

# QIKJS-Part.IV.F

## Qualitative Inquiry of Korean Judicial System

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### Public Policy on the Korean Judicial System

#### Opening Statement

One critique, named *Koh*, today has not been devious in the annual supervisory session of KNA 2015, in which he responded with a definitive comment, “M.H. Noh and his disciple, J.I. Moon are communist advocates.” He further witnessed upon the question of assemblymen, “we could never exclude high odds of many communist judges or prosecutors currently and prospectively.” The rough atmosphere and slim public guess turned just not to be unfounded given his long years of observation and influential public position, as a head of national mass media supervision. Given the judicial system represents as one of tripartite branches and reflects the national conscience and intellectual commonality, the testimony thrusts a need of serious attention and follow-up verification. The phenomenon casts revisiting the kind of inquiries, for example, how the Korean communitarianism properly marks over the triad of thoughts spectrum among the liberalism, communism and bureaucratic ethics or philosophy. Upon the post-1987 constitution, the value of social diversity and pluralism had been strongly reinforced with the freedom of expression. The political culture certainly turned to face with a paradigm change from the expressly or impliedly uniform society with respect to the Korean attitude or even beliefs, such as national growth, conservative political liberalism to confront the northern enemy, or tolerance with the goaled and spirited leadership. For example, many victims would prove the influence of politics or policy making on the judicial system, who failed the last screening process for the post of judges on the ground of his or her public record of student demonstration (O’Sullivan, Rassel & Berner, 2008). My topic deals with the public administration of Korean judicial system (PAKJS), which holds a focus on the selected stage of policy change and strategic reforms of Korean judicial system (KJS) in terms of the elements of public policy, such as diffusion of innovation, punctuated equilibrium theory as well as the social philosophies, bureaucracy and legal professionalism. It will be designed to explicate the characteristics, variables and relationships underlain in the public administration of judicial system (PAJS) and PAKJS, which hopefully can provide an understanding, comparison, perspective, practical or scholarly lessons for the policy makers and concerned actors or intellectuals.

#### Background of the Study

Given the role of judges and lawyers are important in the process of this area of policy making, the bias or flaws of input would bring a serious consequence on the Korean public. Nevertheless, a systemic analysis would lack within the scientific community, government and public authorities, which would be one aspect needed of social change. They had long been reticent or stay with an ad hoc pointing out of phenomenon, in which they are less participatory or active and even unfrank. A cohesive account on history and transformation of environmental system could nurture the better view, alternatives and even solution in response with the current status of PAKJS. Although the kind of inquiries, how agendas are setting or processed or how subsystem plays out in shaping a public policy of judicial system are vital as an important thread, the dialogue had been fragmented or even un-minded that the social change is necessary (Kraft & Furlong, 2012). For example, the players and actors would be retracted to advert on the northern threat if such attitude is just a faltering of controlled society in their mindset. It would be unfit with the new liberal paradigm in their perception. While the advent of nuclear powers upon the Korean war generally reduces the chance of another Korean war, it is, however, questionable for some circle if we can be liberal as same as other advanced nations. The same inquiry is not just for the 2015 Korea, but we may retrospect the militaristic government asking if the usual admonition of war probability by the political leadership is trustworthy. That is because the leadership had been a powerful thread driving the public to be haunted with their mottos and policy direction. In some cases, it is alleged that the creation of war threat had been a useful policy tool to perpetuate or prolong the lifetime reign of leaders. This point also can be analyzed comparatively with other post-colonial republic, which might be successful or lagged behind with the developmental goals. The phenomenon implies, for example, that the aspect of PPA generally would be more consequential about its impact and national identity than the judiciary or judicial system in case of Korea and, perhaps, similar with other post-colonial republics (Jones, 1997). That would be in some contrast with US in which the role of judiciary is fairly preaching and even binding over the policy makers, although the voice of critiquing the attitude of US supreme court as political justice along the Iraqi war. Nevertheless, the post-1987 Korea turns to get closer to the judicial role of US in which the constitutional culture began to flourish, which, as perverted in this period, created the public culture potentially exaggerating the role of judiciary. That generally militates against the kind of reality as the US faced with the treatment of Iraqi aftermath, but also comes shared in some area, such as anti-sedition act of Korea.<sup>1</sup> While the phenomenon, therefore, is distinct according to the group of countries and specific nation, it tends to converge with the speedy reform in some

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<sup>1</sup> The Korean judiciary has been and seems to persist as stern so as not to emancipate the criminal paradigm of anti-sedition act in the awareness of political reality with the northern enemy. In this sense, the hypothesis that the judicial branch and its subsidiary system could possibly established that they play distinctively with the reform issues with other branches or public organizations in that they less come on role with the international politics or national security issues, but conservative or deferent to the PPA authority. The hypothesis tends to transcend or deny the notion that the public organizations or branches of government would be a creature of changing environment in case of PAKJS or PAJS when we consider the output aspect of judiciary. That is exemplarily because the practice over history in Korea consistently proves the conservative nature of response with the kind of challenges. However, the input process, other than throughput or output, would be more reformable, which would be an important avenue that the policy makers would influence the judicial performance. This also generally corroborated with the thesis of SPP and constitutional value of judicial independence.

aspect of consideration. This tendency corroborates with the thesis of PPA, such as “how much the learning factors the diffusion of policy.” In some cases, the literature of Korean source is helpful for the overview, or thought provoking with the deals of critiquing. Nevertheless, the detailed disclosure of process, action and interaction as well as analysis of phenomenon penetrated through the political philosophy or scientific concepts and terms had been lacking, which characterizes the PAKJS as a new theory adapted with the ambit of PPA discipline.

