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The Ideal and the Reality of the Korean Legal Profession

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I. INTRODUCTION

The economic development in Korea has been praised as a model for many other developing countries.¹ The political democratization in the nation also displaced the military and authoritarian regimes and improved human rights conditions.² It is difficult to say, however, whether the Korean legal profession in general has played the pivotal or appropriate role that society expected from it during Korea's transition to democracy and market economy.³

This development without lawyers, however, turned out unsustainable. The passive role or non-participation by the lawyers could be neglected in past Korean society. The changed environment, especially in areas related to deregulation and globalization, however, has demanded the positive and active participation by Korean lawyers. Nevertheless, it seems that the current legal system, as well as the legal profession, is incapable of meeting such demand. In this regard, the

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¹ See HILTON L. ROOT, *SMALL COUNTRIES, BIG LESSONS: GOVERNANCE AND THE RISE OF EAST ASIA* 18-31 (1996).

² See Chung-Si Ahn, *Democratization and Political Reform in Korea: Development, Culture, Leadership and Institutional Change*, in *KOREA IN THE GLOBAL WAVE OF DEMOCRATIZATION* 161-78 (Doh Chull Shin et al. eds., 1994).

³ See DAE-KYU YOON, *LAW AND POLITICAL AUTHORITY IN SOUTH KOREA* 217 (1990).

paper argues that all of the basic problems of the Korean legal profession today have a significant bearing on legal education process.⁴

The paper presents a kind of socio-legal study of the Korean legal profession, which has not yet been undertaken in the country. A few research and writings on Korean lawyers do exist, but they are biographical pieces about a few distinguished lawyers. This paper begins by describing an overview of the Korean legal profession. Next, the reality of different branches of the profession, notably judges, public prosecutors, private lawyers, are further discussed. Following this section, this paper critically examines the legal education and professional training in South Korea. Finally, the implications of the malfunctioning of the profession as well as suggested reform measures are considered.

II. THE LEGAL PROFESSION IN CONTEMPORARY KOREA

A. *Overview*

Two distinctive features of the Korean legal profession are its small size and homogeneous composition. Korea has approximately 6,900 licensed lawyers, including roughly 1,400 judges, 1,200 prosecutors, and 4,300 practicing attorneys.⁵ Considering its economic scale and population of 46 million, it is difficult to ascertain whether Korea has enough lawyers.⁶ More striking is that even this

⁴ See JAMES M. WEST, EDUCATION OF THE LEGAL PROFESSION IN KOREA 12 (1991).

⁵ See generally MINISTRY OF COURT ADMINISTRATION ED., THE JUDICIAL YEARBOOK (2000) [hereinafter JUDICIAL YEARBOOK]; SUPREME PUBLIC PROSECUTOR'S OFFICE ED., THE PROSECUTION YEARBOOK (2000) [hereinafter PROSECUTION YEARBOOK]; Korean Bar Association Web site, at <http://www.koreanbar.or.kr>. As in most other countries, doctors and lawyers are two of the most privileged professions in Korea. Considering the fact that the number of Korean doctors is over 62,000, the size of Korean legal profession seems more problematic. For statistics for medical doctors, see the website of the Korean Medical Association, at <http://www.kma.org>.

⁶ Whenever the small size of the Korean legal profession is criticized, a typical response from the Bar Association and many Korean lawyers is that the simple quotation of the number is totally misleading the public. In Korea, they say, persons not admitted to the bar perform many jobs that exclusively belong to the legal profession in other countries. They especially point out the *Byopmusa* or "certified judicial scribes" who prepare documents for litigation. The judicial scrivener, however, can hardly be regarded as a member of the legal profession in a strict sense. The Bar's

tiny number of lawyers has been only achieved through substantial increases in very recent years.⁷ The small size of the profession adds to its prestige and makes lawyers the most privileged class in Korean society.⁸

Scarcity, however, has had profoundly negative ramifications, not only for the Korean legal system, but also for the lawyers themselves. Judges and prosecutors have had to handle a high number of cases,⁹ and this heavy burden has been a leading factor in the increasing numbers of those who retire from office to enter private practice.¹⁰ The shortage of lawyers also distorts the roles and functions of lawyers and has denied ordinary Koreans access to the judicial system.¹¹ The role of practicing attorneys has long been confined to civil or criminal practice.¹² Lawyers long felt little pressure to expand their services, because demand for representation in

response, therefore, seems something of an excuse not to increase the annual quota for new lawyers.

⁷ This extremely small legal profession is a result of a tightly restricted annual quota for new lawyers. From 1949 to 1980, a total of 1,902 applicants passed the Korean judicial examination, which averages to about 59 per year. In 1981, the annual quota was substantially increased to accept 300 per year. See YOON, *supra* note 3, at 113-15.

⁸ See Geung Sik Jung, *Bopyulgasang ui Byunchon* [*The Transformation of the Images of Lawyer*], in BOPYULGA UI YULRI WHA CHEKIM [THE ETHICS AND RESPONSIBILITIES OF LEGAL PROFESSION] 78 (The Faculty of Seoul National University (SNU) College of Law ed., 2000).

⁹ According to official statistics, a typical Korean district court judge decided an average of 416 cases per month, whereas a typical prosecutor handled 171 cases per month. See JUDICIAL YEARBOOK, *supra* note 5, at 404; PROSECUTION YEARBOOK, *supra* note 5, at 326-27.

¹⁰ The number of judges who resigned the offices has dramatically increased in recent years. The reason for retirement especially in recent years is, however, not always related to the heavy workload. The increasing number of new lawyers tends to make the legal market more competitive and produce less income for each lawyer. Under these circumstances, judges and prosecutors are enticed to open their law offices as early as possible to garner more clients. See Chung-Sik Kang, *Pan-Kumsa Mudeogi Myungtae Junbi* [*Many Judges and Prosecutors Ready to Resign*], KOREA DAILY NEWS, Jan. 22, 1999, at 19.

¹¹ See Dae-Kyu Yoon, *Recent Judicial Reform on Access to Justice in South Korea*, in 2 LAW & LEGAL PRACTICE IN EAST ASIA 171-73 (A.J. de Roo & R.W. Jagtenberg eds., 1996).

¹² See YOON, *supra* note 3, at 131.

these areas was sufficient to guarantee a lucrative income.¹³

Along with the shortage of lawyers, another distinctive feature of the Korean legal profession is its homogeneous composition, which not only hampers diversification of the legal community but also facilitates unethical practice.¹⁴ The unified system of legal training is primarily responsible for the homogeneous membership. Those who want to be lawyers in Korea must first pass the judicial exam, and only successful examinees obtain the privilege of entering the most elite institution in Korea, the Judicial Research and Training Institute ("JRTI"). At the JRTI, all trainees are treated as functionaries of the government. They not only enjoy official status but also receive a salary from the government. Over a two-year period, the JRTI provides practical training rather than advanced legal education.¹⁵ All Korean lawyers, whether judges, prosecutors or practicing attorneys, receive further training in the same institution.

