

The Enactment of the Educational Workers Labor Union Act in South Korea:

Focusing on Discussion Within the Korean Teachers and
Educational Workers' Union

JUNG Sooyeon

1. Introduction

Through the enactment of South Korea's Act on the Establishment and Operation of Teachers' Unions (below, Teachers' Union Act) in January 1999, teachers' basic labor rights were in part recognized, while the Korean Teachers and Educational Workers' Union (below, KTU), previously an "extralegal union," was legalized as well. Previously, in response to the application of Article 66 of the State Public Officials Act ("No public official shall engage in any collective activity for any labor campaign, or activities, other than public services"), teachers at state schools without labor rights were guaranteed the right to organize and the right to collective bargaining other than the right to collective action, with their "position as workers"¹ recognized.

The Teachers' Union Act's purpose is explained in Article 1: "The purpose of this Act is to prescribe matters concerning establishing teachers' unions pursuant to the proviso to Article 5 (1) of the Trade

This paper was originally published in Bulletin No. 46 of JEAS, and was translated into English as a result of receiving the 2021 Research Encouragement Award.

Union and Labor Relations Adjustment Act and prescribe special exceptions to teachers,” positioning it as a “special law” in the form of a labor union law on the establishment and operation of teachers’ labor unions, rather than within the framework of laws on public officials such as the Educational Officials Act² or State Public Officials Act or that of laws on education such as the Framework Act on Education.

Elsewhere, it was previously possible in South Korea to form “teachers’ organizations” in accordance with Article 15 of the Framework Act on Education (“School teachers shall make efforts to promote education and to advance culture in cooperation with [one] another, and they may form teachers’ organizations at local governments and the central government to improve teachers’ economic and social status”); however, the only legally recognized teachers’ organization was the Korean Federation of Teachers’ Associations (below, KFTA).³ Based on the Special Act on the Improvement of Teachers’ Status (below, the Teachers’ Status Act)⁴, the KFTA has conducted collective bargaining and consultation with educational authorities⁵ since 1991, before the KTU was legalized. The enactment of the Teachers’ Union Act had significant effects not only on the aspect of ensuring teachers’ labor rights but on the situation concerning teachers organizations. In short, conflict inevitably arose between the KTU, which argues for the formation of “labor unions,” and the KFTA, which advocates for “professional teachers’ organizations.” Further, the political aspect was also influenced by conflicting opinions between the parties in power and the opposition parties⁶ as well as the president due to regime change. Discussion of the issue was complexly intertwined with the political situation of South Korean society at the time.

The purpose of this paper is to focus on the enactment process of the Teachers’ Union Act and to clarify why it was enacted as a “special law,” which is to say, why the KTU was forced into “legalization via a special

law.” Below, the relevant previous research is discussed and its limitations confirmed, and the issues of this paper stated.

2. Discussion of previous research

In Japan, with regard to teachers' labor rights and labor movements, there is considerable research on the case of teachers' collective bargaining in the US. These studies target the periods from the debate on “teacher militancy” in the 1960s through the “unionization of professionals,” and point out with regard to the former, while positively appraising the participation of teachers in administration and their involvement in the policy-making process, that the closed collective bargaining process led to the “retention as the status quo of the professional bureaucracy.”⁷ Elsewhere, studies on the latter issue focus on the changing relations of educational administration and teachers' organizations in the US of recent years, arguing that because “teachers' professionalism and their rights as workers are indivisible,”⁸ the role played by the collective bargaining system should be reevaluated. These studies provide valuable information, as the US is similar to the case of South Korea in many ways, including the influence on the guarantee of teachers' status of the law concerning workers, not public officials,⁹ and the involvement in the core educational policy-making process of two teachers' organizations in pursuit of professional principles and labor union ideals.¹⁰ However, with regard to collective bargaining alone, unlike the US—which has adopted “exclusive representation” —South Korea conducts collective negotiations with the KTU, based on the Teachers' Union Act (labor agreements), and with the KFTA, based on the Teachers' Status Act (consultation), separately.

Previous research within South Korea mainly focuses on this

“dualization” of the collective bargaining system, discussing the characteristics of the negotiations conducted by each teachers’ organization and pointing out their problems and limitations. For example, the Teachers’ Union Act restricts collective bargaining to matters of the improvement of teachers’ socioeconomic status, such as wages, working conditions, and welfare, while the Teachers’ Status Act currently targets only items on the improvement of treatment, conditions of employment, welfare programs, and development of expertise of teachers; critics have noted that “in terms of negotiations, the KFTA and the KTU have no essential differences, and the systemic basis enforcing their separation is weak.”¹¹ As well, they propose as a solution “the need for unifying the ensuring of teachers’ basic labor rights in the Teachers’ Union Act.”¹² Further, some studies argue from the aspect of the efficiency of educational administration that “it is a considerable waste of administrative forces for the government to conduct double negotiations with two organizations on the same matters”¹³ and “it is a waste of administrative forces and budget for negotiations to be conducted separately with similar teachers’ organizations, separated on the basis of socioeconomic status and professionalism.”¹⁴ However, preceding research of this kind touches on the process of legislation only as an overview, without focusing on why or how the law in question was established as a special law. Therefore, it is limited to explaining labor unions and professional organizations within the same framework of teachers’ organizations, and to trivializing the role of educational administration to the improvement of efficiency in attaining educational goals.