- The study was not only motivated or aided with several articles and books relating with the political and historical examination of KJS or PPKJS as well as those of public policy studies. Lee Y.R. (2013), Kim, M.S. (2013) and Lee, Y.M. (2011) had provided the account and propositions based on the perspectives of Korean legal history. Ham, S.H. (2014) had explored the recent transformation of KJS on the idealistic framework, but still must be seen incomplete and needs to be critiqued because of its theme of juristocracy character than democracy.
- Hwang, S.H, (2014) and Yang, C.S. (2013) published the articles concerning the practical aspect of recent transformation that had been charted in the third period, and explained the vantage points of strategy that is necessary to improve the situation.
- Gilardi F. (2010), Baybeck, B, William, D.B., and Siegel, D. (2011) provided the contemporary implications of policy diffusion theory dealing with the importance of learning or government competition . Wood specifically dealt with the agricultural sector to see the dynamics of incrementalism or importance of judicial role as a posteriori (Wood, 2006).
- Baumgartner, F.R. (2013), Green-Pederson, C. & Walgrave (2014) had explored the importance of agenda setting in the policy decision making or its process, and gave many insights on its nature, levels of policy change, the status quo and PET as well as the comparative context of major countries.
- Three overarching strategies to enhance the policy making process was considered with great insights by Weible, C.M. Heikkila, T., deLeon, P, Sabatier, P. (2012).
- In May, 1999, the presidential commission on judicial reform had been inaugurated. The commission was created to promote the human rights and facilitate the social justice by providing an effective and speedy legal remedy. It also is responsible to create and review the reform policy of judicial system to address the challenges of globalization and liberalization of legal market.
- The Judicial Monitoring Center was organized with the initiative of the CPD (Coalition of Participatory Democracy) in 1994. The organization shingles out six missions of organization, proposal of reform agendas and legislative lobbying, the reform of supreme and constitutional courts and prosecution offices, agendas on the professional responsibility and ethics, public critiquing of judgments and court opinion, and other miscellaneous (Gilardi, 2010).
- The globalization committee 1995 had been embodied that the globalization plan was created to address the reform of legal education and professional service. Its agenda includes the public counsel, expansion of attorney provision, personnel management of judges, specialties in the legal service, and national strategy on the liberalization of legal service.
- The judicial reform committee 1999 had been organized with an advisory mission for the president. It

prepared the comprehensive report containing reform plans of KJS in May 2000, which dealt with six major reform objectives, i.e., effective and speedy legal remedy, the quality provision of legal service, rationalization and specialization within the triad of professional institutions, input reform of personnel resources, elimination of professional misconduct and corruption, and strategic response to the globalization.

- The judicial reform committee 2005 had been created as a standing advisory council, which was led by the prime minister and same rank of civilian leadership and constituted by 20 council members as well as the planning and implementation teams. The members and teams were drawn from the premiere bureaucrats, judicial benches, high rank prosecutors, notable academicians, lawyers and journalists, as well as law professors (2010). The committee had been productive -- 14 committee sessions, 16 sessions of acting committee, 18 meetings of floor workers, and 46 conferences, 31 research sessions, 7 public forum, 9 times of learning travel abroad, 4 times of public poll, and 4 times of moot court. The committee had played out extensively with the 13 reform programs and 25 legislative bills.
- The judicial reform committee 2010 had been arranged under the authority of congress (national assembly of Korea). As attuned with the business-minded leadership, the new administration had been less interested in the judicial reform or PAKJS. Along with the bureaucratic maze and resilience, it generally brought a retard and regression in implementing and complementing the established plan as well as creating a new agenda (Bhatti, Asmus & Pedersen, 2011).
- H.K. Han, a noted historian in Korea, wrote a newspaper column. In this work, he explores the faltering and subjection of the KJS to the authoritative government around 1960's through the early of 1980's. His work experience as a member of government commission on the "KCIA (Korean Central Intelligence Service) and Victims of Past Administrations" allowed him a rich exposure to the theme.
- The OECD statistics showed that trust in justice for the Republic of Korea had ranged poorly below the average of OECD countries as ranked 39 among the 42 countries. The average of OECD member countries had been complied at 52 percent of trust, and only three countries have a less trusted judicial branch. *Dong-Ah*, one of Korean news daily, critiqued the phenomenon citing the bureaucratic and social nepotism in favor of newly resigned judges as most a prominent culprit of judicial distrust in Korea.

### **The Problem Statement**

The Korean judicial system has transformed significantly in stages and over modern history of democratic regime since 1945, the year of its liberation from the Japanese colonial rule. The leaderships of government and mode of rule has impacted seriously on the community and also on the national judiciary and judicial system. A neo-liberal influence to reform the legal education and service market in the past few decades also would impose various challenges in terms of new materialism on socio-cultural insights or thought frame. From the theme on judicial independence through the current capitalistic nature of controversy, understanding its essences of transformation relating with the policy side views and underlying philosophies seem to be much demanded. This would be hardware to shroud the function of justice administration, which should be understood with a cohesive account. Nevertheless, the current literature or public attention and criticism often are skinny of the constitutional principle or wrong judgments, i.e., the kind of software for the Korean judicial system. That is also come in difference since the issues of Korea had widely been exposed through its economic, political and social areas of interest. It created an important gap in understanding

the Korean judicial system. The policy side analysis or critical theory discourse largely had been a nil making them truly a puzzle, the kind of important questions on what is a true story of KJS or how the policy had been formulated to shape or transform it. Given the current level of understanding, we cannot exactly know how the female lawyers rapidly had grown in near decades, what implications it thrusts or what impelled the staged liberalization of legal service market, and how the actors or interest holders acted, interacted and processed the policy issues of Korean judicial system. I believe that the research is necessary to provide a coherent set of explanations concerning the Korean judicial system in view of its policy dynamism and underlying philosophies.