The Korean Supreme Court supervises the JRTI, whose faculty is composed of judges and prosecutors. The training focuses on developing litigation skills to produce future judges, prosecutors, and trial lawyers.¹⁶ Undergoing the unified training course has built a military-like hierarchy among Korean lawyers.¹⁷ This kind of hierarchy has been reinforced by the Confucian tradition in which seniority carries great privileges.¹⁸ Under the circumstances, cordial

¹³ Until very recently, a litigant who could not afford to retain a lawyer had no choice but to receive legal assistance from a certified judicial scrivener because Korean lawyers generally did not prepare document for clients who acted for themselves in a court proceeding. See The Certified Judicial Scriveners Act, Law No. 5180, Dec. 12, 1996, art. 2 (Duties), *as amended as* Law No. 5453, Dec. 13, 1997. Due to the substantial increase of lawyers recently, some lawyers have begun to take on such work.

¹⁴ WEST, *supra* note 4, at 80.

¹⁵ Since 1996, the JRTI has adopted some features of a graduate school, but it is difficult to determine whether significant changes have occurred. See Kihong Yoon, *Sabopyonsuwon Ildae Kehuk [Revolutionary Changes in the JRTI]*, BOPYUL SHINMUN [LAW TIMES], May 20, 1996, at 1.

¹⁶ Before 1983, all graduates from the JRTI were appointed as either judges or prosecutors, but due to the increasing annual quota, the number of graduates who choose the private practice has been dramatically growing.

¹⁷ See JONG-SUP CHONG, 2 HONBYOP YONGU [A STUDY OF CONSTITUTIONAL LAW] 237-38 (1996).

¹⁸ See BRUCE CUMINGS, KOREA'S PLACE IN THE SUN: A MODERN HISTORY 57 (1997).

personal relationships, not convincing arguments or technical legal skills, play a major role in legal practice. Heavy reliance on such personal connections has undoubtedly contributed to unethical practices within the Korean legal community.¹⁹

The near dominance of one school in training legal professionals sustains this reliance on personal connections. The extraordinary proportion of lawyers graduating from a single university is, thus, another problematic feature of the Korean legal system. About 80 universities in Korea confer undergraduate law degrees, but a single university, Seoul National University (“SNU”) has swept the judicial examinations. Although the number of SNU law graduates has gradually decreased since 1981, when the annual quota of new bar passers was more than doubled, graduates of Korea’s most prestigious university still make up about 50% of all who pass the exam.²⁰ In addition to the common training received by the Korean legal profession, the predominance of alumni of a single university perpetuates the homogeneous character of the Korean legal profession. All lawyers, irrespective of their particular roles, are like family. Under the circumstances, informal *ex parte* contacts across the branches of the profession routinely occur, and various informal ways of cementing personal goodwill are regarded as natural.²¹

With respect to the homogeneous composition, it is quite interesting to observe the rapid growth of female lawyer population in South Korea. As in many other countries, the legal profession in Korea has long been a gentlemen’s club.²² The proportion of female lawyers in Korea, however, has dramatically increased since 1981. Before 1981, at best, one woman passed the exam each year. In 1994, however, the proportion of women successfully passing the exam

¹⁹ See WEST, *supra* note 4, at 80.

²⁰ In 1998, the percentage of SNU graduates among those who passed the bar exam fell below 50% (42.4% or 297 out of 700) for the first time. Statistics show that SNU graduates comprised 55.8% of those passing in 1995, 50.2% in 1996, and 54.3% in 1997. In the 1998 exam, graduates from Korea University (21%) took second place, and those from Yonsei (8%) were third. See Hyun Kap Park, *Sasi HapKeuk 700myung Balpyu [700 Candidates Pass the Judicial Exam]*, KOREA DAILY NEWS, Nov. 28, 1998, at 23.

²¹ See WEST, *supra* note 4, at 79-80.

²² Even in the United States, the proportion of women lawyer was less than 5% until 1970s. See RICHARD L. ABEL, *AMERICAN LAWYERS* 90 (1989).

jumped to 10.8% and then to 17.2% in 1999, when 122 women passed.²³ In 2000, 151 women passed the nation's most competitive exam, representing 18.9% of all successful candidates. The dramatic increase of female lawyers can obviously be attributed to the substantial increase in the annual quota for new lawyers. It is ironic to hear, however, that widespread gender discrimination in Korean society also helped to diversify the legal community. Many female law students have reported that they entered the legal profession, because they viewed it as much more gender-neutral than many other jobs in Korea.

It is too early to speculate whether increased gender diversity in the Korean legal profession will significantly affect its traditionally male-dominated and conservative culture. Female lawyers have already begun to organize themselves to conduct systematic research on women and law issues, while jointly responding to the practices of gender discrimination.²⁴ The increase in female lawyers has afforded Korean women more opportunity to retain legal counsel of their choice and to be better represented, especially in family law matters such as divorce. Having laid a broad overview of the Korean legal profession, this section now introduces the different branches of the profession.

B. *Judges and the Courts*

The military and authoritarian regimes often interfered in the decisions of Korean judges, especially when politically sensitive matters were adjudicated. The impartiality and independence of the Korean judicial branch have been impaired, particularly by pressure from the executive branch, notably from the Korean Central Intelligence Agency and from military intelligence organs.²⁵ With political democratization, the Korean judiciary has gradually gained independence from such outside influence.²⁶ The judiciary still has a

²³ See Park, *supra* note 20.

²⁴ See Sun Im Kang, *Namyuchabeolkumgibop ui Munjejom* [*The Problems of the Sex Discrimination Act*], KOREA DAILY NEWS, June 30, 1999, at 15.

²⁵ See CHONG, *supra* note 17, at 234-35.

²⁶ The cases involving the violation of the notorious National Security Law are frequently criticized by reason of ideologically biased or selective enforcement. See generally Kuk Cho, *Tension between the National Security Law and Constitutionalism in South Korea: Security for What?*, 15 B.U. INT'L L.J. 125 (1997).

long way to go, however, to overcome undue influence from within, manifested as judicial cronyism.²⁷

One practice that is quite damaging to the notion of a fair trial, known as *Junkwanyewu* in Korean, consists of affording preferential treatment during litigation to recently retired judges.²⁸ This preferential treatment has been possible by the unusual guild mentality, which was produced by the unified training and the homogeneous composition of the legal profession.²⁹ The practice operates as follows: a recently retired judge who files suit as a private attorney receives favorable treatment from the court during the legal process.³⁰ In a survey conducted by a Korean newspaper, 45 out of 100 practicing attorneys admitted that they have experienced such preferential treatment.³¹ Incumbent judges are expected by custom to help former colleagues in this way.³² An even more striking example of unethical practice occurs when a newly retired judge is retained as counsel in a matter that was before that same judge prior to retirement.³³

Such preferential treatment raises questions about impartiality, but the Korean legal profession has long accepted this unethical practice nonetheless.³⁴ Because of the high probability of a favorable outcome, former judges can charge fees significantly above normal rates and, thus, make a considerable sum in a short time after

²⁷ See CHONG, *supra* note 17, at 234.

