



# Welcome



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**Judge    Nack-Song Sung**





# Judicial Independence in Korea



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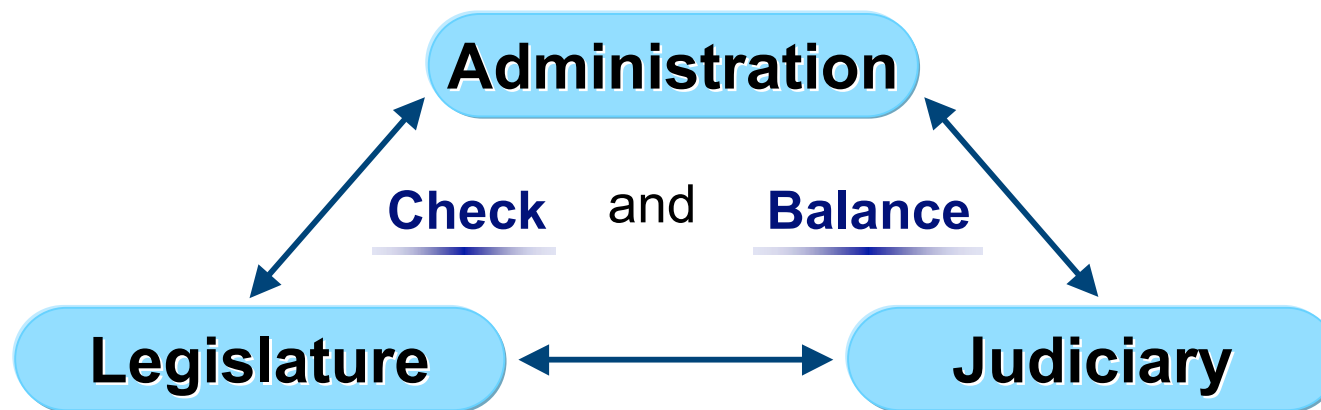




