

# QIKJS-Part.IV.E

## Qualitative Inquiry of Korean Judicial System

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### Appendix: Data Collection Tool

The interview protocol comprises the time and place of interview and how to establish rapport and smooth process of interviewing.

Table

#### *Interview Protocol*

<b>Interview Group</b>	<b>Time</b>	<b>Place</b>
<b>Legal historians</b>	April, 22 (10:00-12:00)	Faculty meeting room (law building, CU, Gwang-ju suth Korea)
	April, 29 (10:00-12:00)	
<b>Senior law professors</b>	May, 3 (10:00-12:00/14:00-16:00)	Same as above
	May, 10 (10:00-12:00/14:00-16:00)	
<b>Junior law professors</b>	May, 24 (10:00-12:00/14:00-16:00)	Same as above
	May, 31 (10:00-12:00/14:00-16:00)	
<b>Senior attorneys</b>	June 6 (10:00-12:00/14:00-16:00)	Moodeung Park Hotel Café , Gwang-ju, South Korea
	June 13 (10:00-12:00/14:00-16:00)	
<b>Junior attorneys</b>	June 20 (10:00-12:00/14:00-16:00)	Same as above
	June 27 (10:00-12:00/14:00-	

16:00)		
<b>Journalists</b>	July 3 (10:00-12:00/14:00-16:00)	Shilla Hotel Café, Seoul, South Korea

The interview protocol guides to correspond with the stages of interview. First, the introduction of interviewee is necessary to the nature and purpose of studies. Therefore, when setting up the interview, the kind of arrival process will be interacted, for example, asking such kinds of question, “I’m Kiyoung. Please have a seat. Thank you for taking the time for this interview” Next, the interviewer has to be specific what to say to interviewees when beginning the interview. It is preferred that informed consent and confidentiality issue will be communicated in this stage. In my case, the research project on the PAKJS will be explained to promote the activism of interviewees, “your participation for the PAKJS project is really important for you, the same professionals and effective as well as fair system of nation on the judiciary and professional community. The project helps to better understand the PAKJS, to make a more effective policy, and to increase awareness as well as make a social change. The protocol has to incorporate the best prepared interview questions as guided above. Then the interviewer gradually starts the interview, and he needs to be unhurried and relaxed to ensure a productive and smooth flow of questioning and responding. The remaining issues of protocol cover the setting up of audio-recorder, how to conclude the interview and what to do following the interview. The researcher has to consider the things to be necessary during the interview so that, for example, he needs to check if the quality of sound and effective functions of audio-recorder. He may practice the traditional good bye statement to conclude the interview, “Well thank you so much, And as I said, I’ll be sending you a copy of the transcript and also my notes. If you see any corrections....” The plan to double-check the clarity and authenticity of transcript is a good strategy for various purposes. Therefore, I plan on the protocol that I will fill in notes, submit written findings to the experts for review and store data in the files.

### *Interview Questions*

Could you tell me about the life experience of yours as a senior attorney?

Could you describe as much as possible on the statements for each period implicated with the transformation of Korean judicial system?

How do you believe if each period is characteristic to administer the idealistic national judicial system?

- Could you expand on that point.....(Perhaps many more)

Have you ever experienced if the change of judicial system affected the professional community?

- Could you expand on that point.....(Perhaps many more)

How do you know the effectiveness and fairness of appointing practices of key judicial posts?

- Could you expand on that point.....(Perhaps many more)

How do you believe that the new law school system is superior to the previous Judicial Exam?

- Could you expand on that point.....(Perhaps many more)

How do you appreciate the policy making to deal with the legal service market?