### **The Purpose of the study**

A study is designed to reveal the policy dynamism in shaping and transforming the Korean judicial system and to explore an important aspect empirically or philosophically inherent within such dynamism. Provided that the topic was intended to deal with the intact cultural group, i.e., law people and policy makers of Korean judicial system, the qualitative method benefits the researcher with an in-depth interview and examination of public documents. Since the policy or philosophy side research and empirical studies of PPKJS (Public policy of Korean judicial system) is new in terms of purview and analytical approach, the grounded theory approach would be thought a best fit among the types of qualitative method. The hermeneutics and heuristics also could be employed to analyze and interpret the public documents and scholarly works of Korean source relating with the PPKJS. The intent of research is to provide a better understanding of PPKJS by describing, explaining, and developing a square aspect of phenomenon underlying the policy dynamism and transformation in terms of policy theories and underlying philosophies, such as presidential leadership, policy diffusion and PET theory, liberal or neo-liberalism, socio-cultural thought on materialism, and Weberian ethics or politics of expert. A central phenomenon on the PPKJS generally shows a typology in terms of public attention or agenda according to the characteristics of administration on three periods. Until the 1987 constitution and entrance of true civil government in 1992, the public discourse would only claim the basic and classic virtue on the liberal constitutionalism and judicial independence. Within the paradigm of modern democracy tending receptive thereafter, the public discourse turned to shed on the western style of contention and issues basing on the market or private sector (Kim, 2014; 2015d,e). The central phenomenon and perspectives had been stretched as pluralistic and complicated in terms of values and ideals. The gender issue on new materialism, mode of legal education and concept of meta-capital or *habitus*, socio-cultural consciousness of public officers or lawyers, and critical theory discourse on capitalism would be thought an appropriate lens of analysis for the better view of Korean transformation within the judicial system. Despite the major discrepancies across the periods, we can find it common through the policy theories and underlying philosophies as well as the distinct role of judicial system eternal to overcome the vicissitude of historical reformation. Borrowing the theories and philosophies and based on the empirical data, I intend to provide a coherent set of explanations concerning the PPKJS.

### **Research Questions**

First, how do we properly understand the common and different strands over the three major periods of PAKJS? POLITICS AND ENVIRONMENTAL SYSTEM

Second, how are the major phenomena or events in each period developed in terms of public policy elements? SUBSYSTEM/AGENDA SETTING/POLICY DIFFUSION

Third, how do we understand the phenotype and meaning of PAKJS in view of the social science perspectives? PHENOMENOLOGY AND THEMES

In view of political history, culture and morality?

In view of socio-economic history and status?

In view of comparative judicial system?

In view of types of public organization?

### **Theoretical Frameworks**

The theoretical frameworks are a central means by which I plan to distinguish my research from other scholarly works on the law or public policy. It is interdisciplinary while the research in view of public policy and administration has rarely triggered the judicial system, especially in case of Korea. Hence the selection of theoretical frameworks is required of strict scrutiny that most appropriately explicates the phenomena and provides an account of scholarly value, which is necessary to contribute to the specific academic field. According to Sabatier and Weible, the students of public policy produce the journal articles or scholarly titles, which could be classified into several basic frameworks (2014). Punctuated equilibrium theory borrows the idea of biology and explains the inevitable dramatic change of policy, which may be viewed to just convince our simple observation. Nevertheless, it is quite plausible to explicate the gun control, energy and environment and federal tobacco policy, and the phenomena of dramatic alternation of existing programs. Given crises other than status typically characterize the public policies, the theory cognizes that they constantly occur. It was originally developed by paleontologists, N. Eldredge and S.J. Gould, and later received by historical institutionalism. In this line of thought, Gersick also conducted a study on how the organizations evolve and analyzed the pattern of change with six domains of change across different disciplines (1991). For Gersick, Darwinian gradualism has been challenged and evolution on realistic ground can be characterized with a postulate of punctuated equilibrium (1991). Her viewpoint is supported by similar new and empirically derived theories in a variety of different literatures, for example, Kuhn's distinction between normal sciences and scientific revolution, Abernathy and Utterback's contrast between radical and evolutionary innovation in industry, Miller and Frieson's as well as Levinson's. She proposed the revolutionary change according to six theorists, which coheres with six domains, i.e., individuals, groups, organizations, scientific fields, biological species, and grand theory (1991).

