

# Law Schools in South Korea: Past, Present, and Future

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## I. Introduction

The legal education in South Korea has undergone dramatic changes in the past 10 years. The adoption of law school system has fundamentally changed the training of legal professions and also changed the legal education system in South Korea. There are various evaluations or criticisms of these changes, but it is clear that they were meaningful changes.

In this paper I focus on the historical background and social discussion process of the introduction of law school system in Korea, and both positive and negative aspects of changes in Korean legal education system. Also, I will make some suggestions on the direction in which legal education system in Korea should develop.

## II. Old Legal Education System and Judicial System in South Korea

Prior to the judicial reform, legal education in South Korea was mainly provided at the college of law (法科大學, colleges at the undergraduate level) for the period of four academic years. It was not required to graduate from college of law to take the national examination for obtaining a license to practice law in Korea. Anyone could be licensed to practice law as long as they passed the National Judicial Examination (司法考試, hereinafter “NJE”) and received the two-year professional training in the Judicial Research and Training Institute (司法研修院, hereinafter “JRTI”).

NJE was a nation-wide test administered by the government to select legal professions. NJE, due to the lack of limits on the qualification for exam-taking and the low pass-rate, had been notorious for extreme competitiveness. Students spent a long period of time in order to prepare

for the NJE. Usually around 1 to 6 percent of the total applicants passed the NJE each year and most successful applicants were from a few prestigious universities in South Korea<sup>1</sup>.

After passing this competitive NJE, the successful applicants entered the JRTI. The JRTI was an institution established and operated by the Supreme Court of South Korea and it provided professional legal training for the period of two years before the trainees became legal professions. In JRTI, trainees, who were mostly graduated from a few prestigious universities, studied and socialized together, thereby cultivating homogeneous culture<sup>2</sup>. And the score that a trainee had acquired in the JRTI was an integral factor in their later promotion toward higher rank in Judiciary or Public Prosecutor's Office after the graduation of JRTI. Competition among trainees was harsh and there had been a strong tendency to prefer judges over other legal professions. Usually trainees with high grade in JRTI became judges or prosecutors right after the graduation of JRTI. Retired judges and prosecutors after several years of public serving usually became lawyers and could make a fortune because of their former positions as judges or prosecutors. Many people in Korea believed that personal relationship between lawyers and judges or prosecutors might affect the outcome of the actual cases and wanted to hire former judge or prosecutor as their attorney.

Such old Korean judicial system was criticized for various reasons. First, Korean legal education had been undermined by the NJE. Since the NJE did not require a law degree, legal education in college of law was not emphasized. Rather than paying much attention to the legal education provided by college of law, many law students usually relied on private institutions where they offered commercial preparation courses customized for the NJE. Old law colleges in Korea were considered to focus on the traditional academic education and fail to raise and train quality legal professionals. Moreover, the severe competitiveness of NJE led to the waste of human resources, driving many young Koreans to dedicate themselves to the study for the NJE for many years. Since the number of

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<sup>1</sup> Youngjoon Kwon, *Recent Reform in Korean Legal Education*, 13 Journal of Korean Law 1, 4-6 (2013).

<sup>2</sup> Youngjoon Kwon, *supra* note 1, at 6.

people selected as lawyers were strictly controlled, legal service was expensive and usually inaccessible to the ordinary people. Finally and most importantly, the old judicial system has undermined people's credibility as people witnessed the closed legal profession community cultivated in the JRTI and the privilege of former judges and prosecutors in the legal service market. Demand for the advanced legal service and people's deep distrust of the old legal system finally provoked the fundamental reform of the Korean legal system.