Next, research touching on the enactment of the law refers to it as “the result of the difference between the teachers’ organization focusing on professional principles and the teachers’ union pursuing labor union principles”¹⁵ and “the influence of the KTU and its excess emphasis on the

image of the teacher as worker.”¹⁶ However, this tone implies that discussion within the KTU was a monolith, oversimplifying the process of enactment of the Teachers’ Union Act. In short, there is no interest accorded to the difference in attitudes toward the teaching profession between the KTU and the KFTA, the changing discussion within the KTU, or the clash of opinions between the parties in power and those in opposition which was the key to the enactment of the law in question.¹⁷

Therefore, this paper discusses the clashing awarenesses and opinions of the formation and legalization of the KTU among the Ministry of Education, the various political parties, and the KFTA, while at the same time analyzing the changing discussion within the KTU. Through this work, the paper clarifies the point that factors internal to the KTU significantly affected the eventual “legalization as a special law.” The analysis draws on the minutes of the National Assembly (1988-1998) as well as journals and materials issued by the KTU and KFTA as held by the National Library of Korea. As well, interviews were conducted with KTU personnel¹⁸ and required materials assembled.

3. The formation of the teachers’ labor union and the response of the professional teachers’ organization

3-1. Legal structures concerning the ensuring of teachers’ labor rights

The discussion of teachers’ basic labor rights has taken place in tandem with that of public officials’ basic labor rights; in South Korea, until the Constitution was revised by the military regime in 1962, there were in fact no regulations restricting public officials’ three labor rights.¹⁹ The former Constitution (enacted in 1947) specifies that “all citizens shall have the right and the duty to work” (Article 17) and that “workers’ freedom of

association, collective bargaining, and collective action shall be guaranteed within the scope of the law” (Article 18), guaranteeing the three labor rights to all workers, including public officials.

However, the 1962 revision of the Constitution by the military regime stipulated that “all public officials shall be servants of the entire people and shall be responsible to the people” (Article 6.1) and “the status and the impartiality of a public official shall be guaranteed in accordance with the provisions of law” (Article 6.2), specifying that the status of public officials was as “servants of the entire people.” As well, while specifying that “workers shall have the right of independent association, collective bargaining and collective action for the purpose of improving their working conditions” (Article 29.1), the Constitution adds that “the right of association, collective bargaining and collective action shall not be accorded to the workers who are public officials except for those authorized by the provisions of law” (Article 29.2), effectively restricting the basic labor rights of public officials, with the exception of those regulated by Article 66 of the State Public Officials Act.²⁰ Similarly, the 1963 revision of the Labor Union Act (enacted in 1953) stipulates that “workers shall have the freedom to form labor unions and to join these unions, excluding public officials whose rights are regulated elsewhere in law,” restricting the basic labor rights of all public officials, with the exception of those belonging to the Korean National Railroad or the National Medical Center.

Thereafter, the military regime came to an end and the Constitution was once again revised in 1988, the year of the first direct presidential elections. However, the revised Constitution included no changes to the basic labor rights of public officials, specifying that “only those public officials who are designated by Act shall have the right to association, collective bargaining and collective action” (Article 33.2), guaranteeing, as

before, only a given subset of public officials the basic labor rights.

3-2. Conflict over the legal status of teachers

(1) The movement toward formation of a teachers' labor union

The movement throughout South Korea in opposition to the military regime influenced the foundation of the South Korea YMCA Secondary Educators' Conference (1982), the forerunner of the KTU, and the movement toward democratizing education. The Conference explained its “new theory of teachers” in the journal *Minju Kyoyuk (Democratic Education)*²¹, published in 1985, as below.

First, the article addresses the “theory of professionals” as the theory of teachers generally accepted within the academic and educational spheres, stating that “the view of professionals is at risk of regulating teachers as a professional interest group, narrowing the scope of the problems of which teachers should be aware in themselves, lowering their socioeconomic status, and eventually reducing the deprivation of their ideological and political autonomy to nothing more than a lack of professionalism.”²² As well, it points out the error in considering the aspect of “ensuring professionalism as simply a change in teachers' ideological and political roles, preventing the objective clarification of the problem of their socioeconomic status.”²³ Next, because “the role of the people as subject and the subjective and autonomous role of the teachers entrusted therewith have not been tolerated,” the article criticizes the fact that South Korean society so far has been able to achieve only “the role not as teachers of the people, but as teachers of the state, an existence thoroughly infusing education with the political and ideological intent of state authority.”²⁴

This “theory of teachers” obtained wide awareness in the state of Korean society at the time.²⁵ It is clear that they were aware of the

contradictions of bureaucratic education and the political situation, even while possessed of the status of public officials, and calling for an “independent labor movement” to resolve this. Further, the phrasing implies recognition of the limitations of the Conference, a private organization, and a focus on the formation of a nationwide unified organization. Thereafter, the organization continued its activities while changing its name to the Conference for the Practice of Democratic Education (1986) and the National Teachers’ Conference for the Promotion of Democratic Education (1987). As well, it argued for the revision of the Labor Union Act and developed the educational labor movement toward the formation of a legally recognized national labor union.