The innovation and diffusion of policy models in policy research intends to identify the policy innovation as a point of focus and seeks to explain why the government is incremental and the process through which governments adopt new programs. In this case, the innovation is defined as a program that is new to the government to adopting it. The idea of innovation share many commonalities with other models, i.e., innovative behaviors by individuals in other context, for example, teachers using a new method of instruction, farmers

adopting hybrid seeds and fertilizers and consumers purchasing new products, which impacted on the scholars of public policy (Sabatier & Weible, 2014). The studies of government innovation can be leveled at scales, cross national investigating how countries develop new programs and how such programs have diffused across countries, interstates within the US, local and regional governments within the US, or local and regional governments in other nations. In this theory, two principal explanations are identified to support the rationale of new policy adoption, what we call internal determinants and diffusion (2014; Wejnert, 2002). The first proponents posited the importance of political, economic and social characteristics as a driver for adopting a new innovation. The second version holds a view that the intergovernmental emulations are a principal cause if one government adopts a policy. The second version of this theory is more useful to deal with my dissertation since the first explanation most often provides for the use of quantitative studies --- hypotheses and testing are usual to design the research. In the second explanations, the diffusion is defined as “the process by which an innovation is communicated through certain channels over time among the members of a social system (2014).” The state, nations or supranational organizations are viewed as a social system for the policy students in this concern, in which members emulate against other members (leveled unit of government), and are influenced by the policy choices of other governments in the system. However, theorists have identified a variety of alternative mechanisms by which the policy choices diffuse. The five mechanisms to factor the diffusion of innovation include learning, imitation, normative pressure, competition and coercion.

Given the dissertation deals with the important implications of period – revolutionary or quasi-revolutionary, Gersick’s framework is highly relevant and will be extraverterted to explain the phenomenon and occurrence or meaning of policy process and political morality of PAKJS (1991). Since my topic is concerned of Korean public policy, the organization or grand theory would be chosen as relevant from six domains. The table shows a brief feature of my theme as corresponds with her concepts and distinguishing.

Table 1

*Concepts Useful from the Policy Diffusion Theory*

Elements of Diffusion Theory	Five Stages of Diffusion	Five Mechanisms
● Characteristics of Innovations	● Knowledge	● Learning
● Characteristics of Innovators	● Persuasion	● Imitation
	● Decision	● Normative Pressure
	● Implementation	● Competition
● Environmental Context	● Confirmation	● Coercion

The PET is relevant to propose my theme that the public administration of judicial system should be momentous or revolutionary at certain period of time and social environment (1991). For example, the establishment of modern constitutionalism in new land with the independence from the British colonial rule cannot be viewed as incremental in terms of public or strategic policy of organizations. The nations of post-colonial independence also have their

story in this structure although they had not been immediate or original – hence extraverted or imported practically and sensibly -- upon the modern judicial system. The DOI is relevant to propose my theme that the elements, stages and mechanisms could provide a coherent account to explicate the policy process of judicial system, especially with the empirical data collected from the qualitative method. The aspect of distinction and relevance of theories arises (i) the period of struggle or acculturation for the enjoyment of benefit and values rather profiles as compressed and intensified over a short time span, which is distinct among the countries (ii) the learning or imitation as well as other mechanisms of diffusion theory generally is governing that mirrors as sub-revolutionary rather than revolutionary (iii) the elements of diffusion theory may commonly be applied to the original or importing states of modern judicial system or constitutionalism while the five mechanisms more starkly impress on the post-colonial states including South Korea (iv) the post-colonial states tend to put a more emphasis of economic development or sovereignty that defers the agenda of modernization of judicial system as a secondary or tertiary priority – distinct trajectory in terms of advancing the democratic judicial system with commonality, but also with the national or group particulars (e.g., 77 groups of UN and economic planning of south Korea) (v) economics and national politics tend to be highly influential that the five stages of diffusion or five mechanisms within the diffusion theory would gravely be impacted (vi) the pattern of resolving the conflict or disagreement among the stake or interest holders and policy makers differs and more frequently are connected with the framework of PET than that of the normal or stable conditions (vii) the engineering of judicial reform and paradigm creation are essentially intertwined with the legal professionalism and constitutionalism, in which, for example, the concepts of deep structure in PET are simply very pertinent to the deal with theme and craft a proposition or explore the implications of PAKJS. (viii) five mechanisms are useful to delineate the phenomenon of specific agendas in any coherent way, e.g., competition or imitation for the YS Kim’s globalization and law school reform policy and so. (ix) the philosophies of neo-liberalism, Weberian bureaucracies, socio-cultural thoughts on the materialism, and the critical theory discourse relating with Habermas and Foucault, such as reflexivity and normativity, will be connected with the public policy theories as fairly plenary over the whole projection of Korean experience, but organizationally destined with the aid of PET.

### **Nature of the Study**

Among the five qualitative approaches as suggested by Creswell, the Grounded theory research would be a most fit to deal with my studies on PPKJS (2013). While the case studies could be considered, the GT approach will satisfy the whole of seven points to test the characteristics of specific qualitative research, say, focus, type of problem, discipline background, unit of analysis, data collection form, data analysis strategies, and written report. The topic is intrinsic to uncover the stories of intact cultural group that began with the field itself without any significant prior studies. While Korea was known increasingly and social scientists had stretched into an aspect of Korean community on a variety of themes, the focus had not yet been graced on the PPKJS. This academic status on my interest also impels the need and merit of generating a theory, which can be serviced by the GT approach (Corbin & Strauss, 2014). Given the informational source had been disproportionately massive of Korea in terms of its availability, the hermeneutics and heuristics on the public documentation or scholarly writings also would be employed to interpret or analyze the data into a coherent set of explanations.

