

INTERNATIONAL LAWYER

A Dialogue with Judicial Wisdom



Professor Dr. Charn Kiu Kim

INTRODUCTION

The Journal of East Asia and International Law had the great privilege of interviewing Professor Dr. Charn Kiu Kim, a highly respected international law scholar of Korea for <International Lawyer: A Dialogue with Judicial Wisdom>. Professor Kim was born in Andong, Korea in 1932 and spent his early days there in a Confucian family atmosphere. After graduating from Seoul National University College of Law, Professor Kim finally started to study international law under the supervision of Professor Han Key Lee, a legendary scholar of Korea in this field. Then, he continued to research international law and relations at the Institute of Social Studies in the Netherlands and attended at The Hague Academy of International Law's Summer Program. In this program, Dr. Kim was taught by Professors G. Tunkin and G. Schwarzenberger.

Professor Kim began teaching international law at Konkuk University in Seoul as a full-time lecturer in 1959 and moved to Kyunghee University in 1964 where he worked until his retirement. Professor Kim is a true scholar with many books, academic papers and consulting reports regarding the conventional questions of international law as well as cutting-edge issues that contemporary Korea was facing. He is particularly interested in the law of armed conflict and the law of the sea. In addition, Professor Kim served the university as an able administrator for many years as Dean of Law School, Dean of Student Affairs, College Dean, and Dean of Planning and Management Affairs. He also led academic societies and advised the government as the President of Korean Society of International Law and Association of International Law of the Sea and the Senior Counsellor for Ministry of Foreign Affairs, Ministry of Defense, and Ministry of Ocean and Fisheries Affairs. Later, Professor Kim made a contribution to the Permanent Court of Arbitration as a member.

Professor Kim has been respected as a genuine mentor by young international lawyers in Korea. Even during the most difficult times, Professor Kim has always been generous, modest and helpful to his friends, colleagues, and students. Many people agree from their experiences that he is a model of successful international lawyer who has been trying to realize lofty visions from a practical footing. The following is an edited transcript of his interview at his place on October 9, 2015.

QUESTIONS & ANSWERS

1. Hello Professor Kim. Thank you for allowing this interview! It is a great honor to be granted the chance to interview a widely revered international lawyer like you. First of all, I would like to hear your early stories, about your family, childhood, and your years at school.

I was born in April 1, 1932 in the city of Andong in the southeastern part of Korea. After finishing elementary school, I moved to Daegu and went to high school there. Because Korea was under Japanese rule, I unfortunately had to learn from Japanese teachers with Japanese textbooks. As using the Korean language was prohibited at that time, I should read and speak Japanese and I still can read and talk like a native speaker of Japanese. During the later years of the Japanese occupation of Korea, we were suffering from a severe shortage of food. Due to an ongoing war, the Japanese made us to deliver food to the government. In return, they distributed soybeans and soybean oil. Many people including me were extremely hungry. Even after the Korean liberation in 1945, I was not able to study properly due to an ideological conflict between the left and right factions. I should have spent more time studying philosophy and reading literature under the guidance of good teachers, but unfortunately missed that opportunity. That is a tragedy of our generation.

2. How was your life in college?

I was admitted to Seoul National University College of Law in 1951. As the Korean War broke out in 1950, however, all the important institutions in Seoul moved to Busan. Therefore, I enrolled in Seoul National University in Busan, while living in the city of Daegu. Under the “Wartime University Coalition” system, students were allowed to take classes at any university near their residences and take the credits which were later transferred to the home institution. As Seoul National University was in Busan by 1952, which is a little far from Daegu, where I was living, I registered at Korea University’s temporary campus in Daegu. So I finished my freshman and sophomore years at Korea University’s Daegu campus and spent my junior and senior years at Seoul National University in Seoul after the armistice agreement was signed. I graduated in 1955.

3. What motivated you to study international law and how did you brush up on your study of international law?

I focused on international law for my Master's Degree program at Seoul National University. I chose international law because foreign relations were extremely important to Korea then. Even after the armistice, people were still suffering from the fear of war. A lot of people believed that the United Nations saved us from the North Korean threat. This social atmosphere made international law more important than it was before. In the university, domestic law was not as significant as international law. But to be completely honest, the international law section of the graduate school entrance exam also seemed relatively easier. That was one of the reasons why I started to study international law. Looking back on my school years, I think I had close ties with international law.

3-1. Who was your graduate school academic adviser?

My supervisor was Professor Han Key Lee, who studied at the University of Tokyo and Columbia University. He was really outstanding. When I was in the Master of Laws degree program, Professor Lee used a famous casebook, *INTERNATIONAL LAW CASES DOCUMENT AND NOTES* written by Herbert W. Briggs, as a textbook. For every class, each student had to preview a selected case from the book and give a presentation about it. Most classmates were not able to get the textbook, but luckily, I was able to acquire a copy. We did not even have a copy machine back then, so students had to take a photo of each page and study through an enlarged copy of the page. Studying for the Master's Degree was not easy, but I was able to complete the program successfully thanks to Professor Lee's passionate support and guidance.

4. How did you start your research as an international lawyer after graduation?

After getting Master of Laws degree from Seoul National University, I began my career as a part-time lecturer at Gukhak University, which later changed its name to Woosuk University and is now a part of Korea University. From Spring Semester of 1959, I started to teach at Politics University as a part-time lecturer. Fortunately, Politics University became Konkuk University in autumn 1959, so I became a full-time lecturer at Konkuk University. I taught students there before moving to Kyunghee University in 1964.

In 1965, I was awarded a UN Fellowship to study at the Institute of Social Studies

("ISS") in The Hague, the Netherlands. After taking classes for one year, I earned a Diploma in International Relations. When staying in Holland, I had a chance to visit a church in Delft and saw the tomb of Hugo Grotius, a founder of modern international law, where I was deeply moved. In 1966, I received a grant from the Dutch government to participate in The Hague Academy of International Law Summer Program (Public International Law). The general course of the Summer Program was taught by Dr. Grigory I. Tunkin, who was the Chair Professor of International Law at Moscow University. He seemed like a genius. Dr. Tunkin spoke English and French fluently in the class. I was very impressed by his linguistic talent as well as his international law expertise. When I asked him how many languages he spoke, he said he could speak five languages, including Russian, English, German, French, and Spanish. Dr. Tunkin visited Korea twice. He passed away in 1993, but I still think of him sometimes. In addition to Professor Tunkin, Professor Richard Falkner of Princeton University and Dr. George Schwarzenberger of University College London delivered lectures in this session. Dr. Schwarzenberger kindly advised me to analyze the fundamental principles of international law as a whole. His thesis on these principles was published in *Recueil des Cours*.¹ Encouraged by the classes I took throughout the summer, I applied to take the diploma exam. Unfortunately, I failed to pass the test. It was the first and the last time for me not to pass exam in my life. Although it was mostly due to my lack of knowledge, I think the language barrier was also a factor in my failing the test. I was extremely impressed by British and American students asking questions and making comments. Their level of English was above my expectations. Watching them discuss cases that I had not even heard of in Korea, I questioned myself whether I could pursue my studies of international law. Anyways, the experiences I had in The Hague motivated me to study important international law cases after returning to Korea.

5. You are a respected scholar. At the same time, however, you were also able to make great contributions to your university as an administrator. What assignments have you taken so far?

I went through multiple positions. I served as the Dean of Student Affairs for six years. It was during the time of military dictatorship, so college students had a strong urge for democratization. There were student protests almost every day. It was difficult to cope with the situation as the Dean of Student Affairs. I also

¹ G. Schwarzenberger, *The Fundamental Principles of International Law*, 87 RECUEIL DES COURS 195-383 (1955).

served as a College Dean, Dean of the Law School, Dean of the Graduate School of Public Administration, and Dean of Planning and Management Affairs. Dean of Planning and Management Affairs is a position that exercises a great deal of influence, because it is his or her responsibility to budget university administration. The very last position I took before I retired was Dean of the Graduate School. After retirement, I worked on the Board of Trustees of Kyunghee University for 10 years. In addition, I was the President of Korean Society of International Law, Association of International Law of the Sea and the Senior Counsellor for Ministry of Foreign Affairs, Ministry of Defense, and Ministry of Ocean and Fisheries Affairs.

5-1. You worked at a university in the 1970s and 80s, when Korea was going through convulsions both socially and politically. You must have undergone difficulties during that period. How did you cope with the challenges? What kind of principles or perspectives did you stick to in resolving those issues?

I tried to remain modest no matter whom I was dealing with. I kept myself from acting unnatural at all times. My motto is to remain humble and lower myself. At the same time, I did my best to be objective in viewing situations that the school was placed in. Despite the efforts, I was not necessarily going along with my own judgement of the situation. Sometimes I could not but follow the ways suggested by seniors. In this sense, I think I was influenced by my grandfather, who emphasized a Confucian principle of following the guidance given by an elderly.

Additionally, I made it a rule to write regularly even when I was holding administrative positions. When younger, I decided to write more than 10,000 letters every month as a scholar. I think I have been relatively successful in achieving the goal so far. When I was in middle school, one of my teachers told me that a scholar should write as much as to stack up a pile of writings that is twice his or her height. I also heard that a person who sleeps a lot can never succeed. I heard a Japanese scientist did not know that the Russo-Japanese War broke out, because he was too focused on his research. I personally think that it is hard to become successful if you do what other people do, though I am not sure if I can call myself ‘successful.’

6. I heard you have been to the Dok-do Island multiple times. What made you to visit Dok-do?

The first time I went to Dok-do was in 1974. This was when I was working as the Senior Counsellor for Ministry of Defense. I once took a helicopter from Seoul to

Dok-do. I visited the islands along with the members of the National Assembly and also with other organizations such as Korean Society of International Law, Korean History Association, and Northeast Asian History Foundation. In total, I have been to Dok-do 11 times.

7. Would you say that Dok-do has been the main topic of your extensive academic journey?

Not exactly! On January 18, 1952, President Syngman Rhee announced the so-called 'Peace Line' to prevent Japanese fishermen from entering Korea's waters. Accordingly, on January 28, the Japanese Ministry of Foreign Affairs filed a complaint to the Korean government. Japan pointed out two problems. Firstly, they argued that Peace Line was a gross violation of the principles of the law of the sea and, secondly, they claimed that Korea was trying to take over Takeshima (Dok-do in Japanese) Islands. This later triggered a debate over the sovereignty of Dok-do between Japan and Korea. News articles covered this issue continuously. Thus, Dok-do had to be an important part of my research.

7-1. What was your major area of research interest then?

My research focus was on the Law of Armed Conflict. I paid close attention to that specific area of international law and collected many books about it.

After the armistice agreement in 1953, newspapers and radio channels all focused on the issues that are related to war and peace. I recall it was mostly due to unsolved issues like an exchange of prisoners of war. The Ministry of National Defense and Ministry of Foreign Affairs sent inquiries about war-related issues as well. Within the field of armed conflict, I focused on the right of self-defense. Recently, there has been a debate on the issue of distinguishing collective right of self-defense from individual right of self-defense. Also, the definition of 'armed attack' is currently changing. For example, cyber terrorism is starting to be considered as a form of armed attack. A concept called 'pinprick attack' is also controversial. This basically means that even small and minor attacks, when continued, can turn into a major armed attack. I was planning on publishing a book about the right to self-defense and the Law of Armed Conflict. It is a huge regret that I lost my vision while preparing for the publication. I would like to ask junior scholars to continue the mission that I myself was not able to complete.

8. In what ways should international law continue to develop in the process of globalization? What are the remaining goals for international law?

I think smaller and weaker States need to concentrate more on conducting research in the field of international law. It is international law that those smaller and weaker nations should base their rights upon. However, I think we need to be cautious in submitting an issue to international tribunals. In the International Court of Justice (“ICJ”), there are 15 judges representing different civilizations and legal systems. Due to these differences, their understanding of substantial truth and legal techniques can differ from our own. Also, the ICJ uses a single trial system that makes it impossible to lodge an appeal.

8-1. What do you think will be the future tasks of international law?

‘State security’ has been the center of international law so far, but I think it is time to pay more attention to ‘human security.’ International law, in the future, should develop in a way that it looks for ways to sustain humanity and prevent co-destruction. In order to do so, we would have to research more about environmental issues like the one about air pollution, develop a legal perspective in concerning nuclear weapons, and enhance human rights standards.

9. “The rise of China” is a significant phenomenon in contemporary international relations. China was not exactly a powerhouse back in the time when you were studying international law, but now she is transforming the global balance of power. Should we pay close attention to China in the future?

I think China’s rise is only going to accelerate. That is how history has been flowing. Dr. E.H. Carr claimed that culture would be moving towards the West. The civilization is now crossing the Pacific and coming to Asia. The 21st century will be the time of Asia and China is the center of the region. China will continue to rise as time passes by. Now, I believe, is the starting point for *Pax Sinica*. China is considering both the East and South China Seas as her inland sea and she is moving further into the Pacific Ocean. There is a Chinese maritime strategy called “Island Chain Tactics.” The First Island Chain covers as far as Okinawa and the Second Island Chain starts at Guam and reaches all the way down to the Philippines and Australia. The ultimate goal of the First Island Chain is to put the East and South China Seas and countries near the seas - the Philippines and Indonesia - under its

influence. Then, China will try to dominate the entire Pacific from Guam to Australia and New Zealand. This is the purpose of the Second Island Chain.

10. Ruminating over the past 50 years of your studying international law, I would like to ask you to provide guidance to the future of international law research in Korea. How should we make the 21st century's international law more mature?

First of all, we should refrain from performing governmental or corporate services excessively. We need to study 'theories' in depth. Then, we need to learn more about the 'principles' of international law. Finally, we should analyze 'cases' related to international law.

10-1. Theory, principles and case studies, these three would be the most important guidelines in studying international law in the future. Listening to your insightful comments, I got to thinking about establishing a research group that deals with international law cases. Anyways, I will be sure to carve your teachings into my heart.

11. Your generation underwent the period of colonization, war, and poverty. In contrast, our generation including myself does not know much about those sufferings. How were you able to overcome these personal and social challenges?

My grandfather taught me a Chinese poem when I was young. That poem has been my motto ever since. It goes: 男兒立志出鄉關 學若無成不復還. This, when translated roughly, means "Without true learning, a man shall not return back home even after death." If you engage yourself to anything with this kind of determination, there would be nothing in the world that you cannot achieve.

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