(2) The response of the professional teachers’ organization

In response to the movement to form a teachers’ union, the first to move was the KFTA (then the Korean Education Association), which had until then been the only teachers’ organization. Established through the support of the 1947 US military regime, when South Korea was under US Army control, the KFTA has been criticized repeatedly as a “lackey organization” ; when the “KFTA withdrawal movement”²⁶ arose in 1988, centered on teachers arguing for labor union formation, a serious discussion of intraorganizational reform began. The KFTA, alarmed at the risk to its very existence, hurriedly issued an “Analysis of the Situation and Measures in Response” in June of the same year, including the following plan: “*Rupture* in the society of teachers is a factor hampering the improvement of teachers’ status, and as such the KFTA promotes the *integration* of a labor union under the auspices of the KFTA”²⁷ (emphasis added). However, as this was highly unfeasible in practice, the KFTA was to continue with reforms to its internal culture. In fact, criticism was increasing from within on the manager-centered operation and the gap

between organizational operation and members, leading to the determination that operation directionality would take as its objectives “the rejection of the name of lackey, and operation as a member-centered, democratic professional teachers’ organization.”²⁸

(3) Promotion of the enactment of the Teachers’ Status Act by the KFTA

The “strategy” adopted by the KFTA regarding the formation of the KTU extended not only to internal reforms but to the promotion of the enactment of the Teachers’ Status Act, regulating the status of teachers (‘ organizations) in law. The KFTA issued a comment stating that “with deep reflection on its political subjugation to date, this Association will establish new aspects as a teachers’ organization and will take a multi-faceted approach to the enactment of a Teachers’ Status Act effectively improving the socioeconomic and political status of teachers.”²⁹

Notable here is that, while positioning themselves as a “professional teachers’ organization,” they included in the bill an item on “collective bargaining and consultation” with the Ministry of Education.³⁰ The KFTA named the ensuring of the right to collective bargaining as an important condition for the improvement of teachers’ status, mentioning the participation of teachers in education-related decision-making as well as the “installation of an arbitration and mediation mechanism for ensuring and putting into effect the right to collective bargaining of teachers’ organizations, which may be said to be *a core element in the improvement of teachers’ status*”³¹ (emphasis added). Elsewhere, they added that “there should be no confusion with the right to collective bargaining as one of the three labor rights,”³² suggesting the effort to shake off the image of a “lackey organization” by obtaining the right to collective bargaining while distinguishing themselves from labor unions. This may also be considered the influence of the movement toward formation of the KTU.

3-3. Clashes in views of the teaching profession with regard to ensuring teachers' labor rights

Discussion in the National Assembly more or less simultaneously addressed the “Labor Union Act revision bill” recognizing teachers' three labor rights, including that of forming unions, and the enactment of the Teachers' Status Act promoted by the KFTA. This section examines the discussion taking place at this period among the Ministry of Education and the parties in power and in opposition and confirms which “view of the teaching profession” took precedence with regard to the ensuring of teachers' labor rights.

(1) Clash of opinions on the Labor Union Act revision bill

In March 1989, the National Assembly's Labor Committee submitted a bill revising the Labor Union Act³³ so as to ensure public officials' labor rights. This included an item to the effect that “the rights of public officials of grade 6 and below³⁴ to join labor unions and conduct collective bargaining shall be recognized,” opening the way to the ensuring of teachers' labor rights. In response to this bill, the Ministry of Education³⁵ stated that “because public officials are responsible for selfless service to the people and have the duty to maintain political neutrality and dignity, it is difficult to recognize the same three labor rights therefor as for ordinary workers,” rejecting the formation of the KTU on the grounds that given the status of public officials in the Constitution, “a teachers' union would be not only in violation of existing laws, but also inappropriate as an organization in teachers' society.”³⁶ As well, they stated “We [the Ministry of Education] view the teaching profession as a specialist profession, and are moving in the direction of recognizing the rights to association and bargaining of professional organizations,”³⁷ suggesting their preparation to recognize collective bargaining with the KFTA, billing itself as a professional organization, alone. That is, they moved toward recognizing

the KFTA's Teachers' Status Act bill and preventing the formation of the KTU. At the same time, they stated that "our traditional view of teachers is that they must be morally respected by students and society, possessing a thorough sense of mission and philosophy toward education as well as academic expertise and character,"³⁸ displaying a view of the teaching profession similar to that of holy orders.³⁹