- Could you expand on that point.....(Perhaps many more)

### Reflection and Progress

At this stage of progress, I became very determinative to know what the qualitative studies are all about. In a word, the accomplishment from the research design, to the qualitative method through this applied class can be epitomized in a word, say, “meme” as Susan Blackmore depicted with it the contemporary strand of humanity. A meme would enable the replication of culture and society that creates the whole picture of universe, which the qualitative students would progress toward and be hoped to reach. In this process, of course, the new discoveries could be feasible with new topic under study, due criticism on consciousness and intelligible subjectivity, and new evaluation on changing verse of ontology or even the thought of paradigm shift (Patton, 2002). I have once said of artificial intelligence to compare with our brain or brain function, which can be dimensional, but now stretching into the linguistics for human use. Given the linguistic turn or element dealt with the philosophies or theories in qualitative method, the technology development of AI may encroach upon such dimension. I once realized that the translation function of Google or other internet sources had gradually improved that may impact much over the fields of community. The inventors also even had progressed with emoticon<sup>1</sup> that should be qualitative and may later be stranded into the philosophical thought, such as illusion or despair in the existentialism or critical theories (Maslow, 1966). As excited to the fans of *Baduk*, the time schedule came near that Sedol Lee, considered the world best, will have a game with the *AlphaGo* generated in the paradigm of most superb artificial intelligence robot by Google DeepMind. *Baduk* is a very complicated oriental chess game incomparable with the western type in terms of per chance variances. It simply demonstrates the astonishing progress of AI nowadays. The interesting struggle and long time in journey toward the humans and universe can gradually be accomplished with the computer and space shuttle although we may be in parallel with the discourse of Patton emerged with the same paradigm and concerning the researchers of social science. I may

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<sup>1</sup> An emoticon, etymologically a portmanteau of emotion and icon, is a metacommunicative pictorial representation of a facial expression. If simple, it serves to draw a receiver’s attention to the tenor or temper of a sender’s nominal non-verbal communication. It would be some replacement of body language and prosody, can change and improves its interpretation. For example, action research or alternatives and suggestions made in the last of final report by the qualitative researcher can be comparable with its function to improve interpretations.

envisage the probable names of robot, such as Marx, Darwin, Khun, and so, who teach about the humans and universe in short coming decades.

Through the class, I can say if I may be gene-coded to my topic that feels as competent to handle the collected data being analyzed into a relevant light and triangulate the analyzed results into any coherent set of explanations. This achievement would not be possible without this class and especially indebted to Huberman and Maxwell (Miles, Huberman, Saldana, 2013; Maxwell, 2005). Huberman would guide how the general understanding of qualitative method must be developed into the practice and final report. For example, the five chapters about methods of exploring through predicting would be helpful to allow progressing by divulging what we actually do in the qualitative method. The awareness and lesson to hold a focus on the importance of field data and necessary skills of management or analytical tactics were useful with examples and illustrations. His chapter to make into effective displays, such as matrices and network, also enlightened that I could overcome the problems, of which I have felt unsatisfactory over time (2013). Maxwell also provided a good guide by showing the ways of constructing indexes and essences as well as skills or tips for the final presentation (2005). Through the progress, I may be indebted to the views and discussions of classmates to learn the kind of diverse ways standing to service the need of qualitative researchers, for example, critical discourse analysis, hermeneutics and heuristics, through which many researchers and university faculties, including myself, currently work to know the world (Kim, 2015a,b,c,d). The importance of methodology also could be demonstrated by the Walden dissertations, which perhaps seem to be structured in ready-designed template to deal with the methods exclusively in several chapters. This way of administration could be compared with the mortar and brick institutions, in which the method section may largely be curtailed or only with one or two chapters. In any case, I should agree that the final discriminant of qualitative piece would be a good sense as Huberman discussed in his chapter. This would be the kind of work conducted by a connoisseur trained at culinary schools, but would dispose us within a very distinct status as differs from the robot with emoticon function or connoisseur of Cordon. The difference would not such be grand if with our astonishment or reputation on the latter two, but as humble with the awareness of problem, responsibility to the discipline and general standard of professional research as we are working on the dualism of content and method (American Psychological Association, 2010).