### III. Judicial Reform and Adoption of Law Schools

Several attempts for the reform of judicial system has been made since 1993 when the first civilian government of the president Kim Young Sam established after the long-lasting military authoritarianism since 1961. People's Solidarity for Participatory Democracy (hereinafter, "PSPD"), the biggest NGO in Korea, has organized the Judiciary Watch division to oversee and check the judiciary and the Judiciary Watch of PSPD played integrating roles of the movement for the judicial reform with law professors, journalists, and other NGOs<sup>3</sup>. The main issues in these demands included the following : first, to maximize the quantity of legal service supplied to the people, second, to secure the political neutrality and fairness of judicial system, and third, to raise public confidence to and efficiency of the judicial system. For these purposes, some suggestions were made such as abolition of traditional legal profession career system, adoption of jury system, increase of numbers of lawyers, and improvement of legal education system. Among them, the idea of Law School system modeled after the U.S. legal education system attracted public attentions. PSPD organized various public campaign including press planning articles about the judicial reform with Chosun Ilbo, one of the major press in South Korea and publication of the book named "The reason we talk about law schools — Letter from supporters of law schools" which was sent to members of the National Assembly of Korea who opposed to the adoption of the law schools<sup>4</sup>.

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<sup>3</sup> Sang Hie Han, *The Judicial Reform in Political Context*, 10 Ilgam Bubhak 21, 39-42 (2005).

<sup>4</sup> PSPD Judiciary Watch, *uliga loseukul-eul malhaneun iyu — loseukul jijijauwi pyeonji* [The reason we talk about law schools — Letter from supporters of law

After several attempts and failures, the Roh Moo-Hyun Government established the ‘Judicial Reform Committee’ in 2003. The establishment of the graduate school of law (“law schools”) was suggested in the final report of the Judicial Reform Committee<sup>5</sup>. However, the adoption of law schools was opposed by the existing lawyers’ group including the Korean Bar Association and the conservative political party. They claimed that increasing the number of lawyers and lowered barrier would lower the quality of lawyers. Also, some people argued that law school system might function as barrier to entry against those who were financially disadvantaged. After a long, controversial social and political debates, the Act on the Establishment and Operation of Law Schools (hereinafter, “Law School Act”) was finally passed in 2007 and the new legal education system of South Korea was implemented in 2009. A total of 25 law schools (法學專門大學院, hereinafter, “law school”) opened, and admitted approximately 2,000 students each year since then.

Demands for globalization and specialization of legal service and legal education, and people’s demands for fair and reliable judicial system have led to the judicial reform of South Korea. In short, the adoption of law schools in Korea seems to be more of a partial reform of the entire judicial system than a mere reform of legal education.

#### **IV. Law Schools in South Korea — Opportunities and Improvement**

The new legal education system in South Korea resembles key features of the U.S. law school model — a three-year graduate-level professional school. However, the number of law schools and the number of students are regulated by the Minister of Education. They are decided after considering all the relevant circumstances, including appropriate supply and demand of lawyers and legal service (Law School Act Article 6, 7). The Minister of Education, upon the application from universities, grants authorization for the establishment of a law school in the light of certain

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schools], January 25, 2007. *available at* <http://www.peoplepower21.org/Judiciary/517509>.

<sup>5</sup> National Court Administration of South Korea, *gugmingwa hamkke haneun sabeobgaehyeog - sabeobgaehyeog-wiwonhoe baegseo* [Judicial Reform with the People — White Paper of the Judicial Reform Committee] 164 (2005).

requirements. For those universities which obtained authorizations from the government to establish law schools, obligations are imposed to abolish undergraduate level law colleges<sup>6</sup>.

For the entrance of law schools, applicants are required to have undergraduate degrees. Law schools offer a three-year degree program. And only law school graduates can sit for the National Bar Examination (辯護士試驗, hereinafter “NBE”), which has replaced NJE after the judicial reform. Law school graduates may apply for the NBE up to five times only during the five years beginning from the time of graduation. Successful applicants passing the NBE are no longer required to attend the JRTI.

This judicial reform and the adoption of law school system changed the Korean legal system and legal education in fundamental ways.

First, the number of lawyers have increased dramatically. The number of practicing lawyers in Korea was less than 10,000 in 2009. However, after the judicial reform, the number of practicing lawyers is more than 26,000 as of 2019. The growing number of lawyers is also believed to gradually lower the barrier and cost of legal service.