To justify my qualitative method, I would argue on the negative approach why the quantitative studies would be less or unfit with my purpose. The quantitative studies, as we see, had been essentialized through devising the hypotheses based on the literature review, testing on the public survey and statistical assumption or frames, and analyze or discuss the results with implications or meanings. This way of approach may have a strength, but largely ineffective to complete my purpose. First, the investigation of PPKJS relating with the whole of Korean public could require an extensive plan or inadequate as a matter of topic's attribute, so-called intact cultural group. Second, given the importance of qualification and professionalism on the topic, the judges or lawyers themselves should be a source of empirical data as the interview plan suggests later. Third, since the purpose is to deal with the actions, interactions and processes of legal actors in Korea, the scaled survey questions are inappropriate to investigate a complicated human interchange often less meaningful with the quantified information. Also the research questions would inquire *how* and *what* than *why*, which could be more attuned with the qualitative method. The quality of participants also supports my selection of qualitative method, who would be knowledgeable and have a track of expertise on the law and judicial system or policy making. This would attract the qualitative inquiry and allow the researcher to prefer an in-depth interview as a data collection tool.

The operational issue of collecting and analyzing the data are challenging for the qualitative researcher (Kim, 2015a,b,c,f). Within my method, the participant observation, interviewing and collection of artifacts and texts would be conducted, which would comprise the field data that will be analyzed and interpreted with the aid of hermeneutics and heuristics. As seen below, the data types would include various forms, the public documents and records from the departments and national assembly or supreme courts. The civic organizations already had been contacted for permission. The data will be stored and managed with the aid of CAQDAS, which should not be damaged or lost through the end of research, and provides an empirical basis to explain and predict my themes and stories. The sampling strategy would be simple to adhere with the general advice of GT approach, and the sample size would be relatively large in number of participants, and purposive or contrast sampling would be practiced as coupled with the convenience sampling (2014). For example, the junior and senior attorneys purposively take a due share to shed their differences and similarities on the contrast. The general advice on best interviewing will be held mindfully to collect the information- rich data, and the different interview situation was considered duly to yield a best result. Establishing a rapport between the interviewers and interviewees and prepared approach on the interview protocol would be important for the successful data collection. Since the study seeks to systemically develop a theory that explains process, action, or interaction on the topic of PAKJS, the research project will take place basically in Korea, in which the participants will be drawn from Seoul and partly from Gwang-ju, the city of my workplace. The data also would be extensive to saturate the maxim, "nothing to be left unlearned," which increases the credibility and trustworthiness. The guide is borne through the research project that rigor is a final standard to contest the validity in the qualitative research. The data types would be (i) archival from the institutions, such as NAK, Ministry of Justice, Blue House, Supreme Court and Administrative Bureau, and civil activists, as well as the public documentation and record of public forums and conferences (ii) interview results from the 30 participants among the generations and different roles.

Table 2

*Data Type and Sampling among the Three Generations*

Three Generations	Data Type and Sampling
From the 1945 Constitution through the classic Years	<ul style="list-style-type: none"> <li>● Public documentation and record</li> <li>● In-depth Interview with the legal historians.</li> </ul>
Over the age of developmental or dictatorship paradigm of leadership	<ul style="list-style-type: none"> <li>● Public Documentation and Record</li> <li>● In-depth interview with the legal historian, senior attorneys (some with administrator or judge career), law professors, journalists and civil activists, and other participants.</li> </ul>
Post-1985 constitutional reform	<ul style="list-style-type: none"> <li>● Public documentation and record</li> <li>● In-depth interview with the legal historian, senior attorneys (some with administrator or judge career), law professors, journalists and civil activists, and other participants.</li> </ul>

Table 3

*Number of Interviewees and Length of Interview*

Number of Interviews	Length of Each Interview
<p><b>Total: 30</b></p> <ul style="list-style-type: none"> <li>● Legal historian : 2</li> <li>● Senior Attorneys : 12</li> <li>● Junior Attorneys : 5</li> <li>● Law Professors : 5</li> <li>● Civil Activists : 5</li> <li>● Journalist : 1</li> </ul>	40 minutes-1 hours

Among the 17 types of first cycle coding from Huberman, four of them would be employed to conduct the stage of data analysis (2013). The hypothesis coding would be a predetermined list of codes to assess the hypothesis, which I will use to confirm or disconfirm assertions, propositions, or theories as developed midway or later. I also would use the descriptive, provisional, and attribute coding as guided. The coding structure would benefit my research that the data collection and analysis will be facilitated. It would be a beacon enabling through the amount of field data and written materials stored in NVivo that could be displayed with the networks and matrices. The analytical notes and jottings yielded over the first and second coding could be developed and incorporated into the final report. This would be possible with an array of individual codes, which should be associated with the chunks of data. For example, memos occur in various stages of research process, and the analytic memos enable to piece the strands of data together into a coherent account or version. The figure below shows the research process based on the coding structure.

*Figure Research Process Based on the Coding Structure*

### **Limitations and Quality Assurance Strategy**

The strengths of my method would be very basic that I have considered the practical aspect of research beyond the tentative research problem, which comes in comport with the traditional success of five qualitative approach. I suppose that it would guarantee the feasibility and practicability of qualitative approach (Creswell, 2013). Given my background, the concerned target group of my research would be familiar. The research situation also complies with the attitude of qualitative circle, in which the personal experience with an issue or job-related problem would be a popular source to evoke their research project. These could be strength on one hand, and also could be a diminutive factor that may baffle the due attention or incur a researcher's bias. Since the weaknesses of qualitative researcher are inherent without the rigor and exhaustiveness, ensuring the quality and credibility is any more important than the quantitative method. It also would be challenging that the issues of quality and credibility are not simplistic, but could be compounded with the varying elements, such as audience, personal claims, or philosophical disagreement and on.