²⁸ CHAMYOYONDAE (PSPD) JUSTICE WATCH CENTER, KUKMINUL WIHAN SBYOPGEHUK [JUDICIAL REFORM FOR PEOPLE] 149 (1996).

²⁹ See *supra* Section II.A.

³⁰ PSPD JUSTICE WATCH CENTER, *supra* note 28, at 149-53.

³¹ Jae Hyun Kwon & Jung Hun Park, *Byunhosa Chonjee Seolmun* [Survey: Lawyers Admit Unethical Practices], DONG-A ILBO [DONG-A DAILY NEWS], Jan. 21, 1999, at 19.

³² PSPD JUSTICE WATCH CENTER, *supra* note 28, at 150.

³³ Responding to the outraged public opinion, the Korean Bar Association proposed to revise the Attorney-At-Law Act so as to impose criminal sanction to a former judge who takes a case in which he was previously involved. See Tae Won Ha, *Byunhyup, Jejiksimateun Sakunsum Hyungsacheobeol* [KBA decides to punish unethical conducts], DONG-A ILBO [DONG-A DAILY NEWS], Mar. 23, 1999, at 23.

³⁴ PSPD JUSTICE WATCH CENTER, *supra* note 28, at 150.

retirement.³⁵ This practice undoubtedly undermines substantially the public's trust in the judiciary,³⁶ reflected in the popular saying, "Yujonmujei Mujonyujei,"³⁷ which means "innocence for the rich, guilt for the poor."

With respect to the status and function of Korean judges, it might be worthwhile examining the Korean judgeship from a comparative perspective. Because the Korean legal system follows the civil law model, the status and function of the Korean judge are similar to those of a civil servant in many ways.³⁸ Even taking into account this fact, the bureaucratization of the Korean judiciary seems to go too far.³⁹ A Korean judge's career must trace ten official promotional steps, which, in fact, contain sixteen discrete levels.⁴⁰ Any judge who fails to rise to the next higher position in the hierarchy within a reasonable time is expected to respect "tradition" within the judicial branch by resigning.⁴¹

In comparison to the excessive number of promotional stages, however, the concentration of the power and authority over the appointment process in the hands of one person, the Chief Justice of the Supreme Court, presents a greater problem. Excepting justices of the Supreme Court, the Chief Justice hires and promotes all judges. Although the Chief Justice is required to obtain the consent of the Supreme Court Justices' Council before making appointments,⁴² this

³⁵ *Id.* at 154-55.

³⁶ Many Koreans believe that "the first case never loses." According to rumors circulated around courthouses, colleagues at the office help the former judge and new attorney to win the first case the former judge takes after she or he leaves public office. *See id.* at 150.

³⁷ *Id.*

³⁸ *See* JOHN HENRY MERRYMAN, *THE CIVIL LAW TRADITION* 101-2 (2d ed. 1985).

³⁹ CHONG, *supra* note 17, at 258.

⁴⁰ PSPD JUSTICE WATCH CENTER, *supra* note 28, at 29.

⁴¹ All Korean lawyers are classified by the year they passed the judicial exam and the year they entered the JRTI. In the judiciary and prosecution branches, if anyone who passed or entered later is promoted to a higher rank, those who passed or entered earlier are expected to leave office. This is a well-established "tradition" under such hierarchism. *See* CHONG, *supra* note 17, at 279.

⁴² Bopwonchojikkop [Court Organization Act], Law No. 3992, Dec. 4, 1987, art. 41, *as amended as* Law No. 6084, Dec. 31, 1999.

Council, in practice, hardly exercises effective screening authority.⁴³ This type of power concentration, in combination with the promotion system, reinforces the civil servant mentality of Korean judges, thus undermining the independence of the judiciary.

A cursory glance of the career system reveals that a Korean judge may appear to be more like a French than an American judge.⁴⁴ In reality, however, he is not.⁴⁵ Rather, the typical Korean judge represents a hybrid. There is a strong conviction among the Korean legal profession and the people that the role of the judge should be distinguished from the mechanical role of a civil servant, though this conviction is contrary to that of the civil law tradition.⁴⁶ Many Koreans seem to believe that a judge must be not only a legal expert but also a person of wisdom and integrity.⁴⁷ They tend to regard an

⁴³ CHONG, *supra* note 17, at 252.

⁴⁴ See MERRYMAN, *supra* note 38, at 101-03.

⁴⁵ Regarding the career system, an interesting practice shows the disparity in social position between Korean lawyers and other civil servants. Both lawyers and civil servants are selected through national examinations, but in comparison to a public official who has passed the Higher Civil Service Examination, a judge or prosecutor who has passed the judicial examination is not only better paid but also enjoys substantial privileges within the government hierarchy. It is a longstanding practice in Korea that a junior judge or prosecutor starts his or her career at a civil service ranking two levels higher than that of a counterpart in an administrative agency. For a civil service official to rise to a position takes on average twenty years in an administrative department. A powerful government commission in charge of planning and budget recently proposed lowering the starting level of judges and prosecutors to a position equivalent to those of higher civil servants. The commission publicized this inequality in order to cut inflated spending on the salaries of judges and prosecutors, and, not surprisingly, both the judicial branch and the prosecutors were quick to respond. They argued that the commission erred because the functions of judges and prosecutors are inherently different from those of civil servants. Opponents of the commission's proposal are quite right in arguing that the role or function of a judge is quite different than that of a civil servant, but one might disagree with the proposition that the role of a Korean judge is much more complicated and valuable than that of a public official in an administrative position.

⁴⁶ As Merryman pointed out, the anti-judicial ideology of the European revolution reinforced the tradition in which the judge has never been conceived of as playing a very creative part. MERRYMAN, *supra* note 38, at 37.

