A CROSS-CULTURAL, HISTORICAL ANALYSIS OF POLITICAL EFFORTS IN THE USA AND THE REPUBLIC OF KOREA FOR PEOPLE WITH DISABILITIES' RIGHT TO AN EQUAL EDUCATION FOCUSED AROUND THE EVOLUTION OF SPECIAL EDUCATION POLICY IN THE 1970’S

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ABSTRACT

This interdisciplinary dissertation draws on scholarship in the different fields of Educational Foundations, Special Education Policy and History, Comparative and International Education, and Korean History and Politics to discover the historical and cultural significance upon the passage of the first special education laws in the United States and South Korea in the 1970’s. Special education policy was initiated as influenced by cultural and historical events that impacted upon legal and political efforts to ensure an equal educational opportunity for children with disabilities in the two countries. Historical and cultural variables led to a unique approach to addressing the FAPE in each special education law. My dissertation thus intends to identify how the different historical and cultural values influenced on the development of each special education policy and the FAPE languages in IDEA and APEH. Although my dissertation has limitations in that I have focused on the events and people who lived several decades ago, as such, have not directly suggested a new model for the current policy, my dissertation will broaden the field of special education policy and the exploring of historical and cultural significance in implementing policy in different countries.
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CHAPTER 1

INTRODUCTION

Background of the Study

Special education policy in the United States was first initiated as part of professionals’ efforts to treat children with disabilities in specialized educational settings in the early 19th century. The national drive to ensure public education as the way to reduce “idiocy” and imbue children with social and cultural values was forwarded as part of the educational reform agenda which included the establishment of compulsory education laws across the states. Although many children soon came to benefit from the laws by attending public schools, children with disabilities were typically either excluded or were separated from non-disabled children. These children were often placed in institutions where they received an inappropriate education or no education at all.

However, in the eyes of some people, schools’ exclusion of children with disabilities from compulsory education was a violation of equal protection under the law. Thus those children and their parents began involving themselves with litigation as a way to achieve a right to public education. Special education policy in the United States was strongly influenced by the actions of these individuals and their parents’ efforts to gain access to an appropriate education. They participated in judicial decision-making, and the decision content was actually incorporated as foundational principles of special education laws. As one of the major sources of legislation, court cases served as a primary impacting element upon the development of special education policy in the United States.

The major special education law developed by the US Congress through the 20th Century was the Education for All Handicapped Children Act (P.L. 94-142) of 1975. This Act built on several previous tipping attempts of legislation including the amendment to the
Elementary and Secondary Education Act in 1966 (P.L. 89-750) that actually funded the states’ special education programs. P.L. 94-142 required that all children with disabilities between the ages of 3 and 21 be entitled to a free and appropriate public education (FAPE) provided to meet their unique educational needs. When the Act was reauthorized in 1990, its name was changed to the Individuals with Disabilities Education Act (IDEA) in order to eliminate the term “handicapped” which had come to be seen as a demeaning term.

In the Republic of Korea (commonly referred to as South Korea), parents and professionals also participated in helping children with disabilities achieve a right to public education. However, in contrast to the US, policy implementation mainly came as part of national strategies to overcome poverty. The 5-year economic development plans implemented and renewed in every five years from the early 1960s reinforced the role of the public educational system as the provider of elementary through high school education. Special education policy derived from this general education policy and was later developed into an independent policy area.

Since Korea was liberated as a colony of imperialist Japan in 1945, the governments attempted to reconstruct the basis of education within the overall development of the social system and laws. Compulsory education was a very significant and promising requirement for all citizens for their future and opportunities within a newly developing country. The nation began to pursue the ideals of liberal democracy breaking down the colonial ideology that had persisted through the educational system under Japanese occupation. Also of influence were conflicts in ideology and situation with North Korea which required efficient and prompt policymaking. Educational policy was not excluded from the nation’s overall goals, but special education policy was not initially considered as a priority. Numerous school age children who were born with or acquired a disability remained excluded from public
education which brought about complaints by these persons and their parents. Children and parents often involved themselves with civil appeals making complaints about the unequal access to public education. Parents often accepted the assistance of professionals’ association, and though very rare, they turned to the courts to achieve the right to education.

In 1977, the Act on the Promotion of Education for the Handicapped (T’uksu kyoyuk chinhŭngpŏp) was passed. School age children with disabilities, elementary through high school levels, came to be guaranteed their right to education then. The main principle forming the Act was the equal access to public education without expense imposed on parents, which is similar to the language of the US law, P.L. 94-142.

