interview results, it had worked through the data preparation, delineating and processing meaning units, finding an overall organizing structure of data, generation of categories, abstracting the findings and validity of analysis. It was natural that different sets of meaning units describe different

aspects of the phenomenon as you see below. In this stage, the researcher can work on domains, some very broad headings, in which coding or categorizing within each domains would be conducted. The generation of categories offers the basis that the researcher could describe and interpret the whole phenomenon contained in the gathered data, what we call a taxonomy (2013). You can see the meaning units, categories and taxonomies as the result of my analytic process.

(Meaning unit 1)

The ruling party, *Saenuri*, has promised to execute many important judicial reform plans in the last presidential election. They included a removal of central investigation bureau within the KPO, and reduction of prosecution power potentially usurped to the political arena. It also will deal with the chronic reform issue to coordinate the competence of public offices between the national police and KPO. The corrupted or unethical prosecution officers also would be a target of reform along with the strengthening of independence and neutrality that the two parties mutually agreed to effectively execute in the available sessions of KNA. The lady president made several occasions of public pledge for the reform of KPO, which should be firm to the end of successful policy implementation. The opposing party, *Minju*, has successfully ignited to thread on the major policy issues of reform in the past roundtable concerning the Organizing Act of Government. Most significant accomplishments would be the proposal of the Standing Independent Counsel, Special Supervising Officer and Removal of Central Investigation Bureau, all of which was initially not included in the transition workforce of lady president. The KPO has continued to retroact the opposing parties and politically chilled their activities over the past five years of administration. The public distrust on KPO and passive judiciary had surged obviously, and the reform of KPO is an immediate agenda at utmost policy priority. It suggests that the KPO will respect the reform proposal, recover its independence and neutrality, and be reborn as a trusted public institution.

(Meaning Unit 2)

The liberalization of legal service market prompted the import of foreign law firms, which means the competitiveness would be a unique measure to survive. It can signal the crisis of national lawyers and domestic legal service market. On the other, it could be an opportunity, if risky, that depends on their strategy or alternatives. An important note is that the big size foreign law firms would not be plenary in competition. The national law firms can raise their advantage that could be competitive with the more knowledgeable local information, well organized professional network, and expansion of expertise into traditionally unheated areas. All in all, the market depends on the clients that consumer-tailored legal service is most crucial in lesson. Another issue on the judicial reform is to cure the unwarranted traditional practice, such as nepotism or privileged attitude within the community. This has to be redirected to the paradigm that we citizens normally envisage within the liberal democracy and constitutionalism. This self-purification within the system itself seems most important along with the upgrading of input and the increasing of legal demand from the public. That said, the judicial reform is indispensable to confront the global challenge and with the improved providers of professional service.

(Meaning Unit 3)

I feel much charged that have to be responsible as a chief of SJCKNA (special judicial committee in Korean national assembly) in the new administration. The SJCKNA is termed till the end of September. Since, the time schedule is not generous with compressed sessions. However, it is my firm commitment so as not to discourage the expectations of forks.

I know the public criticism that the past SJCKNA yielded poorly without any tangible outcome. A stiff opposition from the KPO took a boarding to make the proposals neglected or resilient. Now the policy network turns positive of reform that the KPO is less defensive and shares an awareness of reform need. My expectation is that the KPO will not be such determinative to impede the legislative process in the 18<sup>th</sup> congress.

As stated, the past SJCKNA had faltered because of opposing KPO which originally precluded the conference session or no returns whatsoever. At this time, policy environment turned foundationally that both parties conceded the necessities of reform through the past presidential election. They actually seemed affected of earlier possible institutionalization of reform agendas. The vantage points that have to be implemented in this term are included in the inaugural agreement of SJCKNA. As you might know, they include outsourcing of key posts within the KPO, empowerment of appointing committee with substances and requirements, attorney registration to penalize the corrupted or unethical prosecution officer as most immediate deals. They will be referred earliest possible to the JCKNA once passed by the SJCKNA.

Currently, the JCKNA is idle without any responsive legislative proposals that could implement the public value of three agreed agendas. The SJCKNA is a good acting agency to support the knowledge and learning of JCKNA, a parent agency, that we now plan to hold public conferences or special session meetings for the effective collaboration with the JCKNA.

(Meaning Unit 4)

Upon the disorganization of CIB (central investigation bureau), the central local district of KPO and special investigation agency of National Police will be a replacement of that function. The exception will be provided if the jurisdiction has a national compass and the appellate prosecution office would be more adequate agency to investigate. The task force temporarily ordered will be charged to investigate. New organization will be instituted titled the Prosecution Civic Committee that the politically sensitive or important public cases will be reviewed *a priori* by that organization about the indictment decision. Its membership and organizing principles will be modeled after the grand jury or semi-jury pool likened to the US institution.