⁴⁷ See NORMAN JACOBS, *THE KOREAN ROAD TO MODERNIZATION AND DEVELOPMENT* 42-47 (1985).

equitable decision as much better than one based on strict application of law.⁴⁸ Confucian influence on Korean culture strongly influences this kind of perception or tendency.⁴⁹

Korean judges are frequently expected to render a less severe judgment by taking into account specific factual circumstances [*Chongsang Chamjak*].⁵⁰ Under a well-established practice, for example, an attorney finishes his or her closing argument with the saying "Have mercy, your Honor!" From a comparative perspective, the public image of the Korean judge, thus, share many common features with an English court of equity. Korean judges are expected to render Solomonic decisions reflecting contextualized justice and the wisdom of the ages.⁵¹ This public image and expectation has been both a blessing and a burden to Korean judges. They are much more respected and much better treated than their counterparts in other branches of government, and they enjoy more discretionary power than other public officials.⁵² At the same time, however, judges are expected to live up to higher moral standards.⁵³ A typical Korean

⁴⁸ *Id.*

⁴⁹ There has been a widely circulated misunderstanding that due to the Confucian influence law and legal institution were insignificant historically in Korea. No doubt Confucian teachings stressed moral example, but at the same time Korea has well-developed legal institutions at least from the mid *Koryo* dynasty years. The teachings of the neo-Confucian thinkers in 13th century Korea also should not be undervalued in this regard. See generally Kun Yang, *Law and Society Studies in Korea: Beyond the Hahm Theses*, 23 L. & SOC. REV. 891 (1989); Jae Won Kim, *Law, Politics and Social Transformation in Korea* (1991) (unpublished manuscript, on file with the Washington College of Law Library at American University).

⁵⁰ See William R. Shaw, *Social and Intellectual Aspects of Traditional Korean Law, 1932-1910*, UNIVERSITY OF CALIFORNIA (BERKELEY) KOREA RESEARCH MONOGRAPH NO. 2, reproduced in *KOREAN LAW IN THE GLOBAL ECONOMY* 26-7 (Sang-Hyun Song ed., 1996).

⁵¹ YOON, *supra* note 3, at 116.

⁵² CHONG, *supra* note 17, at 314.

⁵³ There has been considerable public outrage when a lawyer's list of bribery revealed that many judges had regularly accepted "a token of lawyer's gratitude." It is often reported that some Koreans give and take money or financial benefit as a token of one's *Chonjee* or gratitude in the fields of business and government. Nevertheless, because the public expects higher ethical standard from judges, in the recent scandal, six judges had to resign. See Won Pyo Cho, *Daebopwon, Tchukgap Pansa Cheori* [*Supreme Court censures judges*], DONG-A ILBO [DONG-A DAILY NEWS], Feb. 20, 1999, at 22.

judge is, therefore, a hybrid of the civil law and common law judge. The institutional environment of the Korean judiciary resembles that of a typical civil law judge, but the role of the judge in the public eye is more like that of a common law judge.

C. Prosecutors

A glimpse of the building architecture may be a good starting point to understand the reality of the Korean public prosecutors today. In most countries, courts are symbols of the highest authority. Because of this, the court building itself is usually majestic in appearance, and Korean court buildings are no exception. They are not only tall and massive but are also designed to convey the highest sense of dignity. Although the effectiveness of such symbolism is debatable, the motive is understandable. An interesting sight in Korea, however, is the prosecutors' building. All prosecutors' offices in Korea, which are as big and dignified as those of the courts, are located next to court buildings. The location and the appearance of the prosecutors' offices are not simply matters of architecture or style; they illustrate the relationship between the Korean judiciary and the prosecution. Korean prosecutors do not view their judicial role or function as subordinate to that of the judge. This mentality is not only incompatible with the adversarial system, which the Korean legal system presupposes, but also tends to increase the possibility of abuse of prosecutorial powers.

Korean prosecutors monopolize prosecutorial powers under the Criminal Procedure Act.⁵⁴ They also exercise a wide range of discretionary power through indictments.⁵⁵ In the past, they have abused their mighty public power to please power-holders. For example, the prosecutors have indicted many political dissenters on charges of violating the National Security Law ("NSL"),⁵⁶ which is designed to protect South Korea from the threat of North Korea. Critics argue that the NSL has functioned as a legal tool for maintaining authoritarian regimes in South Korea for half a century.⁵⁷

⁵⁴ Honsasosongbop [Criminal Procedure Act] Law No. 341, Sept. 23, 1954, art. 246, *as amended as* Law No. 5454, Dec 13, 1997.

⁵⁵ *Id.* art. 247.

⁵⁶ Kugaboahnobop [National Security Law] Law No. 3318, Dec. 31, 1980, art. 1, *as amended as* Law No. 4373, May 31, 1991.

⁵⁷ *See* CHO, *supra* note 26, at 127. The prosecution, in cooperation with the police and intelligence agencies such as the KCIA, has indicted

The misuse of prosecutorial power is more complicated in contemporary Korean society through practices of unused powers. Despite repeated official denials, many Koreans believe that, from past patterns of prosecution, some areas are beyond the reach of prosecutors, areas that are called *Sungeuk* or “sanctuary.” For example, Koreans widely believe that prosecutors are unable to bring an incumbent president to justice.⁵⁸ His family members and close aides also seem to enjoy a kind of sanctuary. In a political structure like Korea’s, where very extensive powers are vested in the person of the President,⁵⁹ the inability of the law to reach wrongdoing by these powerful individuals is especially harmful to achieving the Rule of Law.

The *de facto* existence of the sanctuary is a consequence of the Korean prosecution’s dependency on political power holders.⁶⁰ A member of the President’s party is often pleased to find that the prosecution overlooks illegal election activities, whereas members of the opposition party are regularly charged with and convicted of unlawful campaign activities and illegal spending.⁶¹ The political party opposed to President Kim Dae Jung, for example, recently called for an independent counsel to assure neutrality in the ongoing investigation of *Hanvit* Bank’s unlawful loan scandal.⁶² Although the

more than 12,000 people since 1964 for violating the NSL, and has itself committed serious human rights abuses through the application of harsh extra-judicial punishment. For the statistics, see Young Ah Suh et al, *Special Report: Kukgaboanbop Bansaegi [The Fifty Years of the National Security Law]*, NEWS PLUS, Dec. 3, 1998, at 14-21. For details, see generally WON-SOON PARK, *KUKKABOANBOP YONKU [A STUDY OF NATIONAL SECURITY LAW]* (1989).

⁵⁸ The 1996 trials and convictions of two former Korean presidents attracted worldwide attention. Despite the popularity of the prosecution in Korea, however, critics see the cases as motivated by revenge or political opportunism. For the details, see an excellent analysis of the dramatic criminal trial by James M. West, *Martial Lawlessness: The Legal Aftermath of Kwangju*, 6 PAC. RIM L. & POL’Y J. 85 (1997).

⁵⁹ The Korean Constitution vests a Korean President with more power than the U.S. Constitution does to a U.S. President. See CHUL SOO KIM, *HONBOPHAKGERON [AN INTRODUCTION TO CONSTITUTIONAL LAW]* 1035 (12th ed. 2000).