**Statement of the Problem**

Since the passage of P.L. 94-142 of 1975 in the US and the Act on the Promotion of Education for the Handicapped (APEH) of 1977 in South Korea, special education policy in each country has focused upon integrating more school age children with disabilities into mainstreamed settings. In recent years, special education policy has become focused on assuring the provision of instruction within the general education classroom not as separated instruction. Despite the appearance of similarity of basic principles, the detailed process of policy implementation and enactment of laws presents some significant differences between the US and Korea.

In the US, special education policy and law has been developed through the cycle of litigation-legislation-litigation\(^1\). Before P.L.94-142 was passed, many of the school age children with disabilities in the nation remained being denied an appropriate education from the educational system. Congress found that:

More than half of the children of the total assumed count of 8 million did not receive an education being entirely excluded from the public school system and a great many of them participating in general education programs were not fully benefitting from them because of the lack of adequate services within the programs, which often made parents depend on educational programs outside of public schools at their expense\(^2\).

As schools’ denial of children with disabilities was a violation of the Fourteenth Amendment of the United States Constitution, children and parents began filing suits against schools to achieve access to public education. The first Supreme Court decision that raised national awareness of discrimination against certain student subgroups was Brown v. Board of Education\(^3\). The Supreme Court’s ruling reversed some of the lower case decisions from several states and the previous hearing of separate but equal doctrine in Plessy v. Ferguson\(^4\). That is, the ruling heralded the broadening of access to public schools for minorities. Ensuing court decisions including Pennsylvania Association for Retarded Children v. Pennsylvania (PARC)\(^5\) and Mills v. Board of Education (Mills)\(^6\) actually affected the legislation of P.L. 94-142 in 1975. Courts’ rulings in these cases were actually transitioned into the main principles of FAPE in the law.

In South Korea, some of the students who were denied an education involved themselves with active participation in upholding their right to public education as guaranteed under the Constitution and the Education Act. In the early 1960s and onwards, students and parents filed petitions to the government and educational authorities being closely allied with professionals and interest groups consisting of special education teachers and parents. Although such parents’ efforts were sometimes successful for their own children, many other

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\(^4\)Plessy v. Ferguson, 163 U.S. 537, 1896.


children with disabilities remained being denied public education until the first special education law was enacted.

The passage of APEH in 1977 came in two ways. First, it was a policy improvement. Second, it was also the outcome of parental efforts and professionals’ supports. The establishment of policy in South Korea involved a drive for greater efficiency. Special education policy implemented alongside with the economic development plans renewed in every five years was aimed at including children with disabilities in requirements for compulsory education although the policy did not meet the planned goals immediately. Specifically, policy implementation first came alongside the second term of economic development plan in 1967, but this was only limited to increasing school facilities for students with disabilities.

APEH came after years of research and as part of long-term educational planning. In the meantime, students and parents continued efforts to assert the right to education. Parents and professionals’ efforts into the passage of law showed that they had been important players leading the policy change. Nevertheless, the passage of the APEH was not driven mainly by the parental movements as it was for similar legislation in the US. That is, although the legislation activity was affected by some individuals’ efforts in South Korea, the US pattern of litigation-legislation-litigation was not replicated in the development process of South Korea’s special education law.

**Purpose of the Study**

The purpose of this study is to conduct an in-depth investigation of the impact of history and culture in the two different countries, the United States and South Korea, upon the process followed by persons with disabilities and their family members concerning the development of special education policy and legislation to achieve their right to an equal
education. The study intends, first, to conduct a historical review of and compare the evolution of special education laws focused on the occurrences of historical and cultural milestones and, second, to review and compare the languages concerning FAPE in the two countries. Finally, I will generate implications to the current policy implementation in each country.

**Research Questions (RQs)**

1. What are the historical milestones in each of the countries which have impacted upon the course of development of language concerning FAPE in their respective disability policy?

2. Given a review of documents and legislative proposals found within a five year period prior to the passage of each country’s legislation, what are similarities and differences found in the language concerning FAPE?

3. Given the two countries approach to the development of the concept of FAPE in their disability policy, what are the implications and recommendations that can be offered impacting future special education policy development in South Korea and/or the US?

**Data Points to Guide the Investigation of Each Research Question**

At the beginning of the study, I set the data points for each of the research questions as follows.

**Data Points Guiding the Investigation of RQ 1:**

- Review historical milestones within each country that influenced equality of educational opportunity for different marginalized groups of persons/students.
- Review crucial events in each country that led to the development or evolution of disability policy language.
- Investigate key people who instigated or led equal rights movements in each country.
especially related to persons with disabilities and equal opportunity in education.