We are receptive of the verity, “equal protection of laws to every body.” Nevertheless, it is unfortunate if people feel that the law is the arms of stronger in the community. The Korean nepotism, “career profit for the retired high ranking officers” is serious that the legislative proposal passed into an act the last day of past month. It includes the reporting requirement of law office’s earned record for a certain period time against the lawyers of statutory scope. Most important is the notion of such lawyers for the professional ethics and trending communitarian passion of nation. This is supposed less amenable or

strategic in terms of formal policy, but the kind of ailments relating with the practice of society.

The separation of authority between the public prosecution and criminal investigation is the kind of entrenchment long argued and contended by two national institutions. The criminal investigation will need to be shared in the framework that the national police acts independently from the KPO. A rational distribution seems to be some guiding light in instituting the scope and limitations of criminal power within each agency. This policy issue will see no hard challenge since the two major parties agreed on the basic direction of restructuring. The most important value in this concern is not the power struggle involved with two organizations, but the convenience of people as policy addressee. It is true that past administrations have been the kind of puffery beginning loudly, and termed fruitlessly. The lady president raised her direction in a firm tone since she was elected to be the presidential candidate and promised to be an ironclad for the stronger policy reform of KPO. Both parties are cooperative despite their different party ideals, and the SJCKNA embarked its commission with the basic framework agreement. This shift of policy environment is very encouraging in my view.

The KPO and national judiciary stand on the public trust, and I believe that most officers and judges have done well thus far. The current controversy would just be the easy practice that should have to be changed. It is problematic if they are sided to favor the corrupted or unethical professionals by a light punishment or resignation to end all the culpable misconduct. I pledge to make the policy of judicial system loved and supported by the people. In this context, the encouragement of SJCKNA by the people will promote our commission for the desired judicial institution that we aspire to have.

### **The Categories**

The Role of Congress on the PAKJS  
Special Character of PAKJS in its Policy Making  
Discursive Power Relations  
Judicial Bureaucracy  
Policy Network on the PAKJS

### **Results with the Themes and Patterns**

First, the congress is most formal and debate-convenient in terms of public policy making (Lindblom, Woodhouse, 1992). The response from the interviewees simply evidences this theme that the committee will host the public conferences for learning and public awareness. This can be compared with the process of executive branch or secretariat of Blue House. Since the national assembly has the power to legislate, it often would be the final authority to enact the public policy.

Second, the area of public policy is very resilient meaning that the policy network is dominated by the professional circle itself (Gerston, 2010). Their concern has the same logic and interest as proposed by the kind of Bourdieu's view of socio-capitalism or meta-capital. Importantly they are sophisticated enough to defend their interest. More importantly, the major policy makers would be themselves that could potentially make the proposals resilient and rejected if they see any conflict of interest with the traditional privilege or practice. We

need to note that even the kind of more political agenda dealing with the protection of farmers for FTAs with China could not be successful that was concluded against the interest of potentially vast voters, Korean farmers. The agendas of judicial reform had been more than contested involved with the restructuring of market and virtually made dormant without the progress when concerned of other items, such as jurisdiction of criminal investigation and removal of CIB.

Third, the power relations structured by the international capitalism are more definite leading to the policy change that interested parties could less be voiced to claim their interest (Springer, n.d.). This implies of several lessons in terms of public policy making, (i) the war of trade or commercial states is notorious that most of policy makers are committed to the terminology of that discourse (ii) the classic notion of limited state and associated stringency of thought within the eminent dualism between the private and public would preclude – at least weaken – any more powerful measure so that possibly insulate the national commerce from the level playing field within the international trade (iii) the policy making to deal with the socio-capitalism can be distinct to incorporate a scope of factors, not limited to simply “regulate or deregulate,” that is cultural and intellectual as well as social. In other words, the simple dichotomy with the cost benefit analysis cannot be adequate when we involve with the issues of law school reform or liberalization of market open to more competitive big size foreign law firms. It entails the social, cultural and educational implications, even value and moral dissention that cannot be quantified. For some circle of affected professionals or group, the Foucault’s critiquing can have a fit for the self reflexivity or identity politics within the power relations.

Forth, the Weberian concept of rational authority to define the modern bureaucracy is well being toned in terms of PAKJS when the issue goes into the area of KPO reform or supreme court. As the response within the meaning units shows, the dissection of criminal power into two authorities will be borne to any plausible solution based on the rational consideration of organizational variants and policy effect. As they are public agents and disinterested policy makers, it can be contrasted with the kind of Marxian radicalism about the conspiracy partnership between the government and capital. The Weberian framework to delve into the nature and philosophy of bureaucracy -- not the government or supreme power itself, yet to be similar to be called quasi-government -- would be a proper lens in understanding the policy process of PAKJS.