⁶⁰ See IN-SUP HAN, *HANKUK HYUNGSABYOP KWA BYOP UIJEEBAE [KOREAN CRIMINAL LAW AND THE RULE OF LAW]* 264-67 (1998).

⁶¹ *Id.* at 268.

⁶² See Jae-soon Chang, *Prosecution Ends Loan Scandal Probe*,

President's party itself put forth a draft Independent Counsel Act a few years before it controlled the presidency, it now rejects such proposal.⁶³

Although political neutrality among prosecutors may seem to be merely a utopian ideal, it is nevertheless a practical requirement to achieving the Rule of Law. Partisan bias in law enforcement is not only vicious and morally reprehensible but also undermines public trust in the legal system as a whole. Korean society currently suffers from such lack of trust as a result of law enforcement bias. The longstanding practice of misusing prosecutorial power to suppress political opposition has helped give Korean prosecutors a bad name.⁶⁴ History teaches that democratic institutions cannot function for long unless rules are in force to prevent public powers from being abused for purely partisan ends.⁶⁵ In this regard, legislation had been enacted to cut the political ties between the prosecution and the ruling party, as it has been established practice in Korea for top prosecutors faithful to the President or his party to be appointed to prestigious public offices or recruited by the President's party after retirement.⁶⁶ A 1997 amendment to the Prosecution Act⁶⁷ provided that an Attorney General, the "commander"⁶⁸ of all Korean prosecutors, should not be appointed to any public office for two years following retirement.⁶⁹ It also restricted his or her participation in any political party.⁷⁰

Although the legislation appeared to be of questionable constitutional validity, the public in general, as well as the majority of

KOREA HERALD, Sept. 10, 2000, at 1.

⁶³ *Id.*

⁶⁴ HAN, *supra* note 60, at 264-65.

⁶⁵ *Id.* at 268.

⁶⁶ *Id.* at 266.

⁶⁷ Kumchalchongbop [Prosecution Act], Law No. 3882, Dec. 31, 1986, art. 12, § 4, *as amended as* Law No. 5263, Jan. 13, 1997.

⁶⁸ Article 7(1) of the Prosecution Act requires public prosecutors to obey any order of his superiors with respect to prosecutorial matters. The undemocratic nature of this provision has long been severely criticized. *See* HAN, *supra* note 60, at 272-74.

⁶⁹ The Prosecution Act art. 12, § 4.

⁷⁰ *Id.* art. 12, § 5.

legal scholars, supported the amendment.⁷¹ Such measures were reasonably necessary, argued the proponents, in unique situations where prosecutorial powers had been employed to maintain undemocratic governments and to insulate power-holders from criticism.⁷² In January 1997, however, nine high-ranking prosecutors, including the Attorney General, challenged the constitutionality of the 1997 amendment.⁷³ Korea's Constitutional Court, ruling with unprecedented speed, agreed with the applicants, finding the measures to be unconstitutional restrictions on the freedom to choose one's occupation guaranteed by Article 15 of the Constitution.⁷⁴ This ruling demonstrates that Korean society still needs other measures to achieve the independence of prosecution.

D. *Lawyers and the Bar*

In most countries, lawyers constitute a unique profession, subject to two quite opposite public images: one good and the other evil.⁷⁵ This contrast seems especially severe in contemporary Korea. In the eyes of the Korean people, lawyers are champions of human rights and the incarnation of self-sacrifice,⁷⁶ but, at the same time, are seen as a class of lawfully licensed thieves.⁷⁷ Many people are, of course, well aware that lawyers of the former kind are rare, but this image in Korean society has been so strong that it frequently

⁷¹ HAN, *supra* note 60, at 267; Editorial, *Kumchalchongjang ui Honbopsowon [The Constitutional Challenge by the Attorney General]*, DONG-A ILBO [DONG-A DAILY NEWS], Jan. 23, 1997, at 3.

⁷² HAN, *supra* note 60.

⁷³ See In-soo Nam, *Controversy Surrounds Prosecutors' Petitions*, KOREA HERALD, Jan. 25, 1997, at 1.

⁷⁴ The Constitutional Court Ruling of July 16, 1997, 97 HonMa 26.

⁷⁵ AUSTIN SARAT & STUART SCHEINGOLD EDS., *CAUSE LAWYERING: POLITICAL COMMITMENTS AND PROFESSIONAL RESPONSIBILITY* 3 (1998).

⁷⁶ Whenever the author interviewed applicants for law school, they typically said that they had chosen this path in order to become a person who could help provide the poor with legal service, and protect the human rights of those who were wrongfully accused.

⁷⁷ This image is much worse than that of a "devil's advocate," which might be justified under the rubric of the "adversary system."

compensated for the negative image of the majority of lawyers.⁷⁸

The Attorney-at-Law Act⁷⁹ obligates attorneys to protect fundamental human rights and to ensure the realization of social justice.⁸⁰ Because the law itself identifies the protection of human rights as the foremost duty of a lawyer, the widely used term *Inkwon Byunhosa*, or “human-rights lawyer,” has a redundant ring in Korea. The term has a special meaning in contemporary Korean society, however, where it is used to identify a group of lawyers who have fought against past military-authoritarian regimes in Korea. The lawyers fought not only for the fundamental rights and freedom of their clients but also against governmental authorities that denied the very basic principles of democracy.

As far back as the 1930s, one can find Korean lawyers who challenged Japanese colonial rule to protect the fundamental rights and freedoms of their brethren. Those activities could perhaps be characterized, however, as political acts supporting the national liberation movement.⁸¹ In the 1960s, after a military coup led to the creation of an authoritarian state, Koreans witnessed the appearance of another group of heroic lawyers, which included Lee Byung Rin.⁸² In December 1972, the Park Chung Hee regime, through an illegally manipulated process of constitutional amendment, enacted a new

⁷⁸ Won Soon Park, *Hankuk Inkwon Byunronsa [A Short History of Korean Human Rights Advocacy]*, in MUJEDA’RANUN MAL HANMADI [A SINGLE WORD PROCLAIMING “NOT GUILTY”] 56 (1995).

⁷⁹ *Byunhosabop [Attorney-at-Law Act]*, Law No. 3594, Dec. 31, 1982, as amended as Law No. 5453, Dec. 13, 1997.

⁸⁰ *Id.* art. 1, § 1.

⁸¹ Kim Byung Ro, Lee In, and Huh Heon were the most notable lawyers who utilized their lawyers’ license for the purpose of National Liberation Movement. For details, see Park, *supra* note 78, at 57-64.