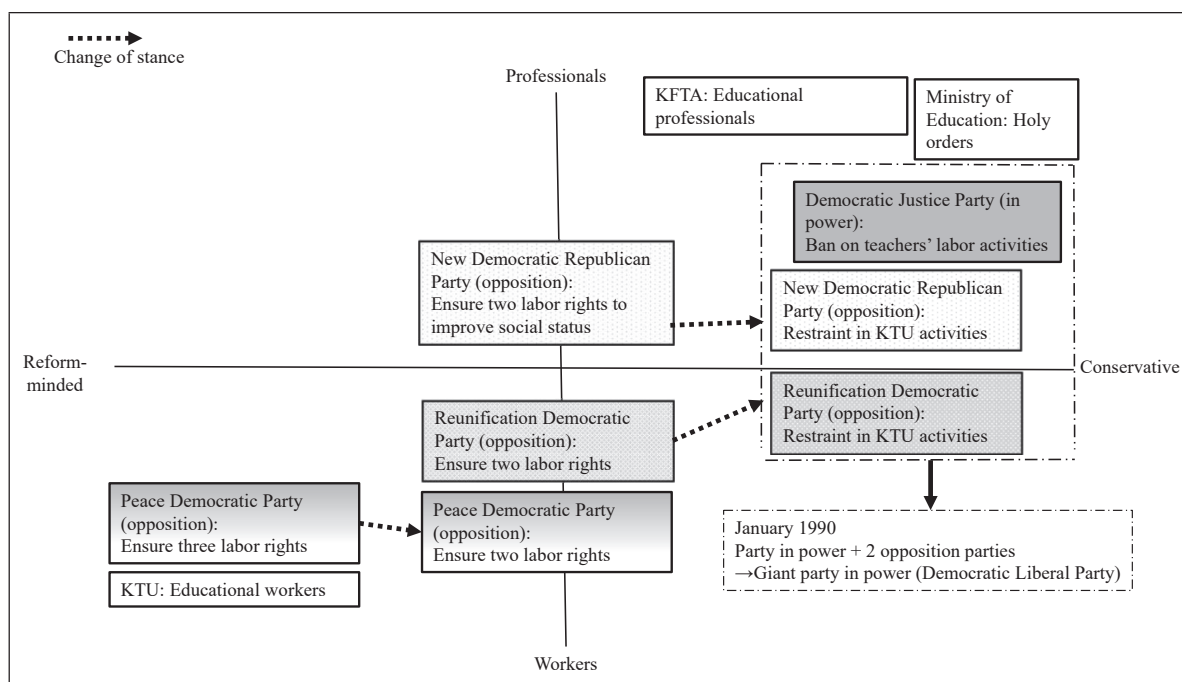


Figure: Shifts in views on KTU formation of the parties in power and in opposition (created by the author)

Next, the party in power (the Democratic Justice Party) rejected the ensuring of public officials' labor rights to the effect that "public officials are servants of the people as a whole, with their status ensured by special relations of authority, and thus their labor relations issues cannot be handled in the same way as employees of private enterprises."⁴⁰ As well, they evidently took the same stance as the Ministry of Education: "Tolerating labor union activity including public officials of grade 6 and below and teachers would cause numerous problems regarding the stable

performance of state duties; the time has not yet come for this step, given the current status of South Korea.”⁴¹

Elsewhere, the opposition parties’ opinions were more diverse. The three opposition parties constituting the mainstream among National Assembly seats were split among a passive stance on teachers’ union formation (the New Democratic Republican Party), a stance arguing for ensuring labor rights through the teachers’ organization rather than a labor union (the Reunification Democratic Party), and a stance in support of ensuring the right to association and collective bargaining in the form of a teachers’ union (the Peace Democratic Party).⁴² At the time, the political situation was skewed toward the parties in opposition and away from the party in power, which was fortuitous for the teachers’ union, and the Labor Union Act revision bill would have passed (151 in favor, 126 against, and 7 abstaining of 284 seats), but for the final veto at the presidential level. As well, the “giant party in power” created by the subsequent change in the political status quo (January 1990) caused each party to take a more conservative stance, making the legalization of the KTU even more difficult.

(2) Measures taken by the KFTA and the establishment of the Teachers’ Status Act

Elsewhere, the KFTA was making further efforts toward the enactment of the Teachers’ Status Act, holding policy discussion meetings with the giant party in power and calling on the President.⁴³ Yun Hyeon-seop, the KFTA president at the time, argued that “teachers’ status must be suitably privileged so as to enable teachers to devote themselves to education with a sense of mission,” emphasizing in particular that teachers themselves “preserve their ethics as educators.”⁴⁴ As well, he pointed out that “in recent years, the disturbance and conflict in a part of teachers’ society is one cause of their unsettled status and interests,”⁴⁵ referring

obliquely to the movement of the time toward the KTU and indicating alarm.

In 1990, the leader of the party in power revealed a plan to enact the Teachers' Status Act within the year and a policy recognizing the collective bargaining and consultation proposed by the KFTA.⁴⁶ The party in power gave a statement expressing their positive opinion of the law as "a legal system with consideration given overall to the status and role of teachers as professionals, the cultural and social value consciousness our country has traditionally accorded to teachers, and the public nature of education."⁴⁷ Elsewhere, the opposition pointed out that "allocating the authority of collective bargaining to the KFTA alone" would be "simply confirming that the KFTA is the only legal [teachers'] organization, rendering illegal all other educational organizations including the KTU," criticizing the law on the grounds that it would violate Article 11 of the Constitution, which specifies that "all citizens shall be equal."⁴⁸ However, with the party in power holding a majority of seats in the National Assembly, the Teachers' Status Act was passed (with 168 votes in favor, 56 against, and 1 abstention out of 225 seats).