Fifth, the official policy network can be implied of the response from B (Gerston, 2010; Lindblom, Woodhouse, 1992). The president stood at the center of policy making that the floor leaders or committee chair often borrows her influence to forge their political business. This simply shows the fusion of party politics against the textual separation of tripartite branches of government. *Saenuri*, a ruling party, has a majority status within KNA along the presidency, meaning they enjoy the political monopoly in terms of policy making. The situation would be that, if gone to be arbitrary, the traditional metaphor, say, distrust of politics, may be apposite by the judiciary to claim their constitutional authority. The reform agendas will be treated as concerted with the accord of two major parties that virtually no impediment can be imaginable. Nevertheless, the administrations over the decades have not been successful to implement the agendas or programs. The kind of midnight regulations exploiting the transition of presidency also had not occurred in Korea. The implications come in several ways. The policy area would not be deemed a hot potato that the policy makers and interested parties can procrastinate on the issue. The politicians are more touched of party

nomination or reelection possibility than the reform, which is viewed cultural or flexible to the supervised police or KPOs. Of course, more realistic explanation would be that the KPO would be some turf as hoped to monopolize the criminal power, hence, resistant to the change demand.

### **Effectiveness of the Tool**

The interview data exposes fairly an important implication for the changing legal service market and in terms of bureaucratic or policy process theories (Kim, 2015a,b,c,d). Given the public policy deals with the capitalistic paradigm of market and rule of law ideals, the restructuring of legal service market can be viewed to respond with the power relations embedded in the liberalization and globalization expansion of international capital. The response from B, a Korean congressman, elicits the role of congress that has to shape the public policy of international consonance. This simply evinces that the collegiate body is a central organ in terms of national policy making, and important public forum that learning interchanged and discussed to resolve the power relations through the national and international value. A fusion occurs into the national policy that the interviewees had been succinct with the policy environment and international commitment of Korea. As Korea depends heavily on the import and export trade as well as one of forerunners as a rising capitalist economy, and institutionally a member state of WTO, the view of interviews is ineluctable that the market adjustment should happen. As the concept of meta-capital can be applied to the market, the reform can thrust much impact on the professionals. Hence, the endemic culture implicit within the professional circle could have a repercussion to rethink their lives as an attorney. There could we be informed about several implications, and the in-depth interview had really been striking through my research process. Nevertheless, it has equally proved that the effectiveness of data collection tool depends on the skills of researcher, as importantly demanded of well-designed interview questions and protocol (Miles, Huberman, Saldana, 2013).

According to Kvale, the interview questions preferably include 9 different types, which best comes in comport with the nature of study, say, qualitative inquiry and in-depth investigation of participants. For example, the probing question needs to be actively used instead of yes or no question, what we say open-ended question contrasted with yes or no question and scaled inquiry. The specifying questions will also be used, such that “what do you think then or how did your body react, or have you experienced this yourself?” Through the interview process, silence may be timed to allow the researcher for reflection of past discussion and furthering on the questions and responses. The interpreting question and the kind of follow up question need to be wisely used showing the in-depth nature of interactive approach toward the construction of meanings and stories. Occasionally the structuring question can facilitate the interviewees to note the theme change of interview questions. Most importantly, the in-depth interviewers need to be properly equipped with the skill or experience to respond with the development of interview process on site. The interview protocol or guide can be useful that often will be practiced before the researcher enters the real interview situation (Trochim & Donnelley, 2006). He or she has to fully expose the interviewees to the aim of the interview, research ethics, and identity of researcher. Since the interview requires a time and energy of both sides and perhaps precious opportunity for the field data, it is vitally important to devise the questions smartly aligned with the research

questions and relevant to your purpose. The logical sequence and thematic grouping of questions can serve both sides in the interview process and will facilitate the work of data management or analysis for the interviewer, often the researcher himself. Interviewees should not be manipulated or affected by the researcher so that he needs to take care in using so-called leading question. It is advised not to be used in the normal context of qualitative research. The interviewer also has to know that the ordinary interviewees has to be less restrained to the steering of interviewer, which is a good point of strength for the productive and frank statement from the interviewees (2006). In this case, the job of interviewer is challenging that he should be minded or make it prepared to easily move back and forth between questions or topic areas. Make sure your questions are clear and easy to understand - only use technical or academic language if you are sure your interviewee will understand what you mean. The interview questions will be more effective when using an easily understood language not to embarrass or confuse the interviewees. In this light, the language style will be triple in use among the interview, research questions and the final write-up. This means that it is generally less practicable that the researcher may do better by avoiding jargons or professional terms in the problem statement or phrasing the research questions. The aspect will turn sterner to prepare the interview questions ensuring it as easy and clear.

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