⁸² In addition to his personal striving for human rights, Lee was the first Korean lawyer who had a clear vision for the Korean Bar Association, stressing its pivotal role and function. Serving as president of the Korean Bar Association as well as of the Seoul Bar Association, he rebuilt these organizations to fight against the military dictatorship. Emphasizing the rule of law, he made the Korean Bar Association a pioneer promoter of judicial independence and democracy. Due to his vision and effort, Lee Byung Rin is regarded as a “godfather” of Korea’s human rights lawyers by many members of the legal profession, as well as by the general public. His heroic life became an inspiration for “cause lawyering” among following generations of Korean lawyers. *See id.* at 68-73.

constitution, called the *Yushin* (“revitalizing”) Constitution.⁸³ The *Yushin* Constitution era did not mark the birth of another constitution in Korea; rather, it meant the death of constitutionalism for the nation. The new supreme law of the land enhanced the President’s powers to the point that Park Chung Hee “lawfully” obtained unrestricted power to rule by emergency decree.⁸⁴ It, thus, opened the era of “rule by decree,” not by law.

From the very beginning, *Yushin* evoked a storm of protest. To block a campaign for a million signatures demanding a return to a democratic constitution, Park issued his first emergency decree in January 1974.⁸⁵ Although the decree made criticizing the *Yushin* Constitution a felony punishable by up to 15 years in prison,⁸⁶ it was insufficient to suppress the opposition.⁸⁷ The threat also failed to silence those lawyers who inherited the tradition of human rights advocacy.⁸⁸ Unfortunately, the bravely provided legal assistance could not have obtained justice for the defendants, which included the

⁸³ In October 1972, the Park Chung-Hee regime unlawfully suspended parts of the Constitution, declared martial law, and dissolved the National Assembly. See DAVID REES, *A SHORT HISTORY OF MODERN KOREA* 156-57 (1988). He then proposed a new *Yushin* Constitution, and it was approved by a national referendum in December 1972. *Id.* Shortly thereafter, an electoral college elected Park to a six-year Presidential term with no limit on re-election. *Id.*

⁸⁴ See YOON, *supra* note 3, at 103-04.

⁸⁵ See Park, *supra* note 78, at 78-80.

⁸⁶ Park made it punishable by death to demonstrate and oppose *Yushin* in any way in April 1974. See GEORGE E. OGLE, *SOUTH KOREA: DISSENT WITHIN THE ECONOMIC MIRACLE* 67-68 (1990).

⁸⁷ Among numerous protests against the anti-democratic regime, the so-called *Minchunghakyun* [National League of Democratic College Students] incident was one of the most famous. The KCIA investigated 1,204 students on charges of joining illegal organizations, violating the emergency decree, and violating the National Security Law, among other charges. Eventually, 253 students were brought to trial before an emergency military court. The military court sentenced seven defendants to death, another seven to life terms (twelve to twenty years), and six defendants to fifteen-year prison terms. See SUNG-HEON HAN ET AL., *YUSHINCHAEJE WHA MINJUHWAUNDONG [THE YUSHIN REGIME AND THE DEMOCRATIZATION MOVEMENT]* 10-20 (1984).

⁸⁸ Among the leading figures of the first generation lawyers were Lee Byong-Lin, Han Sung-Heon, Lee Don-Myong, Cho Jun-Hee, Hwang In-Chul, and Hong Sung-Woo. Park, *supra* note 78, at 75-6.

student activists in *Minchunghakun* case. By emergency decree, the defendants were tried in military court where procedural safeguards were not fully guaranteed. The lawyers' efforts, however enthusiastic, were thus doomed to achieve little, if anything.⁸⁹ Nevertheless, what the lawyers did was not futile. Despite the inability of the lawyers to provide their clients with the legal assistance they were entitled to under the law, both their clients and the general public fully appreciated their efforts. Those defendants were much comforted by the legal elite, who not only denounced the charges against the defendants but also firmly supported their cause. The public also viewed the lawyers' efforts as fulfilling the Confucian tradition of the learned man taking moral responsibility.⁹⁰ Their activities kept alive the cherished ideal of lawyers as guardians of human rights and inscribed a positive image of the lawyer in public opinion. These activities "put a human face on the lawyer."⁹¹

A few noteworthy developments in the 1980s perhaps raise the hopes of lawyers as effective defenders of human rights. A series of civil suits, in which flood victims sought compensation from the government, engendered greater trust in the legal system and perhaps reminded the public of the *Inkwon Byunhosa*. Those cases arose out of disastrous flooding that occurred in the Mangwon-dong area of Seoul in September 1984.⁹² Although a torrential localized downpour caused the flooding, residents of the area claimed that mismanagement of floodgates by local authorities directly caused the damage.⁹³ The extraordinary feature of this litigation was the large number of plaintiffs as well as the enormous damages sought. Following victories by eighty plaintiffs, approximately 20,000 additional flood victims filed suit against the local government. For so many people to bring suit at the same time against the government was unprecedented in Korean history. Because Korea had no collective litigation procedure such as the class action in the American legal system, handling all the suits was technically very difficult, if not impossible.

⁸⁹ HAN, *supra* note 87, at 12.

⁹⁰ See Park, *supra* note 78, at 82-83.

⁹¹ SARAT & SCHEINGOLD, *supra* note 75, at 3.

⁹² The flood damaged about 17,000 houses and the estimated number of the victims reached around 80,000 persons. See *Case Report*, 4 BYOP KWA SAHOE [LAW AND SOCIETY] 107 (1991).

⁹³ *Id.*

The victories of the plaintiffs in these cases, which took seven years to litigate, significantly influenced Koreans' attitudes toward litigation, as well as toward the legal system. In other words, the social impact of the outcome far outweighed the actual monetary compensation to the plaintiffs. Many Koreans, especially the politically underrepresented and economically disadvantaged, had strongly believed that they could not prevail in legal action against the government.⁹⁴ The outcome of this litigation substantially changed such belief.⁹⁵

In May 1988, fifty-one lawyers joined together to found an organization called the *Minbyun*, or the Lawyers for a Democratic Society.⁹⁶ The birth of the group marked the beginning of a new era in the systematic activities of lawyers in Korea. *Minbyun* was the first official organization dedicated to "cause lawyering" in Korea. In addition to representing workers in labor disputes, *Minbyun* lawyers have vigorously pursued lawyers' ideals, including campaigning for the release of prisoners of conscience and for the abolition of undemocratic laws such as the National Security Law.⁹⁷

Leading *Minbyun* members have also played significant roles in expanding the positive functions of lawyers in contemporary Korean society. For example, Kim Chang-Kuk, as chairman of an active NGO, *Chamyoyondae* or People's Solidarity for Participatory Democracy ("PSPD"), has contributed substantially to the enhancement of justice in Korean society. As a leading figure of the third generation of human rights lawyers, Cho Yong Whan has actively sought international remedies for human rights violations by the Korean government. Another *Minbyun* member, Park Won Soon, served as Secretary-General of the well-known PSPD. As the first

⁹⁴ *Id.* at 109.