Table

*Aspect of Assessment and Progress*

Aspect of assessment	My progress
Applied class and my dissertation progress	<ul style="list-style-type: none"> <li>● The applied class helped to turn me into the virtual stage of data collection, although the IRB approval will be pursued later in the spring.</li> <li>● I originally had a doubt of practicality with small pages of interview result, but found it could be not only an empirical basis to ground my qualitative study, but also the</li> </ul>

	<p>kind of idea stimulator to proceed productively dealing with the topic.</p> <ul style="list-style-type: none"> <li>● I had enchanted many useful ideas about what I will actually do to facilitate my dissertation progress. As the subtitle implicates, the “substantive start” could be helped out, and I became able to be confident from the previous ambiguities. This achievement would not be possible without a sharing of substantive start with the peers.</li> </ul>
<p><b>General understanding of method</b></p>	<ul style="list-style-type: none"> <li>● Progress of general understanding on the method or qualitative method into practical force to complete my research project</li> <li>● The importance of emerging ideas through the data collection and new perspectives, on which the explanations could be enhanced or attaining the persuasive power</li> <li>● The service of more structured approach with some weaknesses in dealing with my data collection activities, especially in terms of interview protocol or establishing the rapport between the researcher and interviewees</li> </ul>
<p><b>Course and fit with the residency</b></p>	<ul style="list-style-type: none"> <li>● The applied course may be final to learn the common knowledge of researcher, but I still left two residency classes, one virtual and the other face to face. Nevertheless, the knowledge and lesson from this class could help me deductive and reflexive to grasp on the continuum and module of instructions.</li> <li>● The lingering questions unresolved or imperfect with the previous residencies could be answered in the two next residencies.</li> <li>● For example, I could make it clear the meaning or implications of assumption that the residency instructors raised frequently between the method and content. That made me reflexive with the progress thus far.</li> <li>● On the other, I may monitor the two next classes to reinforce my understanding of this class, which made me deductive to deal with the overall instructional frame of Walden method class.</li> </ul>
<p><b>Lingering questions</b></p>	<ul style="list-style-type: none"> <li>● I consider if the pre-ordained template for the dissertation would be absolute. In one sense, it does good to emphasize the importance of method in the social science research, but may be seen to counter the creative dimension of social scientist. I suppose, however, if many students would agree since the vast of methods section in the</li> </ul>

	<p>template shows what we actually learn in the Walden doctoral program.</p> <ul style="list-style-type: none"> <li>● Given the attribute of topic, the section of definitions in my dissertation would be provided to enhance the understanding of audience. The question would be its extent and verifiability through the comparative judicial system</li> <li>● In what extent can I sensibly use the pictures, tables, and figures or graphics? In what ways could they be presented effectively between the appendix and main texts? Also would it make the final report more persuasive to include the field transcript of interviewees person by person in the appendix?</li> </ul>
<p><b>Points of Improvement</b></p>	<ul style="list-style-type: none"> <li>● Triangulation of analyzed results with the assertions and propositions more coherently and persuasively</li> <li>● Improved presentation skills with intensifying on the NVivo experience</li> </ul>

### Example of Writing

#### Re: Triangulation of Analyzed Results into Assertions and Propositions Citations Omitted

[The information gleaned from three interviewees threaded the increasing wave of transformation within the PAKJS, which signaled or already attained as a professional compassion a paradigm shift from the “independence” toward “accountability.” Now the chaining mood and attitude had begun accepting the policy discourse beyond the static constitutional value about the judicial independence. Substantively on the cause of transformation might it still rest within the values and ideals as well as metaphors of judicial business. However, it would be truly remarkable that the judicial actors within the new changing environment project their concern or identity in terms of accountability. This indicates that they would no longer be a passive policy recipient, but self-awareness as an active policy maker or of public accountability had been furbished into new standard to measure their discourse and professionalism. This tends not in general comport with the paradigm of judiciary as we usually encounter its infrequencies of news coverage about this theme, i.e., public accountability of judiciary, in the developed nations. The public accountability of judiciary rather can be matched more frequently with the unacceptable death penalty of political opposers in the third world countries. In some aspect, therefore, this shift may be implied of still resilient progress about the democratization of nation or judiciary to the ideal of western classics. In other aspect, however, it could be perceived also plausibly from the influence of internationalization,

as we discuss the public credence on the national judiciaries along the statistics from the OECD, so-called the club of developed nations. In a perspective on the PET theory or learning on the diffusion theory, this aspect of discourse within the professional community, in any way, had virtually lacked even if they fated to struggle with the despotism or ignorance of political leadership meaning all the public accountability should likely be borne by the executive or presidential leadership.