According to Huberman, the methods and procedures are essential to the process of

ruling out validity threats and increasing the credibility of the conclusions (2013). He specifically provides the checklist with eight points of focus, which must not be only magical spells in the proposal, but be actually used to counter the validity threats. In the Mini-project, the three interviews had been successful with the checklist and importantly extended through the steps specified with the corroborating activities with emerging ideas to align with the theories and data. The interviews were progressed with other groups and bureaucratic theories had helped to delineate the themes or enhance the understanding of law people and judicial system on the deep philosophical ground (Moses & Knutsen, 2007). This work to ensure VQTC could be feasible with the subscription of Academia.edu and on-line conference as well as additional short interviews with the acting lawyers. The research ethics had been taken seriously with a due care. Most decisively with the validity issue, we are reminded that the reality should not be beamed up. This goal generally would be entangled with the data collection, and also partly related with the imperfect analytical penetration failed of due rigor and exhaustiveness (Patton, 2002). The views churned by Turner and other theorists would help to complete the whole picture of judicial system and attribute of the personnel resources with an philosophical insight. In the end, it enabled to rule out spurious associations and premature theories.

Table 4

*VQTC in the Qualitative Research and Checklist to Ensure it*

Checklist	Strategies to Ensure VQTC
<b>Intensive, Long-Term Involvement</b>	<ul style="list-style-type: none"> <li>@ Repeated observations and interviews</li> <li>@ Sustained presence in the settings studied</li> </ul>
<b>Rich Data</b>	<ul style="list-style-type: none"> <li>@ Daily charted the newspapers, public conferences, and TV as informative</li> <li>@ Participate in the academic symposium and read the court and legislative materials on the PAKJS</li> <li>@ Detailed and descriptive note taking</li> </ul>
<b>Respondent Validation</b>	<ul style="list-style-type: none"> <li>@ Solicited the feedback about the data and conclusion from the interviewees I have studied</li> </ul>
<b>Intervention</b>	<ul style="list-style-type: none"> <li>@ The researcher shared an interpretation of data with the interviewees actually and theorists academically</li> <li>@ The intervention could eventually support the researcher's claim about their inherent attribute as a bureaucrat or legal expert</li> </ul>
<b>Searching for Discrepant Evidence and Negative Cases</b>	<ul style="list-style-type: none"> <li>@ Identified and analyzed the discrepant data and negative cases beyond the three interviewees</li> <li>@ The lawyers of marginal practice or ranked public officers would be a deep source of disconfirming evidence against the data from the policy leaders of KNA</li> <li>@ Rigorously examined both the supporting and the discrepant data to assess whether it is more plausible to retain or modify the conclusion.</li> </ul>

<b>Triangulation</b>	@ Collected information of a diverse range of individuals and settings @ Increased the awareness that the final validity test would come from evidence, not methods.
<b>Numbers</b>	@ Active to make the quasi-statistical basis of my conclusions explicit to support my claims
<b>Comparison</b>	@ Numerous uses of comparison with the care of its inability to explicitly address causality

### **Ethical Problems and Strategies**

The first problem involves the validity of research, in which the research must take care of and hold a focus on valid research (Rudestam & Newton, 2015). Otherwise, it is ethically problematic to use people for invalid research leading himself disrespectful and impressing as the kind of prankster than a serious investigator. It would be one of deceptive practice to fail the public trust of scientific community. The participants also may face a public disfavor or mock from an invalid research. Therefore, the researcher has to comply with the lessons and standard of methodological selection or data collection as well as analysis, which are essential to produce a valid research. A due extent of interviewees needs to be arranged to increase the credibility and the researcher assures that the interviewees give a voluntary consent. In this way, the evidence has not to be biased to generate a theory of PAKJS (O’Sullivan, Rassel & Berner, 2008). The audiotaping will be carried during the interview process that the accuracy of information can be mutually confirmed after it completed. The competency of researcher relates with the ethic that should not unduly tire the participants or drive them to be under pressuring conditions (Rudestam & Newton, 2015). It could not only impede collecting the accurate information, but also involve with the abuse of human subjects. The interview hours need to be strictly respected and additional permission has to be cordially assured if any extension is sought. The interview protocol needs to be prepared in due care that the process flows informatively and cooperatively, which forms a raw data. The data analysis and write up are crucial in terms of investigator’s competence that will ensure a beneficial outcome with the quality of research. The intent and key information intended to be delivered by the interviewees should not be misinterpreted and unduly connected into other stories and themes. The necessary cost has to be redeemed adequately to compensate for the labor of participants, but should not amount to buy-in or at the level to create an undue influence. The translation into English has to be assured of its accuracy in order not to confuse the raw data. This aspect is particularly important in my case. Since the interviewees of PAKJS studies are currently expected from the senior group or exemplary high bureaucrats through the turbulent historic decades, they can be special populations that deserve a due consideration in terms of collecting the unbiased and honest response and protecting their sense of pride. They may also reject my proposal to participate since they may be skeptical, for example, by arguing “what is the kind of research beneficent to the current Korean republic or so?” The response to such negative attitude must strategically be prepared in advance to mailing a short introduction and key questions as written. In my expectation, the written questionnaires also would effect, which can be complemented with the follow up oral interview process. That is because the data are characteristic to include a portion of confidential disclosure that often is more convenient with written interchange. It is an essential ingredient in conferring on the ethical aspect of research that the participants

will make a fully informed consent. It ensures a voluntariness of providing the data and one of key elements to establish a rapport with the interviewees. The researcher needs to be minded that the most controversial type of research design is one that employs concealment or deception (2015). Hence, the elements of informed consent have to be obeyed that eventually facilitates obtaining an authorization signature in a timely fashion. For example, the researcher tells the participants who is conducting the study, explains why the particular persons are singled out for participation and if there would be any potential risks and how they are managed. Most importantly, it is helpful to provide the participants with a copy of the informed consent, which is usable from the Walden resource. The graduate students has to (i) be knowledgeable about the university's requirement (ii) the approval should be sought before the data collection is undertaken and as soon as possible after the research procedures are established. Generally the norms and values to shape the ethical requirements are reinforced by the scientific community, in which five norms as above are particularly noteworthy and pertain to my case too (2015).