4. KTU policy change and legalization

(1) Conflict and change within the KTU

When the revised Labor Union Act did not pass into law due to the presidential veto, the KTU formed as an "extralegal union." Opinions within the organization at this time were apparently divided, including both "the union should convert itself to a legal format by removing the word 'labor,' becoming the Teachers' Union or the Democratic Education National Teachers' League"⁴⁹ and "the labor movement must continue until legalization is realized through revision of the Labor Union Act."⁵⁰

The former argument called for the construction of a legal teachers' organization focusing on mass appeal. The latter group, mainly executive members, criticized this opinion: "Dismantling the labor union, the main unit of the labor movement, and creating a different organization would be not simply a strategy for legalization but a problem potentially demanding full-scale revision of the movement's character and direction. It would mean creating a second KFTA, abandon the basic labor rights and changing the direction of the movement."⁵¹ The union's representative council held a vote on the issue, adopting the executive members' opinion by the narrowest of margins.⁵² While on the face of it this clash of opinions appeared to be a difference in perception of the legalization of the organization, it hints at a dilemma even within the KTU, which had continued to push for legalization through a full revision of the Labor Union Act, regarding the view of the teaching profession and the educational labor movement which it had pursued to date. The organization's identity was wavering, torn between whether to remain a labor union even under legal restrictions or to shift to a professional organization in the form of a corporate body. This problem was to come under debate over and over within the KTU.

Further, when collective bargaining between the Ministry of Education and the KFTA began, the KTU put into motion a new strategy for its legalization. In 1994, they set the objective of "achieving effective organizational legislation through the formation of expanded popular appeal and *advantageous political conditions*"⁵³ (emphasis added), suggesting that they were willing to use the political situation to create an environment advantageous for legalization. That is, the establishment of the Teachers' Status Act had a significant influence on the changing organizational objectives and policy of the KTU.

(2) The alternate proposal of the Presidential Commission on Industrial Relations Reform

In 1996, as the issue of a new labor relations structure came to the fore during South Korea's preparations to join the OECD, the Presidential Commission on Industrial Relations Reform began once again to work on revising the Labor Union Act.⁵⁴ The Commission's opinion was that "regarding public officials, teachers, and so forth, while their basic interests as workers are to be respected, concerns regarding the obligations to society inherent in their positions call for exploration of rational labor relations," adding that "regarding teachers, guarantees should go as far as their collective bargaining rights."⁵⁵ Specifically, as a policy method of legalizing teachers' unions, they offered a proposal recognizing the right to association of separate workers' organizations to which the Labor Union Act was not applicable (Proposal 1) and another maintaining the current legal system and multiplying the extant professional teachers' organizations (Proposal 2). Neither would completely ensure the three labor rights, as the KTU hoped, but both led to discussion on acceptance within the KTU. The discussion, which apparently focused mainly on Proposal 1, turned on the issue of whether ensuring the rights to association and to collective bargaining through a special law would be equivalent to the basic labor rights.

Those in favor of the Commission's proposal, while admitting that "it is a fact that the rights to association and collective bargaining obtained through a special law would be more limited than the basic labor rights (based on the Labor Union Act)," argued that "the Commission's proposal reflects the limits of the KTU's capacity, and could become an opportunity for new qualitative development of the educational movement in the sense of ensuring conditions promoting popular development of the movement."⁵⁶ Elsewhere, those opposed to the Commission's proposal⁵⁷

held that “arguing for legalization via a special law or some other law is based on the intention to restrict rights,” perceiving “the risk of legal restrictions on labor union activities overall, such as the organizational targets, scope, negotiation methods, selection of negotiators, negotiation conditions and so on with regard to the teachers’ union.”⁵⁸

This internal debate did not make itself known outside the KTU. Before the debate could become serious, the Presidential Commission on Industrial Relations Reform was disbanded and discussion on the legalization of the KTU came likewise to a stop for the moment. However, when we consider that it was ultimately through a special law related to the Labor Union Act that the KTU was legalized, it seems that the voices arguing for the ensuring of two labor rights through a special law, accepting the Commission’s proposal, held a stronger position within the union.

(3) The final proposal and the passing of the special law

With the disbandment of the Presidential Commission on Industrial Relations Reform, the KTU, having failed at legalization, approached the subsequent presidential election as “an important opportunity” to try again, deciding on a basic policy of “enhancing the public sphere of activity in schools in order to reinforce the popular foundation of KTU legalization.”⁵⁹ For example, they released a popular opinion survey on the problem of KTU legalization within educational reform,⁶⁰ putting pressure on the political parties and presidential candidates which had reserved opinion on the formation of a teachers’ union. When Kim Dae-jung of the opposition parties was elected president and the regime changed accordingly in 1997, the KTU was provided with a good chance at legalization.⁶¹ From this period on, the Ministry of Education began to take a more flexible stance, in response to the OECD’s forceful demands that its member countries negotiate with labor unions at the national level.⁶²

In response to the creation of the new Tripartite Commission, a presidential advisory body, the KTU held serious internal debates on the standards and methods of legalization, with the gradually spreading internal awareness that “the realistically possible standard for legalization is the ensuring of the two labor rights through a special law related to the Labor Union Act.”⁶³ At the national executive training held in January 1998, a “proposal for obtaining status as a legal organization with the two labor rights ensured” was submitted, to the effect that “as the early days of a new administration are the ideal time for legalization, we will postpone the complete acquisition of all three labor rights, negotiating and fighting actively to enable legalization ensuring the rights to association and collective bargaining (the two rights).”⁶⁴

The plan for legalization via enactment of a special law through the Tripartite Commission, specifying that the formation of teachers’ unions would be ensured through this enactment and that the rights to association and collective bargaining, though not collective action, would be recognized, was submitted to the National Assembly on October 31, 1998. Thereafter, the Teachers’ Union Act went through the National Assembly’s Environment and Labor Committee and was passed on December 29, leading to the enactment described at the beginning of this paper.