This turning atmosphere or commitment would suggest several implications, (i) the diversity and pluralism of society had been actual and intense in the third period (ii) the role of congress became relatively strong and effective to the original version and ideal of democratic government (iii) the judiciary and judicial system should at least be accountable publicly, though not politically (iv) the judicial actors therein could be more plausibly explainable on the professional distinction and Weberian concept of tacit knowledge or politics of experts beyond the intact cultural group within the two periods. As we see, the modern bureaucracy is understood to originate in the slow rise of the royal staff in its struggle with the feudal aristocracy and developed in the Weberian-Schmittian account of the problem of experts and its bearings on liberal democracy. Importantly, the process can be characterized as a slow transformation from a politics of sovereign or sovereign citizens to a politics of diffused experts. One interviewee gave some testimonial view, “We have to confess that the kind of ethics or platform for the judiciary and corresponding judicial institutions could not be soiled or solid... Only the politics of sovereign, of course, unacceptable normatively, had explained all except for a few courageous lawyers.” It is really striking that he did not say the “politics of sovereign citizens,” if even 19<sup>th</sup> German scholar could be exposed to that understanding. He rather said the “politics of sovereign” as if the first and second periods would likely be something feudal, esoteric or cultural, in describing their patterns and notion of identity. The incongruence from the western account could be furthered because of the distinct attribute of modern democracy if the Habermas’ normative theory or leftists had based his thought frame and ideals on the liberal society. The field data on this aspect simply contrasts with the apparent congruence nowadays within the judicial system or judiciary in the third period. It, nonetheless, corroborated with the theory of policy diffusion that the learning and adaption would occur in speed and compression in the case of post-colonial nation, and of course, possibly perverted way in some cases.

Another interviewee hinted to chart the progress, “how could we expend the national budget on the policy institute of judiciary and judicial system... Now it could be economically feasible and represents the turn for an increased awareness of professional accountability.” The statement could simply vindicate that the economic and political factors are important to inculcate the policy actors and the assumption of PET theory through the developing countries about the punctuation or new agenda settings. The old liberalism or its reinforcement would be implausible or at least less specific to explain the jurors, public prosecutors and lawyers as a quasi-public officer in the national judicial system. Instead, the collectivist current of opinion as explored by Tocqueville, J.S. Mill, Dicey and J.B. Conant and actually experimented through the US, the land of new opportunity, and in reckonings after the American civil war could be more suitable to deal

with the modern experts.<sup>2</sup> The perspectives actually are keenly interwoven with the contemporary understanding about the mode of governance and associated with the idea of rule by experts, perhaps the inescapable kind of socialist ethos. This view could partly correct a principled haunt of civil democracy, rather grounding the thought that the democratic control was a dangerous illusion. One profound thinker about the judicial reform in Korea, a law professor in Seoul city, ignited and continued to hold his criticism on this contrast, “Actually I believed that the new structuring of judicial system had failed because it merely reinstated the juristo-crazy than the democratically ideal type of judiciary or judicial system... Overall with my assessment about the past twenty years of programs and accomplishments, my conclusion is that it was insufficiently juridical leaving the originally envisioned “people’s judiciary” as the kind of new miscreants and hoarders that the law people must be critically aware of...” Another interviewee grumbled, “the jurors in the field are very complex and the feel of identity is not such simple... We would be an expert, but constantly be challenged with various calls and personal pressure... The calls, of course, would wind from the political arena, and personal pressure is related with new knowledge or technologies as well as the economics of profession... It seems likely a nil if any identity could be constructed with the changing environment.” As Turner elicited, the mainstream of modern thinkers had been devoid of due consideration, or at least only principled to skin the kind of thinking as supplementary to the big question of politics or political theory and largely lacking the problematic between the experts and politics.