### Significance of the Study

Table 5

*Social Change Matrix*

	Knowledge			Skills			Attitudes		
<i>SOC I-AL</i>	Society	V	V	V				V	V
	Community	V	V	V				V	V
	Organization /Profession	V	V	V		V	V		
	Group/Team					V	V		
	Person-to-person					V	V		
	Individual			V			V		V
		Scholarship	Systems Thinking	Reflection	Practice	Collaboration	Advocacy	Civic & Political Engagement	Humane Ethics
	<i>CHANGE</i>								

As above, I have checked with a V marking, which is thought to be relevant with the potential social change through my research project and post-project career activities. Let me provide a comment partly for the social change matrix as complements.

While the recursive loops on the thought of social change for the research project is a way to fulfill the success of doctoral studies and post-study career road, I may present some of current ties or prospective expansion networking the implications of my study with the nodes of social change matrix.

In terms of systems thinking, the PAKJS is to be operative within the formal procedure of constitution and public laws, in which the actors, however, are crucial to shape the public policy (Yob et al., 2014). In other words, we have two planes -- rigidly legal and subsystem or informal -- that could influence the PAKJS, which interplay to create the policy. The social change could be brought firstly as with the soft plane, the actors of subsystem or groups of advocacy and criticism, and lately expands into the statutory or constitutional reform possibility. One drawback of Korean practice would lie in the conventional retreat deferring to the formalistic process of system making. While the congress and executive body as well as administrative unit of judicial or quasi-judicial branch are important players as a subsystem, the soft power from the civil group or law professors and journalists also complement their sagacity importantly relating with the public attention and opinion. The collective knowledge and wisdom can be generated in this way.

The collaboration can also be systemized given the importance of issues that two achievements are relevant as an avenue to disseminate the ideas and understanding of my research project (2014). The Participatory Democracy of Korea (PDK) had launched a branch division in 1993 entirely devoted to the monitoring and reforming the judiciary and judicial system with the civic initiative. One other achievement is that the Supreme Court of Korea established the Judicial Policy Research Institute (JPRI) in 2014 staffed with the researchers and cadres of judicial post, which represents the voice of government (Judicial Policy Research Institute, 2015).<sup>2</sup> Two organizations are considered as an important *ThinkTank* that I need to interact to make a social change. They regularly hold the academic symposiums and conferences, and publish the reports, articles and books.

Since the project is planned with the GT approach in the end of generating a theory on PAKJS, reflection is a critical part to make a social change (2014). Often the current effort on this concern in Korea had been narrowed to the comparative studies of judicial system, particularly focused as issue or agenda-specific, which had largely foregone the contemplation of policy process and inimitable thesis of Korean philosophy through the democratic experience. A cohesive understanding on the PAKJS over the historical continuum would inculcate the policy makers and stake or interest holders that facilitate the scholarship and

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<sup>2</sup> The webpage of organization provides the mission statement, "The Judicial Policy Research Institute has been established as an independent research institute in order to plan appropriate policies and engage in research one new solution plans by organically and synthetically combining adjacent fields of studies....expanding judicial exchange with foreign countries, and taking a leading role in influencing the international justice system."

practice in this field.

The advocacy is not my immediate purpose given the theory on PAKJS is required to be neutral and objective by providing a better world view of this topic (2014). While the focus is shed on the scholarship, the advocacy also is no less irrelevant that the current mishap over a considerable amount of administrative agendas or issue is thought to be reexamined or corrected. In some cases, the globalization logic would exert a plenary sweep over the policy change that is questioned if the Korean critique of communitarianism steps in. The bureaucratic tradition of defensiveness or nepotism would also create a public disfavor. An unfit of policy and impetuous policy making need to feedback or invite a critical contemplation. Since the thought hierarchy was dosed from the philosophies, to political turning point with new agenda setting or issue attraction and through the diffusion of policy, the tools of philosophies would be grandest that will be connected into the story of PAKJS. The advocacy or scholarship as well as the humane ethics would be implicated that the critical thoughts will be expected of interchange in making the social change. The level of affect scope often would cover the society, community and profession or organization because of the characteristics of my studies. While the learning and sharing are involved, the scope hopefully could stretch into a group, person-to-person and individual.