- Explore historical and cultural influences in each country which impacted upon the perception of persons with disabilities and their right to an equal education.

- Explore social and legal events within each country which impacted the perception of persons with disabilities and their right to equal education opportunity.

- Pioneers of disability rights movement will be focused on as part of disability history leading to social changes supporting persons with disabilities to achieve their right to education. Some of the key events and characters in the US history will be seen to be part of the disability rights movement, as branched off from the main road of the civil rights movement. In South Korea, I will look at critical historical events and key players from the times of Modern Korea, focused on the period when the country opened the door to Western culture and after then. Key players who advocated for the sense of egalitarianism and equal right to education will be reviewed from the movement of enlightenment (kaehwa). A review of these historical events and characters and the outcomes of their interaction with the social and educational system will illuminate the unique process of legislation development in each country.

**Data Points Guiding the Investigation of RQ 2:**

- Investigate key court cases and events led by persons with disabilities assumed to have been closely related to legal and legislative activity within a five year period prior to the passage of legislation in each country.

- Investigate the evolution of the concept of FAPE in each of the two countries. Particularly, I seek to find if the discourses policymakers have been involved in reflect some of the key events and individuals’ action to achieve a right to education.
My assumption is that individuals’ interaction with the court system and key events may be related to the results of communication on legislative activity.

- I will first look at court cases and key events leading to the legislative activity in the two countries. I assume, as part of a review of RQ 1, that milestones of each country have resulted in different approaches to establishing the language in the legislation. To demonstrate my assumption, I will seek diverse points of reference. In the US, I will first pull out, from findings of RQ 1, key characters’ actions with courts including events closely related to their court actions within a time period of five years before the passage of P.L. 94-142. In this activity, I will focus on the “FAPE”. Next, I will look at policymakers’ involvement in the process of legislative activity. Then, I will compare if any coherent context flowing between the two levels of discourse.

- Finally, I will focus on the language in the laws, P.L. 94-142 and the APEH. Within the perspective of FAPE, the differences and similarities in the two laws will be analyzed. The two special education laws are the outcomes of milestones and significant characters’ activity. As assumed, differences in the language in the two laws will be the consequences of a difference in the history and culture.

**Data Points Guiding the Investigation of RQ 3:**

- From a review of findings of RQ 1 and RQ 2, I would assume that different approaches to their respective legislation as taken in each country have led to the evolution of legislation between the two countries due to a difference of culture and history.

- I will pull out the similarities and differences in the approaches to the development of FAPE policy. The first component considered when looking at different approaches is
events and key characters’ roles in the evolution of legislation.

- Second, I will look at the language in the laws, focused on the level and range of mandates.
- The last point of reference is the influence of cultural and historical factors on the different approaches. Based on these analyses, I will recommend implications for the improvement of equal opportunity language in each country’s special education policy.

**Significance of the Study**

Understanding special education laws and their implementation as policy is important and necessary for several reasons. First, this study is important because special education laws provide the primary sources for comprehending the basic principles underlying all policy implementation. The FAPE principle can be primarily interpreted as the main requirement of P.L. 94-142. States have implemented federal special education policy depending on the requirements authorized in the federal law. Though in different terms, FAPE is also presented in the APEH in South Korea. Yet the enactment and implementation of laws came about as different especially in terms of the detailed cause of by what and how the laws were initiated to become passed in each country.

The commonalities and differences presented through the process of legislation and policy implementation within each country lay in the diverse historical and cultural context between the countries. As policy decision is created by diverse factors and human resources forming the unique soil and traditions of each society, application of laws, though some identical principles may remain in the laws, can evolve as different. The United States has long enjoyed federalism. The division of responsibilities and collaboration in contributing to the development of special education policy between the federal government and state/local
governments led to the process of making agreements and adjustments between the
governments. It took a while of nationwide discussion to lead to the enactment of the law.
Each state’s court decision compiled to give the authority to Congress’ policymaking
demonstrated that federal roles had often empowered a greater autonomy to the state/local
governments.

In South Korea, though within the same category of political system as liberal
democracy, policymaking has been focused on showing some immediate accountability
within the limited economic power. After the division of North and South Korea, the struggle
to escape from political chaos and poverty was represented as the South Korean central
government’s empowerment for a greater efficiency in making policy decisions to reach the
nation’s economic goals. The central government’s decision-making authority was influenced
by some special education professionals and parents’ voices for equality of the right to be
protected under the Korean Constitution, with their requests often promptly forwarded toward
better policy results. However, this prompt decision making process appears significantly
different from the United States’ process. Therefore, even with some common ground of
education law and system shared with the United States, the interpretation and application of
it appeared significantly different between the two countries. This initiated my motivation to
review the diverse process and results in legislation within each of the unique situations in
these countries.