# Meaning of Judicial Independence



## ◆ Separation from other Organs



## ◆ Independence of Judges

- ❑ Independence of trial
- ❑ Status independence of judges

## ◆ Ancient History (Until 1894)

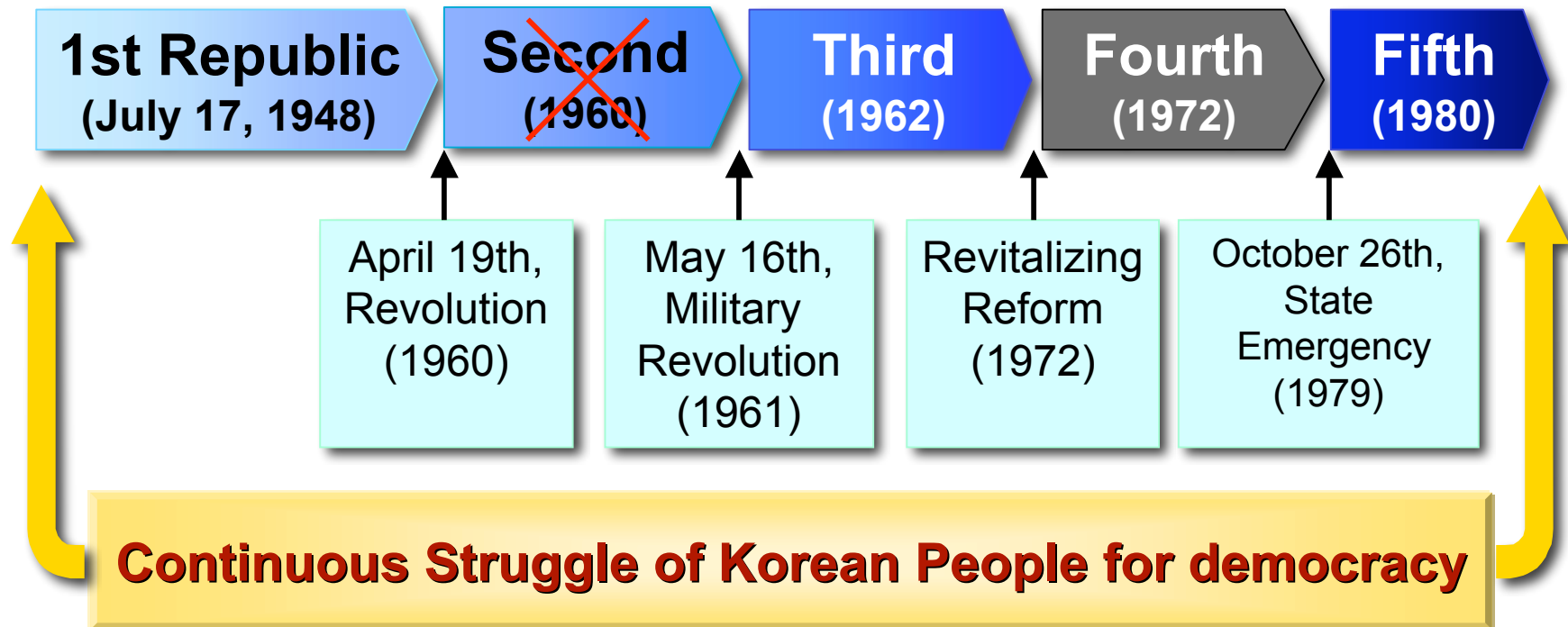
- not separated from the Administration

## ◆ Modern History

- 14 Articles of Hongbum
  - first modern written Constitution
- The Court Organization Act(March 25, 1895)
  - Beginning of a modern independent judicial system

## ◆ The Amendment of Constitution

### Emergency Procedure Act



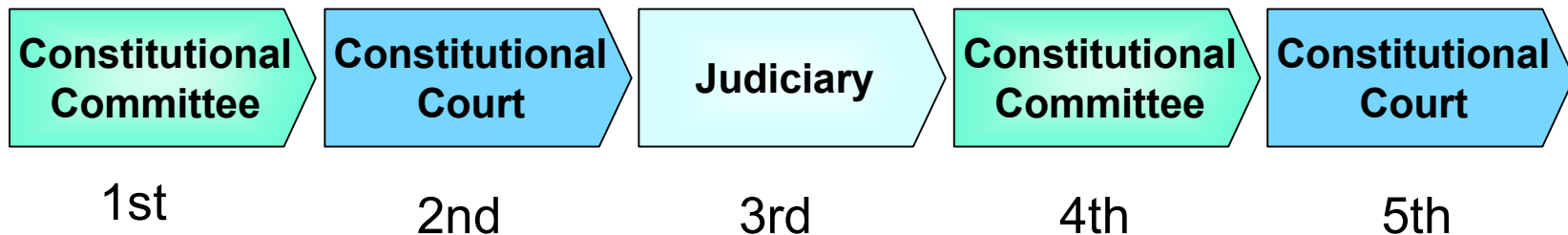
## ◆ Status of Courts

- ❑ Separation from Administration and Legislature
- ❑ Adjudication of all legal disputes



**Same**

## ➤ Constitutional Issues





## ◆ Independence of Judgment of Judges

- ❑ Conscience
- ❑ Constitution and Law



**Same**

## ◆ Appointment of Judges

- ❑ Chief Justice, Justices → President

**2<sup>nd</sup> Republic → Not effective**

**- elected by the electoral college**

**→ confirmed by the President**

## ◆ Appointment

□ Judges → Chief Justice

1st, 4th Republic → President

## ◆ Guarantee of Status

□ No removal from office except either by impeachment or by a sentence of imprisonment or heavier

1st, 2nd, 4th Republic

→ Removal by disciplinary measures

## ◆ 1st Republic

- ❑ Beginning of a modern judicial system
- ❑ Judicial Independence not firmly secured
  - hampered by the dictatorship of the president  
(Rejection of reappointment of judges)

## ◆ 2nd Republic

- ❑ Epochal Constitution
- ❑ Not effective for a long time
- ❑ Suspended by the Emergency Procedure Act

## ◆ 3rd Republic

- ❑ Superiority of Judiciary over other organs
- ❑ Restricted by Revitalizing Reform in October, 1972

## ◆ 4th Republic

- ❑ Dark age of Judicial Independence
  - Status of Judges not fully guaranteed
  - Hampered by dictatorship

## **Substantial Establishment of Judicial Independence (Since 5th Republic)**

- ◆ **Independence of Courts**
  - fully secured
- ◆ **Independence of Judgment of judges**
  - fully secured
  - Independence from public opinion or mass media



## ◆ Status Independence of Judges

### □ Qualification

- To pass the **National Judicial Examination**
- To complete **two-year training program** at JRTI
- In case of the **Chief Justice and other Justices**, to **reach 40** with more than 15 years of experience in the legal field

## ◆ Appointment

### □ Appointment of The Chief Justice

- Appointed by the President
- With the consent of the National Assembly

### □ Appointment of Justices

- Appointed by the President
- On the recommendation of the Chief Justice with veto power held by the President
- With the consent of the National Assembly

### □ Appointment of Lower Court Judges

- Appointed by the Chief Justice
- With the consent of the Supreme Court Justices Council