5. In lieu of a conclusion

Above, this paper has discussed the process leading to the establishment of the Teachers’ Union Act in South Korea and analyzed, with a focus on discussion within the KTU, why this law was established as a “special law.” The following three points have thus been made clear.

First, the KTU and the KFTA were constantly influencing one another.

For example, the formation of the KTU forced the KFTA to embark on internal organizational reforms, attempting to lose its image as a “lackey organization” through collective bargaining and consultation. Likewise, the KTU was influenced by the Teachers’ Status Act, pushed through by the KFTA. Its establishment led to the questioning of the need for collective bargaining as a “labor union,” while at the same time causing the KTU to shift its policy toward creating a political climate advantageous to legalization while distinguishing itself from a professional teachers’ organization.

Second, the legalization of the KTU brought about not only internal debate therein but also changes in the views of the teaching profession held by the Ministry of Education and the KFTA. The Ministry of Education had focused on the “law-abiding spirit” in its view of teaching from the earliest days of the KTU, but in the late 1990s, it began to recognize a certain degree of teachers’ labor rights in accordance with international standards. The KFTA likewise, while advocating for professional teachers’ organizations, changed after the formation of the KTU so as to argue for the acquisition of the practically effective right to collective bargaining. In short, the early days of the formation of the KTU involved a gradual tendency toward compromise on views of the teaching profession on the part of the organizations generally considered to have been in fierce conflict therewith.

Third, as noted above, the KTU and the KFTA shared close positions regarding the recognition of teachers’ labor rights, but perceived the “right to collective bargaining” differently. In short, the KTU’s view of ensuring labor rights was that teachers’ independent right to association would be ensured without legal restrictions, as any negotiation under the restriction of “laws on education” could not take place on equal footing with the educational authorities.⁶⁵ Therefore, the right to collective

bargaining “as a teachers’ organization” promoted by the Ministry of Education and the KFTA was meaningless in the KTU’s terms. This point is thought to be the reason why, even while forced into realistic compromise, the KTU rejected the “special law applying only to teachers” all the way, and why the law’s establishment was thus based on “a special law related to the Labor Union Act.” Here we see the peculiarity of the teachers’ union and what brings it within the scope of educational administration studies. From its time as a voluntary association, the KTU had positioned teachers not as ordinary workers but on a par with the Ministry of Education. This differed from the KFTA’s perspective, emphasizing teachers’ duty to be politically neutral as “trustees of public duty.”⁶⁶ The “dualization” of collective bargaining criticized in previous research was due to this discrepancy in views of the teaching profession between the two organizations, which made it difficult to bring them together as one on this point.

Finally, there are some issues left unaddressed by this study.

First, when discussing the problem of ensuring teachers’ labor rights, the discussion must address the issue of how the relationship between educational organizations (including parents’ groups, citizens’ groups, etc.) and teachers’ organizations has changed and how this has influenced the social status of teachers’ unions and organizations. Next is the issue of analysis of the collective bargaining between the educational authorities and teachers’ organizations after the establishment of the Teachers’ Union Act and examination of its effectiveness, comparing the actual content of the right to collective bargaining of the KTU and the KFTA toward a deeper consideration of the ensuring of teachers’ labor rights.

As well, from the perspectives of teachers’ legal status and the ensuring of their labor rights, the views on the teaching profession of various other countries must be organized and their commonalities and differences

clarified. It is thought that the outcomes of this paper can be developed into international comparison, a point to be addressed in the future.

(Kyushu University)

-
- ¹ Ko Jeon “A Study of the Issues & Tasks on the Legislation of the Teachers’ Union,” in *Studies in Educational Administration* Vol. 17 No. 3, Korean Educational Administration Society, 1999, p. 198.
 - ² South Korea’s Educational Officials Act regulates teachers’ qualifications, appointment, remunerations, education and training, and guarantee of status, but does not provide separately for their labor rights.
 - ³ The Ministry of Education previously interpreted this article as “permitting one central and one regional teachers’ organization to be formed,” recognizing only the KFTA as a teachers’ organization (Park Jong-bo, “Constitutional Issues on the Legal status of Teachers’ Associations,” in *Studies on Educational Law* Vol. 8 No. 2, 2006, p. 129).
 - ⁴ The law was revised in 2016 as the Special Act on the Improvement of Teachers’ Status and the Protection of their Educational Activities.
 - ⁵ This collective bargaining was conducted with the central Ministry of Education and regional education governors, similar to the heads of prefectural boards of education in Japan; from 2006 on, this position has been elected through direct regional elections, based on an amendment of the Local Autonomy Act.
 - ⁶ Through the struggle for democracy in June 1987, South Korea first realized direct presidential elections; administrations since then have included Roh Tae-woo’s presidency in 1988 and Kim Young-sam’s (civilian government) in 1993. In 1998, after the first “party regime change” since the colonial era, Kim Dae-jung became president.
 - ⁷ Ota Haruo, “America ni okeru kyoin kumiai to kokyoiku tochi: Kyoin dantai kosho no kosatsu wo chushin to shite (Teachers’ unions and public education governance in America: Focusing on a discussion of teachers’ collective bargaining),” in *Hikaku kyoikugaku (Comparative Education)* Vol. 14, 1988, p. 73.
 - ⁸ Takahashi Satoshi, “Beikoku kyoin kumiai no senmonshoku dantaika shisaku

no bunseki: NEA/AFT no doryo kyoin shien hyoka wo chushin ni (Analysis of measures converting American teachers' unions into professional organizations: Focusing on NEA/AFT peer assistance and review program),” in *Nihon Kyoiku Gyosei Gakkai Nenpo* (*Bulletin of the JEAS*) Vol. 31, 2005, p.164.