⁹⁵ Behind the unprecedented litigation was a lawyer named Cho Young Rae. Cho, who had been a human rights activist himself, played a leading role in successfully organizing the litigation. When cancer caused his sudden death, Cho was working to launch a public interest law movement. As Cho Young Rae was one of the most creative, enthusiastic and respected lawyers of his time, "cause lawyering" in Korea suffered a heavy loss with his premature death. See Jong-Sup Chong, *Dedolahbon Inkwonundong [A Recollection of the Human Rights Movement]*, DONG-A ILBO [DONG-A DAILY NEWS], Dec.12, 2000, at 21.

⁹⁶ See MINBYUN ED., MINBYUN BAKSEO [MINBYUN WHITE PAPER] 71 (1998).

⁹⁷ See generally PARK, *supra* note 57; CHO, *supra* note 26.

Korean lawyer working full-time for an NGO, Park provides an example of an admirable role for lawyers in Korean society today.

Unlike the lawyers described above, the majority of Korean lawyers, unfortunately, have been plagued by negative publicity. Clients often express dissatisfaction with unreasonably high fees and poor quality service.⁹⁸ Another frequently criticized problem is the widespread practice of hiring brokers⁹⁹ and paying them high referral fees.¹⁰⁰ In addition, the practice of contingent fees has been regarded as the ugliest face of the legal profession.¹⁰¹ In Korea, where the rate of arrest and detention before trial is extremely high, Korean lawyers have long utilized contingent fee arrangements for obtaining the release of the client on bail.¹⁰² Such criminal defense work became many lawyers' most lucrative business. Public dissatisfaction with this unethical practice, however, finally boiled over in 1995.¹⁰³ The Korean Bar Association reluctantly announced that it would prohibit contingency fee arrangements in criminal cases. In fact, however, the prevailing practice of using contingency fees in most cases, including domestic matters, continues to be regulated ineffectively.¹⁰⁴

The problems examined in this section are undoubtedly a product of Korean legal education. Having examined the problems with the Korean legal profession as it exists today, this paper now

⁹⁸ According to a survey of client complaint against the members of Seoul Bar Association, 60% of complaints were about high fees, and 37% about the quality of service. PSPD JUSTICE WATCH CENTER, *supra* note 28, at 92

⁹⁹ See Kang Un Son, *Bopjobiruil Jikeobon Han Byunhosauui Chungkeuk Kobak* [A Confession of a Lawyer regarding Judicial Corruption], WALLGAN CHOSUN [CHOSUN MONTHLY MAGAZINE], July 1998, at 259-79.

¹⁰⁰ Among 100 lawyers, ninety-three responded that most Korean lawyers used brokers, especially to obtain criminal law cases. See Kwon & Park, *supra* note 31, at 19.

¹⁰¹ HAN, *supra* note 60, at 248.

¹⁰² *Id.* at 255.

¹⁰³ See Pyung Yon Oh, *Sabopgehuk, "Sekewha"* [Legal Reform Measures and "Globalization"], KOREA DAILY NEWS, Feb. 25, 1995, at 4.

¹⁰⁴ In the United States, the most frequent justification for contingent fees is that they enable people who could not otherwise afford to hire lawyers. STEPHEN GILLERS, *REGULATION OF LAWYERS: PROBLEMS OF LAW AND ETHICS* 112 (3d ed. 1992). In Korea, however, most lawyers working on a contingency fee basis receive a substantial retainer regardless of the outcome of the litigation.

suggests some solutions for correcting those problems through improving Korean legal education.

III. LEGAL EDUCATION AND PROFESSIONAL TRAINING

Because the quality of legal services is closely related to the system of legal education, most countries, including Korea, have shown strong interest in improving legal education.¹⁰⁵ Numerous debates over reforming Korean legal education,¹⁰⁶ along with criticisms of the current educational system,¹⁰⁷ have produced various reform proposals. These proposals have met strong opposition, however, from the bar and the judiciary, and have inevitably failed.¹⁰⁸ A lack of concern and support from the general public was cited as another reason for the failure, and debates concerning legal education reform have seldom spread beyond the circles of legal academia.¹⁰⁹ Because most participants in the debates were legal scholars, the reformist agenda never succeeded in getting the attention of the public or the government.

New momentum for reform arose in early 1995 during the Kim Young Sam administration, when the Presidential Commission on the Promotion of Globalization (“PCPG”) announced an ambitious plan to combat corruption and make the infrastructure of Korean society compatible with a “global” standard.¹¹⁰ As part of the reform package, the PCPG proposed a concrete plan of judicial reform, which, unlike similar earlier proposals, gained enormous public attention because of

¹⁰⁵ See generally American Bar Association, *Legal Education and Profession Development—An Educational Continuum* (Report of the Task Force on Law Schools and the Profession: Narrowing the Gap 1992) (1992) (also known as *MacCrate Report*).

¹⁰⁶ As early as in 1955, Chin Oh Yu, who drafted the original Constitution of the Republic of Korea, proposed a reform of the law school education system. The Korea Law Professors Association held a nationwide conference in 1967 on legal education and judicial exam. See Kiljun Park, *Problems Concerning the Reform of Legal Education in Korea*, 6 KOREAN J. COMP. L. 56, 56 n.1 (1978).

¹⁰⁷ See WEST, *supra* note 4, at 40-46.

¹⁰⁸ HAN, *supra* note 60, at 299.

¹⁰⁹ See PSPD JUSTICE WATCH CENTER, *supra* note 28, at 6.

¹¹⁰ OH SUNG KWON, SABOPDO SERVISDA [LAW IS ALSO A SERVICE] 11 (1996).

the changed environment within and beyond Korea.¹¹¹ The contents of the PCPG proposal, as well as subsequent developments, are worthy of close examination, because the proposal addresses nearly all shortcomings of the Korean legal system and legal profession, and because it has served as the foundation for on-going reform measures, especially regarding legal education reform.

What the PCPG proposed was revolutionary in light of the history of the Korean legal profession; it intended to completely remake the roles and functions of the Korean legal profession to reflect the perspective of the consumer, not of the supplier. The tight entry barrier to the legal profession and the reinforcement of the Korean Bar Association's monopoly has served only the interest of the legal profession, while erecting barriers to the public's access to the judicial system. The proposal in this regard tried to increase substantially the number of lawyers. The PCPG, thus, intended to generate competition in the legal market and thereby produce better quality legal services.