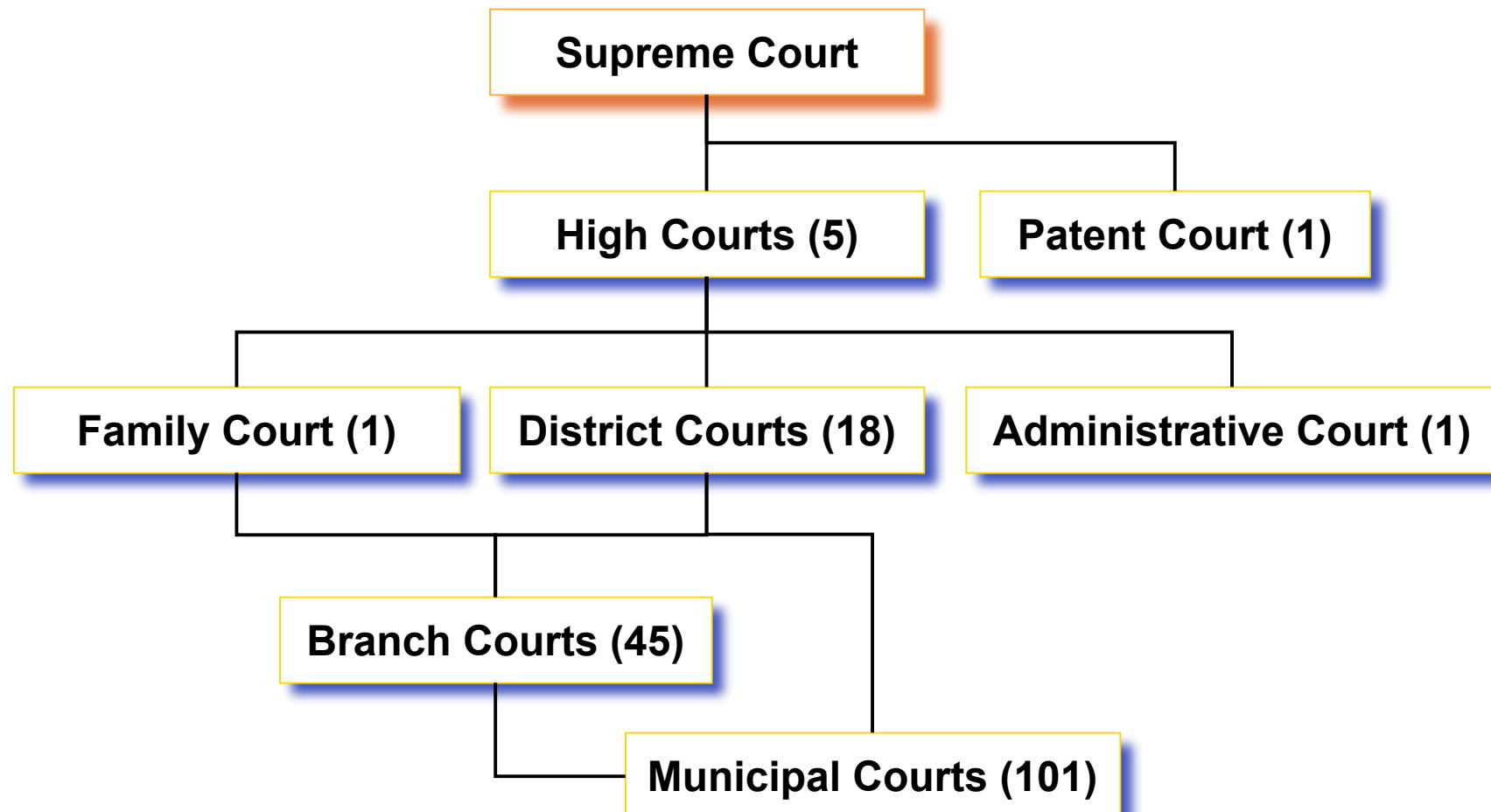
## ◆ Term

- ❑ **Term of office of the Chief Justice**
  - Six years
  - Only one term
  - Should retire at the age of 70
- ❑ **Term of office of Justices**
  - Six years
  - May serve consecutive terms
  - Should retire at the age of 65
- ❑ **Term of office of lower court judges**
  - Ten years
  - May serve consecutive terms
  - Should retire at the age of 63

## ◆ Guarantee of Status

- ❑ Shall not be removed from office **except** either by **impeachment** or by a **sentence of imprisonment**
- ❑ Shall not be subject to suspension from office, a reduction in remuneration or other unfavorable treatment **except by disciplinary measures**
- ❑ **May not be engaged in political activities and private business** for the purpose of pecuniary gain

## ◆ Court Organization



As of May. 1, 2008



# Present Situation



## ◆ Workload of The Courts

### Number of Cases Received (2006)



Classification	No. of Cases
Civil	3,791,514 (67.3%)
Criminal	1,618,141 (28.7%)
Domestic Relations	115,078 (2.0%)
Administrative	29,012 (0.5%)
Patent	1,686
<b>Total</b>	<b>5,632,829</b>