As such, historical analysis of legislative motivation leads to both common and
dissimilar aspects that impacted upon the enactment of laws and implementation of special
education policy in each educational system. Such comparison expands learning the
application of universal principles, equal protection under laws and the right to education
assured in the liberal democratic law system into an understanding of diverse history and
culture interwoven with the policymaking.

Second, the study will broaden the understanding of special education history in each country. In the United States, special education policy has developed through courts’ application or interpretation of the laws. As such, court cases have become major sources to understand the history of special education in the United States. Policy studies conducted focused on court decisions pertaining to FAPE demonstrated that a great many court decisions led to the improvement of special education policy at the state/local and national levels. In South Korea, some of the special education studies were focused on the legal and historical analysis, yet, they were mainly aimed at discovering the progress of special education policy or interpreting the meaning of the laws. There is very little research on court cases involved with students and parents to achieve the right to education in the public school system. Even among the studies comparing special education policy between the United States and South Korea appeared only to study the process of making the special education laws in each country. Nevertheless, analyzing court cases related to students with disabilities’ right to education is a very necessary task to examine the application of special education law in the school system. Moreover, this will provide implications for future policy decisions in each country.

Finally and most importantly, a comparison of special education laws within historical overviews of the USA and South Korea will provide a much broadened and in-depth interpretation to the diversity of policy implementation. South Korea and the United States, though within dissimilar history and culture, have shared some common themes underlying disability policy and perceptions of disability since the ancient times of each tradition. The commonalities discovered through the review of studies conducted in the two countries have demonstrated some universal approaches while highlighting the unique characteristics that
also distinguish each culture. Even within the overall similarities in individuals with disabilities’ limited access to education and social opportunities compared to non-disabled members, detailed policy for and perceptions of these people gave prominence to cultural diversity. Each society’s belief system and cultural roots generated such differences and affected these contemporaries’ behavior and decision-making.

That is, I focus on relating some of the historical themes discovered from the review of each county’s history to interpreting the improvement process of special education policy in each. It is also very significant to link the previous history to the current special education policy in each country in terms of discovering and restoring greatest traditions regarding disability to this day as well as impacting other cultures. As such, it is the aim of this study to compare historical efforts by persons with disabilities as to the common principles of special education laws, involving FAPE, between the United States and South Korea.

**Rationale**

**International Educational Policy Focus on Inclusive Education.**

Education for All has been emphasized as international policy agenda since the 1960s. By this time, the global society had experienced a dramatic gap in education access which had been driven by the gap between children with and without disabilities (Peters, 2007). To relieve this issue, the United Nations has continuously stressed individuals with disabilities’ access to education as a critical task and has documented international conventions on mandating the education rights of children with disabilities.

**Why a Comparison between the USA and South Korea?**

The value in conducting a comparison of the two countries’ special education laws comes from the fact that, despite the uniqueness of each country’s history and culture, they have passed similar special education laws. However, the process through which the laws
evolved was not identical. Moreover, though the laws were passed to ensure the previously excluded children’s equal access to public education, the language in the laws appears to show different approaches. I assume that these different approaches are linked to each of the historical and cultural characteristics. Therefore, I focus on discovering both common and divergent aspects, as impacted by historical and cultural influences found in the evolution of special education laws in the two countries.

Expanding educational opportunities to children with disabilities in the mainstreamed setting came as part of continuous policy improvements both in the USA and in South Korea. The federal government of the United States first began supporting children with disabilities’ right to education by President Lincoln’s signing into law for a bill for higher education of deaf students in 1864 (Price-Ellingstad, 2001). This came even four years before the ratification of the Fourteenth Amendment of the Constitution. With signing this bill, deaf and blind students became federally granted for educational programs. Moreover, some statutes including the Training of Professional Personnel Act (P.L. 86-158) and the Teachers of the Deaf Act (P.L. 87-276) were created in the mid-1960s (U.S. Office of Special Education Programs, 1994). In 1961, President Kennedy declared war on developmental and intellectual disabilities and organized a panel toward a goal of prevention. As a result, a bill (P.L. 88-164) was passed and has funded university centers to research developmental disability.