- ⁹ Takahashi Satoshi, “Beikoku ni okeru kyoiku rodo ho seido kaikaku no bunseki: Michigan-shu komu koyo kankei ho no kaisei mondai (An Analysis of Labor Law Reforms in America Public Education: Focusing on the Amendment of the Michigan Public Employment Relations Act),” in *Kyoikugaku kenkyu* (*Educational Studies*) Vol. 76 No. 3, September 2009, p. 14.
- ¹⁰ Ota, op. cit. p. 70.
- ¹¹ Jung Gi-oh, “Treaties and Some Weaknesses of Teacher Union Law: Collective Bargaining in Education Background and Performance,” in *Korean Journal of Teacher Education* Vol. 22 No. 4, Korea National University of Education Graduate School, 2006, p. 96.
- ¹² Lee Il-kweon, “Critical Point of View on the Issue of the Teachers’ Union Act: Focusing on Teachers’ Basic Labor Rights,” in *Studies in Educational Administration* Vol. 21 No. 4, Korean Educational Administration Society, 2003, p. 256.
- ¹³ Seo Jeong-hwa & Hwang Seok-geun, “Limitations & Possibilities of Teacher Collective Bargaining in Korea,” in *South Korea Teaching and Education Studies* Vol. 18 No. 3, 2001, p. 75.
- ¹⁴ Ko, op. cit. p. 211.
- ¹⁵ Jung, op. cit. p. 96.
- ¹⁶ Korean Federation of Teachers’ Associations, *New Education*, October 1998, p. 170.
- ¹⁷ Elsewhere, attention is required to historical studies of the Japan Teachers’ Union. In particular, called upon by issues with the revision of the National Public Service Act to choose between the status of professionals and that of workers, the research of Tokuhisa (2020) is highly suggestive in its depiction of the internal dilemmas and conflicts as well as the influence of the professional responsibility of “democratization” suited to the situation in Japanese society at the time (Tokuhisa Kyoko, “Hoteki chii no henka to sono eikyo (Changing legal status and its influence),” in Hirota Teruyuki ed. *Rekishi toshite no Nikkyoso* (*The JTU as history*) Vol. 1, Nagoya University Press,

2020, pp. 159-190).

- ¹⁸ The interview survey was conducted on October 9, 2019, for two hours at the office of the Korean Teachers and Educational Workers' Union Seoul Branch.
- ¹⁹ However, based on Article 6 of the Labor Union Act enacted in 1953, the labor rights of certain public officials such as the military, the police, and firefighters were restricted (KFTA, "[Project Diagnosis] Teachers' Labor Rights," in *New Education*, November 1998, p. 76).
- ²⁰ Ibid., p. 73.
- ²¹ YMCA Secondary Educators' Conference, *Democratic Education* Vol. 10, 1985, pp. 16-18.
- ²² Ibid., pp. 16-17.
- ²³ Ibid., p. 17.
- ²⁴ Ibid., p. 17.
- ²⁵ According to Otsuki (1992), as the movement demanding democracy expanded nationwide in opposition to the military regime, from the early 1980s on, mainly among teachers involved with the Conference, a "movement to practice educational democratization as an organization, not individually" emerged, within which teachers "recognized the limitations of scholarly theories and pedagogy from abroad and felt the need for a theoretical basis enabling the analysis of reality" (Otsuki Takeshi, *Kankoku kyoiku jijo (The educational situation in South Korea)*, Shin-Nihon Shinsho, 1992, pp. 118-120).
- ²⁶ Korean Teachers and Educational Workers' Union, *Commemoration of the Anniversary of the KTU, South Korea Educational Movement White Paper: 1978-1990*, documents edition, 1990, pp. 173-175.
- ²⁷ KFTA, *70 Years of KFTA History, 1947-2017*, 2017, p. 295.
- ²⁸ Ibid., pp. 276-277.
- ²⁹ KFTA, "The National Assembly must promptly enact the Teachers' Status Act," May 1989.
- ³⁰ The Teachers' Status Act makes explicit teachers' (1) freedom of educational and political activity, (2) school safety management deduction system, (3) guarantee of status, (4) prohibition of overnight duties, (5) system for overseas study sabbaticals, (6) economical preference, (7) rights to association and collective bargaining dependent on the Act, (8) arbitration and mediation system, etc.