And the increase in number also led to the diversity of legal professions. The graduates from past JRTI usually became judges, prosecutors or litigators. Now, the number of in-house counsels, public interest lawyers or lawyers working for governmental organizations is increasing. And the formation and enlargement of lawyers’ group for public interest is noteworthy.

In terms of legal education, since the adoption of law schools aims to cultivate legal profession through education and the GPA at law schools is critical in future employment, legal education in law schools began to be emphasized. Article 16 of Law School Act also emphasizes practical experience in law schools by providing that 1/5 of the faculty members must be attorneys-at-law or foreign lawyers with five years’ experience or more in relevant fields. Most law schools in South Korea started to develop diverse and practice-related curriculums and conduct rigorous management of students.

Finally, diversity in student composition is a noticeable change. Article

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<sup>6</sup> However, universities with no law school still can continue general legal education at undergraduate level.

26 of the Law School Act states that “a law school shall endeavor to admit students having diverse knowledge and experience.” A law school is mandated to admit one third or more of its students having undergraduate degrees in fields other than law (Law School Act Article 26 ②)<sup>7</sup> and also to admit one third or more of its students with undergraduate degrees from other universities (Law School Act Article 26 ③).

And, students’ diversity in financial background is also pursued. According to the Law School Act and its Presidential Decree, each law school should admit at least 7% of the students from the physically, financially or socially disadvantaged group. And the Minister of Education also required all the law schools to give certain percentage of scholarship to students and tried to minimize increase of tuition by giving disincentive to law schools which raise the tuition. These measures are aimed at giving opportunities to diverse group, especially to students with financial difficulties. Relatively cheap tuition<sup>8</sup> and high scholarship payment rate<sup>9</sup> is expected to increase the student diversity.

## **V. Law Schools in South Korea — Challenges and Criticisms**

The Article 2 of Law School Act provides educational ideology of law school as “to train legal professionals who have sound professional ethics based on rich education, a deep understanding of people and society, and morals valuing freedom, equality and justice, and who have knowledge and abilities that will allow professional and efficient resolution of diverse legal disputes in order to provide quality legal service responding to the people’s diverse expectations and requests.” However, unlike the originally intended function with an optimistic view, a crisis emerged in Korean legal education. The malfunction of the Korean legal education results mainly from the strict regulation of the bar passing number by the Ministry of

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<sup>7</sup> Since major universities in South Korea no longer admit undergraduate law students since 2009, this requirement can be easily achieved right now.

<sup>8</sup> The average annual tuition for law schools in South Korea is around 15,000 USD which is much cheaper than law schools in the U.S. However, Korean law school tuition is higher than average Korean college tuition and may function as barrier to entry against those who cannot afford such tuition.

<sup>9</sup> The average scholarship payment rate of all law schools is 34.9% as of 2017.

Justice. The bar exam quota system regulated by the Ministry of Justice allows only a certain number of students to pass the NBE each year. This restriction on bar passing applicants was arbitrarily determined to keep the 75% passing rate for the first NBE. Only around 75% of the graduates could pass the exam even if the students have successfully finished law schools. Because the number of failed students was added to the next year's exam applicant pool, the bar passage rate significantly dropped each year<sup>10</sup>. The NBE has 3,316 applicants as of 2020 compared with 1,665 in 2012, but the number of passer has slightly increased (1,768 as of 2020 compared to 1,451 as of 2012). The bar passage rate is 53.3% as of 2020, compared with 87.14 percent in 2012. This significant rate drop made law school students concentrate on the preparation for the NBE and many law schools started to focus on training students only to prepare for the NBE. Like old colleges of law, law schools in South Korea gradually became another preparation center for the bar exam. Students focus on memorizing courts' precedents for better scores for the NBE. Initial goals for specialized and globalized legal education has been forgotten, and law schools are growing future lawyers who are good at memorizing precedents and sensitive at the competition<sup>11</sup>.