## References

- Baumgartner, F. R. (2013). Discrediting the status quo: ideas, levels of policy change, and punctuated equilibrium. *Governance* 26 (2), 239–258.
- Baybeck, B., William, D. B. & Siegel, D. (2011). A strategic theory of policy diffusion via intergovernmental competition. *Journal of Politics* 73, 232–247.
- Bhatti, Y., Asmus L. O. & Pedersen, L.H. (2011). Administrative professionals and the diffusion of innovations: the case of citizen service centres.” *Public Administration* 89, 577–594.
- Corbin, J. & Strauss, A. (2014). Basics of qualitative research: Techniques and procedures for developing grounded theory. Thousand Oaks, CA: Sage Publications Inc.
- Creswell, J. W. (2013). *Qualitative inquiry and research design: Choosing among five approaches* (3rd ed.). Thousand Oaks, CA: Sage Publications, Inc.
- Gersick, C.J.G. (1991). Revolutionary change theories: a multilevel exploration of the punctuated equilibrium paradigm. *Academy of Management Review*, 16(1), 1036.
- Gilardi, F. (2010). Who learns from what in policy diffusion processes?” *American Journal of Political Science* 5, 650–666.
- Green-Pederson, C. & Walgrave, S. (2014). *Agenda Setting, Politics and Political Systems: A Comparative Approach*. Chicago, IL: University of Chicago Press.
- Han, S.H. (2014). Judicial reform - wake in history and bitterness in reflection. *Democracy*, 5, 41-59.
- Hwang, S.H. (2012). Reconstruction of the public legal aid program. *Korean Law and Society Association*, 43, 71-106.
- Kim, Kiyong, An Attempt on the Methodological Composure: Between the Number and Understanding, Nature and Construction (December 12, 2015a). K. Kim, An Attempt on the Methodological Composure: Between the Number and Understanding, Nature and Construction, Chosun University, 2015. Available at SSRN: <https://ssrn.com/abstract=2702701>
- Kim, Kiyong and Ju, Hyun-Meong and Khatun, Marium, A Reflection on the Research Method and Exemplary Application to the College and University Rankings (October 23, 2015b). Kiyong Kim, Hyun-Meong Ju, Marium Khatun. A Reflection on the Research Method and Exemplary Application to the College and University Rankings. *Education Journal*. Vol. 4, No. 5, 2015, pp. 250-262. doi: 10.11648/j.edu.20150405.23. Available at SSRN: <https://ssrn.com/abstract=2686045>

- Kim, Kiyong, Concerning the Research and Science (April 10, 2015c). Available at SSRN: <https://ssrn.com/abstract=2592858> or <http://dx.doi.org/10.2139/ssrn.2592858>
- Kim, Kiyong, Ethics, Law and Social Justice (April 10, 2015d). Available at SSRN: <https://ssrn.com/abstract=2592876> or <http://dx.doi.org/10.2139/ssrn.2592876>
- Kim, Kiyong, Public Policy and Governance: Some Thoughts on Its Elements (April 3, 2015e). Available at SSRN: <https://ssrn.com/abstract=2589526> or <http://dx.doi.org/10.2139/ssrn.2589526>
- Kim, Kiyong, The Relationship between the Law and Public Policy: Is it a Chi-Square or Normative Shape for the Policy Makers? (September 10, 2014). *Social Sciences*. Vol. 3, No. 4, 2014, pp. 137-143. doi: 10.11648/j.ss.20140304.15. . Available at SSRN: <https://ssrn.com/abstract=2577832>
- Kim, Kiyong, The Research Design and Methodological Deliberation (December 23, 2015f). Available at SSRN: <https://ssrn.com/abstract=3305760>
- Kraft, M.E. & Furlong, S.R. (2012). *Public Policy: Politics, Analysis, and Alternatives*, Thousand Oaks, CA : CQ Press.
- Jones, C.O. (1997). *An Introduction to the Study of Public Policy* San Diego, CA: Harcourt.
- Judicial Policy Research Institute. Retrieved Oct. 8, 2015 from <http://jpri.scourt.go.kr/news/RINewsListAction.work?gubun=981>.
- Kim, M.S. (2013). The judicial system in the US constitution and its impact on Korea. *Chosun Law*, 20, 89-103.
- Lee, Y.M. (2011). *Korean judicial system and Ume Ghenziro*. Seoul, ROK: Ilzogak Publication.
- Lee, Y.R. (2013). *Jin-oh, Rhu - A constitutional scholar in the liberation years*, Seoul, ROK: KSI Press.
- Miles, B. M., Huberman, A.M., Saldana, J (2013). *Qualitative data analysis: A methods sourcebook*, Thousand Oaks, CA: Sage.
- Moses, J. W., & Knutsen, T. (2007). *Ways of knowing: Competing methodologies in social and political research*. New York, NY: Palgrave Macmillan.
- O'Sullivan, E., Rassel, G. R., & Berner, M. (2008). *Research methods for public administrators* (5th ed.). New York, NY: Pearson, Longman.
- Patton, M. Q. (2002). *Qualitative research and evaluation methods* (3rd ed.). Thousand Oaks,

CA: Sage Publications, Inc.

Rudestam, K. E., & Newton, R. R. (2015). *Surviving your dissertation: A comprehensive guide to content and process* (4th ed.). Thousand Oaks, CA: Sage. ISBN: 978-1-4522-6097-6.

Sabatier, P. & Weible, C. (2014). *Theories of the policy process*, Boulder. CO: Westview Press.

Yob , I., Lao, T., Uldall, B., Crum, M. B., Clay, O., Brock, N.,...Dixon-Saxon, S. (2014). *Matrix: Preparing Walden learners for social change*. Minneapolis, MN: Walden University.

Weible, C.M., Heikkila, T., deLeon, P, Sabatier, P. (2012). Understanding and influencing the policy process. *Policy Sciences*, 45 (1), 1-21.

Wejnert, B. (2002). Integrating models of diffusion of innovations: A conceptual framework. *Annual Review of Sociology*, 28, 297-326.

Yang, C.S. (2013). Judicial exam and equal protection of law-if we stay with the judicial exam partly though. *Yeongnam Law Review*, 37, 197-218.