- ³¹ KFTA, “Improvement of teachers’ status and national development,” in *Materials from the National Teachers’ Representation Conference Toward Enacting the Teachers’ Status Act*, 1990, p. 52.
- ³² *Ibid.*, p. 16.
- ³³ March 9, 1989, “13th National Assembly, 145th Session, 9th Assembly Meeting, Labor Committee,” pp. 14-16.
- ³⁴ In South Korea, the 1981 revisions of the State Public Officials’ Act and Local Public Officials’ Act categorized public officials as those in general and in special service, applying a grade system from 1 to 9 to the former. This system was not applied to the latter category, which has its own rank and remuneration structure and includes educational public officials, military, firefighters, and diplomats.
- ³⁵ In South Korea, from the 1948 establishment of the government on, the Ministry of Education’s name has changed four times (Ministry of Education (*Munkyo-bu*), Ministry of Education (*Kyoyuk-bu*), Ministry of Educational Resources (*Kyoyuk-injeok jawon-bu*), Ministry of Education, Science and Technology (*Kyoyuk kwahak kisul-bu*), (current) Ministry of Education (*Kyoyuk-bu*). This paper uses “Ministry of Education” (in its *Kyoyuk-bu* form) for convenience throughout.
- ³⁶ May 15, 1989, “13th National Assembly, 146th Session, 4th Assembly Meeting,” pp. 45-46.
- ³⁷ *Ibid.*, p. 45.
- ³⁸ October 18, 1989, “13th National Assembly, 147th Session, 10th Assembly Meeting,” p.39.
- ³⁹ When the KTU was first formed, the Ministry of Education defined teachers as “those who must take the lead for all others in *obeying the law*” (emphasis added), stating that “if teachers force through the formation of a teachers’ union unrecognized by the law, they will seriously damage the image of the instructor for the people of this country and negatively affect the social awareness and climate of respect for teachers …” (KTU, op. cit., 1990, pp. 397-398), emphasizing obedient compliance to the law.
- ⁴⁰ March 9, 1989, “13th National Assembly, 145th Session, 9th Assembly Meeting, Labor Committee,” p.16.
- ⁴¹ *Ibid.*, p. 17.

- ⁴² KTU, op. cit., 1990, pp. 750-752.
- ⁴³ KFTA, op. cit., 2017, p. 306.
- ⁴⁴ KFTA, op. cit., 1990, pp. 51-52.
- ⁴⁵ Ibid., p. 50.
- ⁴⁶ KFTA, op. cit., 2017, p.307.
- ⁴⁷ May 8, 1991, “13th National Assembly, 154th Session, 11th Assembly Meeting, Education and Physical Education Committee,” p. 20.
- ⁴⁸ Ibid., pp. 16-18.
- ⁴⁹ KTU, *History of the Korean Teachers’ and Educational Workers’ Union Movement I, Extralegal Union Edition*, 2001, p. 780.
- ⁵⁰ Ibid., p. 781.
- ⁵¹ “Toward popular appeal in the teachers’ movement,” *KTU 12th Representative Conference Materials*, February 1994, pp. 63-64.
- ⁵² From interviews with KTU personnel.
- ⁵³ “Issues and Development Outlook for the KTU Second Term,” *KTU 12th Representative Conference Materials*, February 1994, p. 39.
- ⁵⁴ Song Gang-jik, *Kankoku rodoho (South Korean Labor Law)*, Yuyusha, 2001, p.27.
- ⁵⁵ KTU, op. cit., 2001, p. 740.
- ⁵⁶ *KTU 17th Representative Conference Materials*, December 1996, p. 37.
- ⁵⁷ Those in favor of the Commission proposal were mainly members active in the Seoul region, while the opposition was mainly composed of the executive members, particularly the Central Executive Committee.
- ⁵⁸ *KTU 17th Representative Conference Materials*, op. cit.
- ⁵⁹ KTU, op. cit., 2001, pp. 752-755.
- ⁶⁰ KTU News Vol. 207, October 29, 1997, p. 1.
- ⁶¹ When the problem of legalization reappeared, the KFTA stated that “a system of negotiations and consultation, based on the Teachers’ Status Act, between the teachers’ organization and the Minister of Education and education governors is in place, but its legal efficacy is weak,” arguing for the enactment of a special law distinct from the Teachers’ Status Act that would apply only to teachers (‘organizations) (KFTA, op. cit., November 1998, pp. 72-75).
- ⁶² With regard to the enactment of the Teachers’ Union Act , the Ministry of Education stated that “we have reached the stage of having a legal system aligned with international standards such as the ILO and the OECD ELSA

report” (November 18, 1998, “15th National Assembly, 198th Session, 11th Assembly Meeting,” p. 41).

⁶³ KTU, “Proposal for Gaining Legal Organization Status with Two Labor Rights Ensured,” January 1998, p. 3.

⁶⁴ In this regard, internal opinions included that “the legal basis for a teachers’ organization which is not a labor union but can negotiate with the Ministry of Education is basically the Teachers’ Status Act,” showing that the KTU was constantly conscious of the KFTA (KTU, *ibid.*, p. 3).

⁶⁵ The chair of the KTU’s Solidarity Committee of the time held that as “a labor union is an autonomous organization acting upon its own terms, … teachers’ unions and teachers’ organizations cannot be regulated by the same law” (KFTA, *op. cit.*, November 1998, p. 80).

⁶⁶ Kim Kyeong-yun (KFTA Educational Administration Section head), “A realistic proposal ensuring the special qualities and working rights of education,” KFTA, *ibid.*, pp. 72-73.