Accordingly, specialized education in law schools has become increasingly distant from students' attention. Each law school was designated with one or more specialized field at the time of approval of law school. However, students were gradually inclined to choose courses only related to the preparation of NBE due to the significant drop of passing rate. The students' participation rate of specialized course has become lower and lower. From 2012 to 2014, less than 5% of students participated in specialized course in 10 out of 25 law schools. Only Seoul National University Law School showed students' participation rate of specialized course over 50%<sup>12</sup>.

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<sup>10</sup> Jootaek Lee, *The Crisis and Future of Korean Legal Education: Compared with the American Legal Education System*, 21 *Korea University Law Review* 41, 48-49 (2017).

<sup>11</sup> The SNU Law Research Institute and Seoul National University Asia-Pacific Law Institute, *loseukul 10 nyeon-ui pyeong-gawa gaeseonbang-an* [10 years after the adoption of Law School, Evaluation and Improvement] (2018).

<sup>12</sup> Edaily, *geum-yung-hwangyeong jeonmun byeonhosa kiundadeoni...*

Furthermore, unlike what was first emphasized during the adoption of law schools, practice-based legal education provided in law schools has been proved to be insufficient. As the Law School Evaluation Committee under the Law School Act (Article 27, 28 of the Law School Act) mandated the establishment of legal clinics in 2010, all law schools have established legal clinics. However, as a result of the emphasis on the preparation of the NBE, most legal clinics now operate merely to meet formal standards required by the Law School Evaluation Committee.

Even with efforts for enhancing the diversity of students of law schools, students from the most prestigious universities in South Korea still dominate the legal profession community. For example, 48.8% of law school students admitted in 2019 were graduated from “SKY” universities (Seoul National University, Korea University, Yonsei University, which are considered the most prestigious universities in South Korea)<sup>13</sup>. Another recent news article shows that major law firms still prefer to employ graduates from three major (“SKY”) law schools. According to the article, 77.3% of newly employed attorneys in 5 major law firms for recent 3 years (from 2016 to 2018) are from “SKY” law schools and 80% of these new attorneys held undergraduate degrees from “SKY” universities<sup>14</sup>. This implies that diversity in legal profession community has not been sufficiently achieved even after the adoption of law schools.

## VI. Suggestions and Conclusion

The reform of legal education in Korea was a dramatic change and a part of judicial reform aiming for a better society. It has played certain

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*teugseonghwagyoyug ‘yumyeongmusil’* [Raising a specialized lawyer in finance or environment? ‘nominal’ specialized education], February 11, 2016. Available at <https://www.edaily.co.kr/news/read?newsId=01154566612549536&mediaCodeNo=257>

<sup>13</sup> Beobryul Journal (The Law Journal), *ol 25gae loseukul ibhagsaeng* “49% SKY, 83% *inseoul*” *daehag chulsin* [All 25 law School students come from “49% SKY, 83% in Seoul” universities], June 3, 2019. Available at <http://www.lec.co.kr/news/articleView.html?idxno=50486>

<sup>14</sup> Hankook Ilbo, *hagbeol jegug daehyeonglopeom, seoyeolhwadoen loseukul* [Prestigious Universities dominate big law firms, Ranking of law schools fixed] November 17, 2018. Available at <https://www.hankookilbo.com/News/Read/201811141882093531>



roles in the democratization of Korean judicial system by lowering the barrier and pursuing the diversity of legal professions. However, this reform was insufficient and it still faces many challenges. Strictly controlled bar passing rate hinders the function of legal education in law schools and law schools has become another preparation center for bar exam.

Nevertheless, we cannot go back to the old judicial system which had many drawbacks. I suggest that the acceptance rate of the NBE should no longer be strictly controlled and that the NBE should be a qualification exam with absolute evaluation. And law schools in Korea should emphasize the real practical training and legal reasoning practice. Reform of the NBE and legal education is needed to finalize the judicial reform of Korea.