Among the reforms proposed, the plan for reforming legal education aroused the most heated controversy. The proposal called for the replacement of undergraduate legal studies with a three-year graduate course modeled after the U.S. legal education system.¹¹² This proposal was closely linked to a proposal that would change the judicial examination to make it more similar to the bar examinations administered by the United States. In the course of changing the character of the judicial exam and upgrading legal education, it appeared likely that the Judicial Research and Training Institute would be abolished.¹¹³ The PCPG argued that the current exam and the monopoly of the JRTI should be replaced by a new system. To justify the adoption of the new law school system, it advocated a basic shift

¹¹¹ The political democratization, deregulation in economic activities, and intensified global competition demand a more responsive legal system, as well as better lawyers.

¹¹² Opponents of the proposal were quick to denounce it for aping a foreign institution. Just applying the label "American style law school" allowed the critics to gain substantial support from nationalistic public opinion. Given Korea's tragic modern history, it is no surprise that nationalism is a potent force among many Koreans. Hurt by such emotional tactics, proponents of the proposal tried hard to salvage their plan. In order to differentiate theirs from the American model, the PCPG invented a rather odd name, the "Professional Graduate School of Law." Despite the name change, one could hardly deny that the critics were correct in calling the proposal an imitation of the American system of legal education.

¹¹³ KWON, *supra* note 110, at 17.

from “selection through examination” to “cultivation or training through education.”¹¹⁴

The reformers maintained that Korea needed the new legal education system, first, because undergraduate legal studies were insufficient to deal with the complex legal problems of contemporary Korean society.¹¹⁵ Before studying law, one needs to learn more about how society works, and, to be a competent lawyer, one should study various law-related subjects.¹¹⁶ Second, the reformers challenged the existing system of legal education as greatly deficient in producing specialists such as patent attorneys or international lawyers.¹¹⁷ The normal route for entry to the Korean bar is an undergraduate concentration in law. Under the circumstance, it is very difficult for persons with a university education in natural science or engineering, or experience in industry to become lawyers.

Korea’s legal establishment, including the Supreme Court and the Korean Bar Association opposed these proposals. The Bar and the judiciary argued that Korean law professors were incapable of producing lawyers through the proposed graduate law school system.¹¹⁸ The Association of Korean Law Professors also joined the opposition. In this regard, the professors invoked Korea’s legal tradition, arguing that the education system of a common law country would be inappropriate for a civil law country like Korea.¹¹⁹ Personal interests seemed to play a pivotal role in opposition. Practicing lawyers feared a dramatic increase in new lawyers and equated the proposed graduate law school system with a loss of control over barriers to entering their profession.¹²⁰ The legal establishment saw themselves as members of a privileged small group threatened by a potential increase of lawyers. Opposition from the academics also seemed to be linked to personal interests. The overwhelming majority of Korean law professors who studied abroad have done so in

¹¹⁴ *Id.* at 49.

¹¹⁵ *Id.* at 27-29.

¹¹⁶ *Id.* at 72-73.

¹¹⁷ See Jae Won Kim, *Transnational Legal Practices, in* RECENT TRANSFORMATIONS IN KOREAN LAW AND SOCIETY 409-29 (Dae-Kyu Yoon ed., 2000).

¹¹⁸ See Kwon, *supra* note 110, at 17.

¹¹⁹ *Id.* at 50.

¹²⁰ *Id.*

Germany. They seemed to worry that a shift to the American law school system might relegate them to second-class status. Their nightmare was of being subordinate to the few law professors educated in the United States.

In the face of this unexpectedly strong opposition from both the legal establishment and the legal academia, the proposal for the graduate law school system suffered a setback. The PCPG and its proponents had no alternative but to either withdraw or to modify their proposal; otherwise, their legal education proposal could endanger the entire legal reform agenda. The PCPG, therefore, reluctantly modified its original proposal and announced that the issue of legal education would be separated from the general legal reform agenda, which will instead be addressed under the government's wider education reform agenda.¹²¹ Satisfied with defeating the graduate law school plan, the Supreme Court and the Bar agreed with the PCPG on an increased annual quota for new lawyers.¹²² By this concession, the Supreme Court maintained its control over unified legal training provided by the JRTI. The bar, although not completely happy with the concession, was pleased to stop adoption of the graduate law school system.

The new administration revived the proposal for reform on legal education. President Kim Dae Jung, elected in 1997, expressed deep concern over the issue of judicial reform and his Presidential Commission on Education Reform reopened the issue of adopting a graduate law school system.¹²³ Based on the proposal of the former administration's PCPG, the new commission proposed that the legal education system would be changed to a graduate-level system.¹²⁴ The Department of Education announced that the graduate law school system would open from 2003.¹²⁵ Unsurprisingly, resistance and opposition to the reform campaign of the Kim Young Sam

¹²¹ *Id.*

¹²² They agreed to increase the quota from 300 to 500 in 1996, with 100 more added each following year. According to the agreement, more than 1000 applicants will pass the judicial exam by the year 2000. *Id.* at 70.

¹²³ See Byung Chul Joo, *Bop-uhak Jeonmun Daehakwon Choojin [Professional Law School and Medical School System Introducing]*, THE KOREA DAILY NEWS, Nov. 12, 1998, at 27.

¹²⁴ *Id.*

¹²⁵ See Keon Man Yang, *Bop-uhak Daehakwon 2003 Doip [Law and Medical Schools starting in 2003]*, CHOSUN ILBO [CHOSUN DAILY NEWS], Oct. 23, 2000, at 30.

administration reappeared.¹²⁶ The basic framework for legal education and the way Korean lawyers are produced thus far remains untouched, and the prospect of its reform is still uncertain.

IV. CONCLUSION

When South Korea confronted the financial crisis resulting from a shortage of foreign currency in 1997, many commentators argued that the very system that created the miracle undermined it.¹²⁷ In other words, the vigorous economic policy that focused on sponsoring a handful of ultra-large business groups, the *chaebol*, not only became ineffective but also harmful to the Korean economy under a changed world economic environment.¹²⁸ The author agrees to this argument, but wants to add one more reason: the malfunctioning of the legal profession. Korea would have suffered less tragic consequences if the Korean legal profession functioned to help the nation combat widespread corruption, enhance transparency in business transactions, and maintain rational processes of decision-making.

As discussed above, the legal education and professional training system in South Korea has failed to meet the public's demand. The extremely small lawyer population and its homogeneous composition have been responsible for blocking access to judicial services, as well as propagating unethical practices. To cure these problems, Korea urgently needs the implementation of the proposed reform measures on legal education. Without an increased lawyer population, more sophisticated training programs, and reinforcement and enforcement of legal ethics, the Korean legal profession can hardly meet the demands of Korean society in the twenty-first century.

¹²⁶ Bon Young Kook, *Hakge-Bopjoge Law School Doip Nonran [Controversies over new law school system]*, KOREA DAILY NEWS, Sept. 13, 1999, at 27.

¹²⁷ See William Overholt, *A Dangerous, Decisive Year*, NEWSWEEK, Nov. 9, 1998, at 8.

¹²⁸ *Id.*