With the passage of the Civil Rights Act and Elementary and Secondary Education Act (ESEA, P.L. 89-10), children with disabilities came to be supported by federally funded programs (Martin, Martin, & Terman, 1996). Specifically, the federal government began with adding Title VI to ESEA in 1966, which was the first federal initiative that reinforced special education programs across the States. This bill became replaced with the Education of the Handicapped Act (EHA) in 1970 (Ibid). Since then, parents of children with disabilities sued
schools more actively to protect their right to education as these children had been entirely excluded from public education. In many cases, these parents and children were relieved and the language in the courts’ decision became the main elements of the language in the amendment to ESEA in 1974 (P.L. 93-380)\(^7\).

A year before the amendment, section 504 of the Rehabilitation Act was passed. In this bill, it is stated that “no otherwise qualified handicapped individual in the country should solely by reason of his handicap, be excluded from participation in, be denied the benefits, or be subject to discrimination under any activity receiving federal assistance” (Rehabilitation Act of 1973, Section 504, 29 U.S.C. 794). In 1975, the Education for All Handicapped Children Act, P.L. 94-142 was passed, as the amendment to Education of the Handicapped Act of 1970. Finally, it was enshrined that children with disabilities were entitled to benefit from states’ special education services with specific guidelines. Therefore, the passage of P.L. 94-142 came as a result of gradual policy improvement steps after the Fourteenth Amendment of the United States Constitution had built up the foundation of equal protection under the laws.

In 1948, Korea established the first liberal democratic government and implemented the K-12 educational system from other developed countries, mainly the USA. Compulsory education was then the most urgent task initiated by the new government as the country had suffered from Japanese colonization and desired to rebuild the nation. The Republic of Korea Constitution suggested that an individual’s right to education as one of the most basic rights. It also specified the minimum requirement of compulsory education as elementary school

education then. Moreover, the Education Act was passed in 1949, which included Articles that mandated special education services to be provided to all K-12 students with disabilities. The Act required that special education schools be established in Seoul and other large cities (the Education Act, Article, No. 144). As such, special education policy began focusing on placing school children with disabilities into compulsory education and more strategic nationwide plans followed up to mandate these children’s right to education.

In 1967, the central government’s Second 5-Year Economic Development Plan, 1967 through 1971, let to the implementation of a Special Education 5-Year Plan that aimed to increase children with disabilities’ school attendance rates up to 50% at the elementary school level (Yi, 2005). The detailed requirements included expanding children with disabilities’ opportunity to attend regular schools as establishing special education classrooms inside regular schools. Moreover, Congress suggested that special education finances became secured (Kim, 1977). In the early 1970s, special education began to be funded as an independent policy area within the educational department. Congress set up a long-term education plan with the assistance of professionals who contributed to producing data for the next 5-year plan (Yi, 2005). On the 31st of December in 1977, President Park Chung Hee signed on the Act on the Promotion of Education for the Handicapped, the first special education law in South Korean educational history.

P.L. 94-142 and APEH came as the result of continuous policy improvement initiated by the federal and central government in each country. In South Korea, special education policy has been developed both as an independent field of study and as part of national economic policy but the main influence to the policy implementation was the passage of P.L. 94-142 in the USA. Even before the passage of the Act, the central government set up educational plans which appeared similar to the US policy. This was possible as the two
countries had maintained close political relationship. Specifically, in the United States, ESEA was passed as part of President Lyndon B. Johnson’s “war on poverty”. The Korean version of this law came as part of the 6-Year Compulsory Education Plan in 1954.

Contrary to the 6-Year Compulsory Education Plan specifically targeting on increasing the percentage numbers of elementary school attendance up to over 96 %, ESEA funded primary and secondary education across the States to shorten achievement gaps between individual students. In 1976, Congress passed the Special Education 5-Year Plan that included a goal of increasing children with disabilities’ compulsory attendance rates up to 50 %. This was a year after the United States Congress added Title VI to ESEA. Therefore, the United States educational policy kept one step ahead of and indirectly impacted upon the development of Korean educational policy.

Moreover, special education policy has been developed into an independent field of study undertaken by many professionals and researchers. Korean special education professionals continuously compared the special education condition in the country with much more developed countries including the United States. In the United States, more than half of the total student count from 8 million had not received an appropriate education at all before the passage of P.L. 94-142 in the USA.

In South Korea, it was assumed that only 2.8% of children with disabilities (165,200) among the total student at the ages of elementary school level (5,900,000) attended schools (P.L.94-142, 20 U.S.C. 89 Stat. 774; Kwon, 2004). The considerable numbers of excluded disability populations from compulsory education in both countries, though some gaps appeared, showed that schools obviously excluded children with disabilities from the educational system.
The central government envisioned that an educational opportunity should be given to all citizens. Education was the main drive force to national prosperity. For such aspiration, exclusion of children with disabilities from public education was a national disgrace as the government was responsible for mandating education for all school age children. