

INTERNATIONAL LAWYER

A Dialogue with Judicial Wisdom



Dr. Jay Kun Yoo

INTRODUCTION

The Journal of East Asia and International Law is delighted to interview Dr. Jay Kun Yoo, Chairman of the YIJUN Institute of International Law for <International Lawyer: A Dialogue with Judicial Wisdom>.

Dr. Jay Kun Yoo, born in Korea in 1937, is one of the most highly respected and passionate international lawyers of his time. He graduated from the prestigious Yonsei University where he obtained a bachelor of arts and a master's degree in political science. Dr. Yoo was then awarded an M.S. from Brigham Young University and undertook a Ph.D. program in Sociology from the University of Washington. He was later admitted to the California bar and practiced criminal, human rights, and immigration law after obtaining his J.D. degree from the University of California, Davis School of Law.

Dr. Yoo took was elected and served as a representative of the National Assembly of Korea for twelve years focusing mainly on foreign affairs. He served as Chairman of the National Defense Committee and the National Convention of the ruling Millennium Democratic Party. He attended the Inter Parliamentary Union ("IPU") conferences as the head of the National Assembly delegation, thereby contributing to helping foreign opinion leaders gain a better understanding of the issues regarding the Korean Peninsula. As a leading expert on international law and foreign relations, Dr. Yoo served as Chief of Staff for President Kim Dae-jung and as a senior foreign policy advisor in the Roh Moo-hyun administration.

He was awarded an honorary doctorate from the International Academy of Sciences and Arts, Moscow. As a scholar, Dr. Yoo taught law at Kyungwon College and published many books and articles on international human rights law and foreign affairs.

Dr. Yoo is a senior advisor for the Lee International Law Group based on Seoul, Korea. Recently, he has dedicated himself to world peace initiatives through UNESCO and other NGOs. He is married and has three children, Andrew, Peter and Sarah.

The following is an edited transcript of the JEAIL's interview with Dr. Yoo that took place in Seoul on October 8, 2012. A video of the interview may be viewed at the YIJUN Institute of International Law's website: <http://www.yiil.org>.

QUESTIONS & ANSWERS

1. Hello, Dr. Yoo! Thank you for having this interview with the JEAIL. It is a great honor for us to interview one of the foremost international lawyers of today. I would like to begin the interview with your personal story. Would you please tell us a little bit about your family background?

I was born in Korea in 1937 on Chuseok, Korean Thanksgiving. When I was young, I did not have an easy life. I went through many difficulties and had to overcome many obstacles. Now I'm very happy. I have three grown children and eight grandchildren. They are living in U.S. and England, and I am really happy to see them.

I was very lonely when growing up because I was an only child. My father disappeared during the Korean War, presumably kidnapped by North Korean soldiers. I became a 'semi-orphan,' and went through a very difficult time with my mother. However, looking back on my life, I was fortunate enough to have a good person to guide me.

My mother passed away ten years ago at age 92 without seeing her loving husband for 55 years. I recall her last words: "When you meet your daddy, tell him I loved him so much." I was so overwhelmed to hear that. My mother was a tough lady and never expressed her love and tender care, but at the very last moment of her life, she just confessed her love for her husband. I was deeply impressed. She also said, "Since you are the chairman of the National Defense Committee, and work for the unification of this country, remember that so many widows and separated families are crying out for help every day. They are longing to meet their separated families. You have to work hard to comfort them as a national congressman. Don't forget that..." Then, she closed her eyes and left this world. I will never forget that last minute of my mother's life. I worked hard as a politician when I was in the National Assembly. Now as a civilian lawyer, I'm working with several NGOs about peace making, welfare and human rights activities.

2. Born in Korea in 1937, you suffered through the Japanese occupation and Korean War during your childhood and teenage years, typical of many Koreans of your generation. How did these difficult experiences help shape your life?

I went to a Japanese elementary school for a year when I turned eight years old in 1944. One year later World War II ended. Korea became an independent country. But in 1950,

the Korean War broke out and the country was absolutely devastated. Through these periods, I worked hard to take care of my mother and my grandmother. I became the head of household when I turned 13. Sometimes I was deeply frustrated and thought it was impossible to survive in such a severely competitive Korean Society.

Luckily, I was able to go university, study law in a foreign country, and came back as a well-educated person. (*Did your relationship with your father influence your political ideology and your decision to become a lawyer?*) It's a shameful confession, but my father married when he was 15 years old. At that time my mother was 19 years old. They never met prior to the marriage. My grandfather and maternal grandparents arranged the marriage. They married in Cheon-ahn, Chung-Cheong province. One day after marriage, my father went to Seoul for junior high school. Later, he moved to Japan. Unlike my father, my mother was not educated. She never went to school. She was just a homemaker. She worked hard in the home and took care of my grandparents. My father came home once or twice a year, so I rarely saw him. There was no influence or education from father. I barely remember my father. (*So primarily your mother influenced you?...*) Yes, my mother, my uneducated mother, was my backbone.

I recall when I was in junior high school there was a note on the very first page of textbook: "This text book is published through the assistance of UNESCO." I never knew what UNESCO was. I thought UNESCO was some person's name. (laugh) 'UNESCO must be a good man or organization to support Korean children!'

In the 1950s, every textbook in Korea was published with UNESCO's support. Korea became a regular member of UNESCO in 1950. Yet, we could not get into U.N. because we were a divided country. The five permanent Security Council members, particularly Russia and China, rejected it.

Regardless, Korea was a regular UNESCO member. When I got into high school, I found out that UNESCO is an international peace organization that helps poor countries, and promotes education for people. Therefore I always thought, 'If I graduate university, I must get a job in UNESCO.' To that end, I thought about entering the department of international relations at Yonsei University, which was famous for that kind of course. I applied there and was fortunately accepted. I also spent two years completing a master's degree at Yonsei. My master's thesis was about effective international organization. I had to study not only about the U.N., but also NATO and SEATO. Throughout my studies, I thought the Northeast Asian countries must have a collective defense mechanism. Northeast Asia is very vulnerable being surrounded by hegemonic countries. So they must have some kind of North East Asian Treaty Organization ("NEATO"), yet it never came to be.

After finishing my master's degree, I got a job at UNESCO and worked for there for

four years. I found my future not so bright because nobody recognized UNESCO. That kind of NGO was not so well recognized in Korea. Thus, I decided to study in the United States.

(You mentioned that you attended Brigham Young University...) Yes, I went to BYU located in Utah State. I did my second master's degree there. My Master's thesis was about community power structure. My intent was to identify community leadership structure. It was a very rudimentary study, yet I suggested three different kinds of methods for leadership. The first was 'positional leadership,' like a university president, police chief and judge. The second was 'reprecatational leadership.' That is retired community leaders who are not currently in position, yet very influential. People ask for their advice whenever there are community issues. The third was 'decision-making leadership.'

I studied this small community of 20,000 for five years. I reviewed all daily and weekly newspapers. I also interviewed some people. I found it very interesting that all three groups of leadership are very similar in small communities. Later, there was a contest for master's thesis, which I won. That was my 'golden time.' Also, it was the last reward I ever received (laughing).

3. You first practiced criminal and immigration law. Are there any cases from your career that stand out to you today, and what were some of the pressing legal issues throughout your career?

After finishing my master's degree, I started a doctoral program at the University of Washington. The sociology department of University of Washington was very famous. There were two groups of sociology scholars: the functional analysts and quantitative analysts. The University of Washington was very strong in quantitative analysis. Later they were criticized for being too artificial. Methodologically, I liked to synthesize quantitative and qualitative methods together.

While I was studying justice, good professor Frank Miyamoto said "Mr. Yoo, why don't you go law school? Sociology cannot teach you more about justice." I did my bachelor's degree in Korea, so I thought it was impossible to get into an American J.D. program. However, I discovered it was possible and he recommended UC Davis law school. The nickname of UC Davis law school was 'Martin Luther King Jr. law school.' They actively solicited applications from minorities like Hispanics or African-Americans. The competition among Hispanics and African-Americans was very strong, but it was very rare to find East-Asians there, particularly Korean. As the only Korean, I received a special admission in spite of my low LSAT score...special treatment, I guess.

(*They wanted to further diversity their incoming class...?*) That's right.

I tried to bring my sociology and political science background to the analysis of the jurisprudence. I met Professor Edgar Bodenheimer. He escaped from Nazi rule and immigrated to America, taught in Minnesota and Utah law school, and of course UC Davis law school. I had several classes with him and he asked the most basic questions about law, *e.g.*, "Why should we punish individuals?" This excited me. I was more involved in philosophy of law rather than the practice of law, though philosophy does not make much money. Bodenheimer's teacher was a great philosopher in the European tradition, Gustav Radbruch. Bodenheimer was a teacher of Vienna and Heidelberg, and I learned a lot about European legal philosophy through him. He said to me, "Even if you study law, complete a J.D course and become a lawyer, you have to think about the defendant: his human rights, and the circumstances that made him a criminal." My other classes never focused on such matters, they only taught practical concepts. Bodenheimer was very 'human' teacher. I was deeply influenced by him.

When I was in my third year of law school, I learned about a criminal case involving a man named Chol-soo Lee, who was an innocent Korean immigrant arrested charged with a murder that took place in China Town, San Francisco. In 1974, San Francisco had the largest China Town in the world. It had Roughly 25,000 small stores owned by Chinese. There were many gangs in China Town. Originally it was not a violent rivalry, but starting 1968, things took a turn for the worse. They stole money from small businesses, and did social welfare work, *e.g.*, giving money to the poor. It was such a delicate kind of gang activity, yet, regardless of the purpose, its methods were brutal.

Anyway, even after 13 murders, the San Francisco police had arrested no one. There was a mayoral election in 1974. The mayor was pressured by small merchants. The basic sentiment was "Mayor, you have to arrest these criminals. Thirteen murders occurred in China Town, and you arrested none? People are hesitating to visit our shops, and we may have to close our doors. Arrest anybody!" The mayor was six months away from re-election, so he ordered the police chief to arrest anyone suspicious and it turned out to be Mr. Lee.

Mr. Lee was then 19 years old. He never had been involved in gang affairs. He was just a 'street boy.' Chol-soo was tried by a white judge, a white prosecutor, white jurors, and was represented by a white attorney. He was convicted, and received a life sentence. He worked hard in jail and was a model prisoner. The prison authorities recognized his hard work and gave him a kitchen job.

Four years have passed. One day, a white Arian prisoner attacked Lee who defended himself and killed the man. He was charged again and I prepared his second case. I spent three months investigating all the witnesses for both cases... and... we had a

successful case. He was exonerated and was not deported.

That was a major case in my early career. Due to the media attention I became very busy after that. I soon became overwhelmed with cases.

4. After 10 years of protracted litigation, Chol-soo Lee was found not guilty of murder in the U.S. You earned significant recognition from the legal community of the United States. However, you chose to come back to Korea. Why?

I had been watching some television shows from Korea. I was really shocked. There was one television debate program in particular; I had never seen anything like that before from my home country. Korea became democratized in 1987 when president Tae-woo Roh declared to the public that our president should be elected directly. In 1990, three years later, KBS and MBC launched debate programs. Before then, it was very difficult to criticize the government and ruling party. However, after 1987, civilians and civic organizations could criticize the government openly, so TV stations started a series of debate programs.

In the MBC debate program I watched, Geun-hye Park appeared. Currently, she is a presidential candidate, but at that time, she was just a daughter of former president Park Chung-hee. My friend, Ms. Gyung-jae Park the moderator, kept asking questions back and forth to Ms. Park. I found this fascinating. The moderator asked, "Do you know your father's in appropriate dealings with women?" Ms. Park answered, "Yes, I know, I heard many rumors of my father's history with women. What's wrong with it?" This was really amazing, especially to hear it on public TV show. I thought, "What a nice program! I'd like to be a moderator."

A few months later, fortunately, I became a moderator! That was the beginning of my television career. I spent three-and-a-half years as an MC. When the show ended, I taught law and administration at Kyungwon University. After six months, a KBS midnight live talk show invited me again. I accepted it, and continued with them for two years. I had no personal time while moderating the show and teaching students... Yet, I enjoyed this time in my life very much.

(So you started in politics, and then moved to sociology, and then law and TV...) When I was moderating TV shows, my diverse background helped a great deal. *(So it was that point you actually started to engage in Korean politics?)* That's right!

(When you were a representative of the Korean National Assembly, you dealt with foreign affairs, national defense etc...) Yes, I was a chairman of the National Defense Committee. When I visited the U.N. in 2001, I had a chance to talk to the audience there. When I was introduced, the announcer stated: "Ladies and gentlemen, I'd like to introduce the

chairman of National Defense Committee. there are two national defense committees in Korean peninsula: one in Pyongyang, and one in Seoul.” That was a very exciting moment for me.

During my ten years as chairman of the National Defense Committee, we decided to send our troops to Iraq. We went through a very serious debate in Korea. We also established a new military acquisition department, and reduced one-third of our budget for purchasing foreign weapons. I was very proud of my accomplishments as chairman.

5. Many feel that you helped make great strides in the inter-Korean peacemaking process as a congressman. Unfortunately, North and South Korea have not reached a peace agreement. Can you evaluate the current policy of the current Lee administration? What should the next administration of Korea do in order to rehabilitate peaceful relations between North and South Korea?

When President Lee was a candidate, he pledged to the people, ‘Denuclearization 3,000.’ This meant that if North Korea gave up its nuclear weapons development, then South Korea would make North Korean per capita income USD 3,000. This has not happened yet nor has it come close. The relationship between the South and North is very cold and little progress has been made.

I recall when I was working with President Dae-jung Kim, who suggested the Sunshine Policy. At that time it was the most reasonable approach to North Korea. The basic assumption of the Sunshine Policy is the fact that North and South competition is essentially over: the South won. North Korea has been really devastated with per capita income less than USD 1,000. In early 1970, North Korea was stronger, but now . . . the economies are incomparable. They are not our competitor anymore. Today, we have to take care of the 22 million Korean brothers and sisters living in the North. My father was taken to North Korea long ago. If he is alive, he must be somewhere in North Korea. We have to care for those people. Unification is a must. No one in South Korea can refuse or deny the reality.

The important issues have to do with timing and implementation. The Sunshine Policy assumes that we do not need to speed up unification. As a divided country, we need to help each other to live peacefully, exchange human resources and support the North economically. Someday, when the time is right, democratically, peacefully, we will be united together. However, until then, no blood should ever be shed on the Korean peninsula.

This year we are having another presidential election in Korea. Candidates Jae-in Moon and Chol-soo Ahn have made public their North-Korean policy. Both have

suggested their own types of Sunshine Policy. The important thing is that, in order to dismantle the nuclear program, we have to assist North Korea economically. And for such purpose, we must propose a peace treaty. In July 1953, there was a cease-fire agreement. Then, South Korea was not the main party to the agreement. However in 2001, when Kim Jong-Il and President Dae-jung Kim met in Pyongyang they both insisted the necessity of a peace treaty. If such is to be the case, the main parties of the peace treaty must be the North and South. China and the United States should be insurers of the treaty as well as Japan and Russia. This is the optimal solution. It is based on the idea that North Korea formally recognizes South Korea as the main party. Until now, North Korea has not recognized South Korea as anything more than the puppet regime of the United States. However, the summit of 2001 resulted in recognition of the need to create a peace treaty between South and North.

I think the new president must pursue that idea. South Korean leadership must develop a high-class diplomatic strategy. Democracy itself demands time and expense. The good thing is that the new leader of North Korea will be easier to communicate with. He was educated in Switzerland. He has even appeared in public wearing a Mickey Mouse shirt! Now North Korea knows the nuclear strategy is not enough. They admit that an open-door policy is inevitable, because without it they cannot survive. Their military is in a precarious position; even yesterday a North Korean soldier defected to South. I believe that North Korea is trying to open. They wish to be treated as a peaceful State, even though they do some uncommon things. A new era has come and the situation will get better. That is my analysis.

6. People are very much concerned about North Korea's nuclear weapons program? The six-party's talks are not going well. What would be the best policy to effectuate North Korea irrevocably giving up their nuclear weapons program and to obtain the denuclearization of the Korean peninsula?

The Six-Party Talks have not been terribly effective as of late, yet they are helpful. If we had continued discussions, at least military provocations such as the Yeonpyong Island or Baekryong Island incidents may have been avoided. We have to continue the dialogue and keep open channels. The six-party talks are an effective means of communication. They may not provide a clear solution, yet more dialogue will bring us one step closer. Constant communication is important for maintaining peace. Some claim that the Sunshine policy incentivized or allowed North Korea to further develop its nuclear weapons program. However, critics do not recognize its benefits. After the declaration with Dae-joong Kim and Jong-il Kim in 2001, many foreigners invested

money in our country. Our stock market boomed, we exported many products; we became one of the largest trading nations in the world. No one will invest money in a country where war is a serious threat.

7. Since completing your public duties at the National Assembly, you have been dedicating yourself to lofty visions of world peace through UNESCO and other public NGOs? Would you explain your plan for ‘peace-planting?’

UNESCO is a peace organization. The preamble of UNESCO declares that war must be stopped for ensure human rights. In order to realize that end, community education programs are necessary. There are many religions in Asian countries but all those different religions hold two same values: ‘Peace’ and ‘Love.’ Yet still, we are fighting. The UNESCO’s peace idea is learning to live together. We should send teachers to teach children and have exchange programs so that children can learn about foreign countries. We have to let them visit our country, and show them our things, like national treasures. Not many people are aware of the community education program, but it is very significant. So is our youth hostel activity. I’m working as a representative for the Korea Youth Hostel Association. Imagine that young students are able to stay in foreign countries at a reasonable price when traveling, and break bread with foreign friends and exchange culture...! We do not see the results right now, yet these kinds of programs plant the seeds for future peace. Those are the kinds of activities with which I am currently involved.

8. International law is becoming more important and focused on East Asia. Many younger Asian scholars are interested in international law. What should young international lawyers keep in mind while studying and practicing international law?

International law is not practical sometimes. Yet it has a great impact on human life. The basic theme of international law is ‘humanity.’ That is what I learned from Professor Bodenheimer. Many countries make treaties and then break them. Many countries declare peace yet many wars have broken out throughout our history. We have to learn to love our neighbors. We have to learn how to live together. That is the basic idea of peace. International law is about peace for humanity, not about global competition. Learning psychology and sociology will help a lot. A broad knowledge base and diverse background can help one a lot. That is my advice.

Interview by John Riley under the auspices of Eric Y. J. Lee

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