# Efforts from within the Court



## ◆ Strong will of individual judges

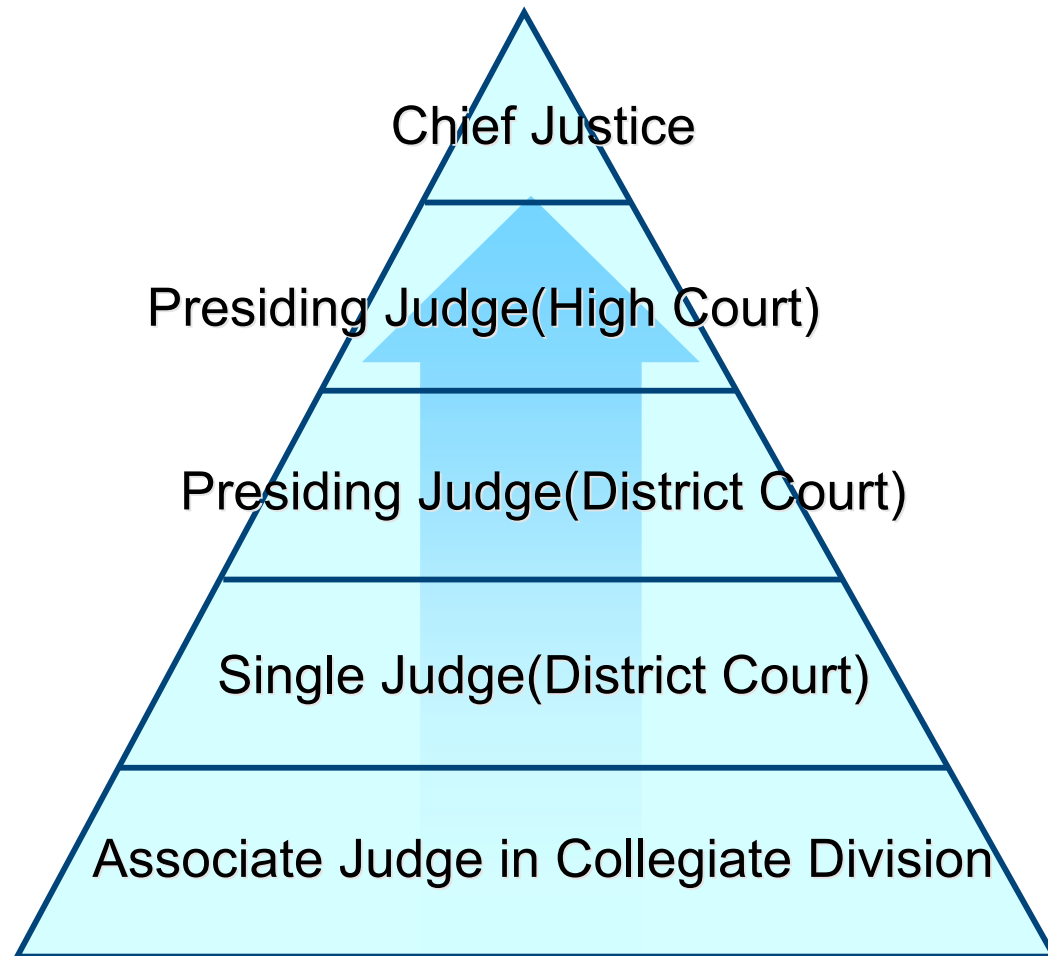
## ◆ Examples

- ❑ **The first Chief Justice Kim Beoyng-no**
  - Defending against the dictatorship of the President
- ❑ **Judges' collective demonstration against the despotic military administration**

## ◆ Career System

- ❑ **Qualification for judges**
  - to pass the national bar exam
  - to finish two – year training
- ❑ **Criticism**
  - young, unexperienced judges
- ❑ **Appointment of Judges among experienced Lawyers, etc.**

## ◆ Promotion System



### □ Criticism

- jeopardizing the status independence of judges

### □ Reform

- introduction of single-tier salary system

## ◆ Drafting of Court Budget

- ❑ Being done by the Ministry of Planning & Budget
- ❑ Draft by judiciary itself

## ◆ Judicial Reform Committee

- ❑ Public Participation in judicial procedure
- ❑ Legal Education system

## ◆ The Presidential Committee on Judicial Reform(PCJR)

## ◆ New Legislation

- ❑ Citizen Participation Trial
- ❑ Law school system



- ◆ **Confidence in  
the Judicial Independence of Korea**
  - **Present Situation**
  - **Future**
  
- ◆ **Model for  
Other Democratizing Countries**

# Thank You

If you have any questions, Please send me an e-mail.  
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