Given the humanity and intelligence are never pre-ordained, it would be a due brief

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<sup>2</sup> Actually the National Academies of US had been instituted to spread its commitment on the new concept and rising profile of science and with the increasing US democracy. Lincoln’s speech, “of the people, for the people and by the people” turned not only on the political mood of independence years against the tyranny, but also was based on the assumption to recognize the importance of science or experts for the democracy or governance. Now the 2010 NRC had stipulated 62 doctoral programs in the nation, and the law schools of Korea around 2007 began to take a graduate form of education that aimed to enhance their learning or expertise and public accountability. The seed of thoughts between science, expertise and civil democracy, would be received in a varied extent and implicit or express understanding as well as ignorance. For example, the Koreans still emphasize the importance of general college education that the college professors and ministry of education undergoes a disagreement and contention. On the other, the French community would focus on the expert schools on the commerce and politics other than general college of university education, as represented HEC and IEP, which relates with the awareness concerned of the importance of economy and politics within the contemporary nations. Given the scale of nations, many countries, if small and consequently general, tend to be prevailed with the terms or concepts of university -- perhaps universe remotely or academie or universitaire more closely in terms of linguistic origin and more affiliated in nuance with the humanity and society at large – than experts, various sciences or departments. It could be compared with the focused or strategic France and big and science-based US. In this sense, one example would be if the mode of governance and public administration can be distinguished from the kind of university concept as we see its departmental organizing. The last reform toward the US type legal education in Korea, given its national status as not so big – demographically medium, economically advanced, and territorially small -- also could be seen a significant mental challenge for the policy makers in Korea given its focus on the graduate form of legal education, which brought an incidental effect showing their focus of expertise.



to survey the tradition and history about their relationships as well as scholarly attention in that focus. The concern is also fundamental as if the government plaza in *Kwacheon* or locations of KPO, courts and local bar association are full of people with the distinct status. It would be a kind of plumbing through the buildings they are working in, the neglect and inattention of which would make insufficiently political devoid of our reality. At least in the US, the reality would be pages of science stories over the major news papers, such as New York Times, Wall Street Journal and Financial Times. The topics and stories, i.e., the health, global warming, EU standards for food imports from non-EU countries, cancer producing dangers of cell phones, new regimes of educational practice, mammography and mortality or so, simply would be available for the public and affected the decision making about the issues.<sup>3</sup> As the interviewee might be therapeutic of his, thinking politically about experts is difficult enough over the intellectual tradition. Their trait arose as Polany, an Italian thinker, conceptualized with his insight of tacit

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<sup>3</sup> There are many science writers in each field that attract the public readership. Of course, the phenomenon can differ in extent as I have illustrated among the scale of nations. For example, Korean newspapers would turn to report the science stories increasingly as same, but less in frequencies, and overly more frequent with the weekend book corners about the humanity and social science. Nevertheless, broadcasting in Korea would be active to present the science topics deeply in hours-program and amusingly with the kidding experts to make common the difficult scientific knowledge. In what is discussed, one simple institution could work to make it more understandable, i.e., degree name of doctoral experts in the western and nations of Chinese character. The influence of politics within the academia or science would generalize the name of research doctorate as suffixed with “philosophy,” hence, doctor of philosophy or Phd. Given its origin of US, it is ironical, however, that Germany still uses doctor in X, their specific field name, while the social discourse of Germany would rather be political. While the US indication could be specified later after the general indication, Phd, it could implicate the politics of philosophy or thought experts to imply of the political nature of experts in various fields. In terms of bureaucracies and public office, the offices vastly would be filled with the degree holders of master and bachelor level, such as MBA and MPP, as well as less with the research doctorates, implicating the manpower of modern bureaucrats and so-called the nature of tacit knowledge posited by Polany. In terms of Korean jurists, the past educational paradigm would be based on the bachelor of law and state-managed judicial apprenticeship for two years. The current system would be a US mode that the law students have to study three years plus four years of college education, but the education authority had seen it proper with the master’s indication other than US type, doctor of jurisprudence. This degree name of US is very peculiar globally, but had produced many presidents implying of the relationships between politics and experts, and ironically same with that of German indication implying of the intellectual tradition and ethos. In other aspect, it may be related with the history of science and human knowledge if the doctor of medicine, doctor of jurisprudence and doctor of divinity would be the most ancient form of discipline as distinct from that the chemistry or physics beginning with the 15<sup>th</sup> mid-eastern alchemists or Issac Newton, who underlay their disciplinary foundation. The oriental name to indicate the level of studies corroborate the western version that the main indication, “doctor,” would not be denoted specifically with the field, but meant linguistically with the graduate of “broad knowledge,” the kind of “philosophy” with the western counterpart. This reflects the importance of Japan to harbor and disseminate the western civilization around the mid of 19 century among the countries of Chinese character. This tradition would not be irrelevant with my hypothesis that Korea had long followed the system building of law and judicial institution under the intellectual and cultural influence of Japan if immediately, while from the west as brokered by Japan. The apparent political and economic alliance with the US more tightly than Japan may, in sense, obtuse the true anthropocene of Korean law people in dealing with many important legal issues.

knowledge. Ironically, the Italy or Rome empire in history would be one of most peculiar exemplar tending to rule, as less granted to the politics or modern ideals of democracy because of their might against the rest. The bureaucratic thought and civilization of law therefrom can be traced to their attitude and institution. The bureaucrats within the judicial system or judges would be addressed firstly with their tacit knowledge, which, in definition, is the kind of knowledge that is difficult to transfer to another person by means of writing it down or verbalizing. In this understanding, the public officers with a career and bachelor or master level of degrees would be more apposite to circumscribe the scope of cultural group since often the doctoral degree holders would have an ample chance or as a matter of professional obligation to write and publish. Given the professional ethics would require a general abstinence of public writing against judges, my scope of group would certainly fall within the class as Polany and Turner are interested to explain and address.

Overall, the understanding as a grandee beyond specific field would capture the career practice and years of professional experience as essentials to denote the bureaucrats with expertise and as combined with the college or master level education. This aspect was once contended surrounding the public controversy about the legal education and input of lawyerly resources as evidenced by one interviewee, “the group of community is distinct, in my view, so that the scholarly measure or approach with the academic attitude would less penetrate the peers or people. They rather see their identity as the practicing professionals. I see no reason that the share to participate the decision making process of our issues would be such idealistic with the vast sectors representation of public interest (laugh)...” In fact, the advisory boards of new law school system and other judicial reform had been splendid indeed, including the ranked officials of other branch, journalists, and social leadership. More importantly, the department of education had steered the policy direction and implementation with a principal or at least equal power and responsibility within the decision making process. Furthermore, the department of justice also would interrogate on the passivity of Supreme Court that exercise an active leadership role to decide the issues of judicial reform as showcased in the last controversy of extending the period of temporal Judicial Exam. This cast some contrast with the American way of engagement to deal with the issues of judicial system if the principal or sole authority would be lawyers themselves, i.e., American bar association.....]

## References

- American Psychological Association. (2010). *Publication manual of the American Psychological Association* (6th ed.). Washington, DC: Author.
- 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, The Research Design and Methodological Deliberation (December 23, 2015e). Available at SSRN: <https://ssrn.com/abstract=3305760>
- Maslow, A. (1966). *The psychology of science*. New York, NY: Harper & Row.
- Maxwell, J. A. (2005). *Qualitative research design: An interactive approach* (2nd ed.). Thousand Oaks, CA: Sage Publications.
- Miles, B. M., Huberman, A.M., Saldana, J (2013). *Qualitative data analysis: A methods sourcebook*, Thousand Oaks, CA: Sage.
- Patton, M. Q. (2002). *Qualitative research & evaluation methods* (3rd ed.). Thousand Oaks, CA: Sage Publications.