

QIKJS-Part.0.E

Qualitative Inquiry of Korean Judicial System

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Premise

The Studies of Public Administration Concerning of the Judicial System of Korea: An
Application of Two Theories on its Ideological Frame and Policy Diffusion

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A00406659

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Problem Statement

Given that the studies of public policy turned to be more scientific across the types of public organization, such elaboration comes far scarce when we are involved with the organizational or administrative aspect of national judiciary (Kim, 2014; 2015a, b). That is particularly true when we fall with the experience of new born republics since 1945, including South Korea (Han, 2014). They often were hurried to create the western style of judicial system in urgent need to respond with the inauguration of new republic as a state. The general trait of judicial system can be said of nobility or passivity, and it is constitutionally obligated to deal with the distinct organizational objective as believed of its ultimate ideals, i.e., judicial independence and separation of powers principle. The judiciary also is the last branch of limited resources within the constitutional structure, which leads to some extent of subjection to the political branches when the terms come with the public administration narrative. Nevertheless, the literature to deal with the issues is mostly on the structural and democratic ethos or consequent lack of political legitimacy, which is sensational and limited lacking a coherent scientific frame and analysis. Now that the view, a maturation of Korean republic, is tenable in terms of national legacy -- historical lesson and success of democratic movement as well as dominance of pluralistic values in Korean community -- the traditional approach on the tenet of liberalism and modern constitutionalism can more properly be deferred to more plausible alternative. I consider the communitarian critique is more powerful tools to investigate the Korean struggle or progress with the PAKJ (Brugger, 2004; Cohen, 1999; Kymlicka, 1988; Lacorix, 2002; Powell, 1996; Walzer, 1990). This does not mean that the liberalism is irrelevant or outmoded -- rather does it stand at the pillar of discourse -- in which the constant comparative evaluation is necessary across the significant stage of PAKJ and historical environment. The lack of scientific deals and analysis in the current literature also is addressed by being indebted to the theory on policy diffusion, in which more systemic and precise account of adoption or resilience of new administrative policy can be provided as involved with the judicial system (Burt, 1999; Valente & Davis, 1999; Wejnert, 2002). The new version with a dose of these tools of analysis will allow a scholarly and intellectual sharing of PAKJ to be more ordinate and systemic so that ultimately contributes to the scholarship of this field.

Approach for the study

The selection of research method is best tested by asking, "What does the researcher really like to know?" This query can be solved with the mixed method of studies, in which I will be presumed as primarily qualitative. In the quantitative presentation, the public data or statistics, for example, rise of female judges in the new millennium, can best be evidenced with the public data. A staffing of new judges from the alumni of prestigious law schools is one of criticism that we need to examine in the thesis purpose from the perspective of communitarian critique. However, the current status showing the tendency of bias or imbalance among the law schools can be best presented with the quantitative data. However, my method is qualitative since my empirical evidence massively is based on the interview data, public record, newspaper articles along the Korean sources of scholarly and public documentation.

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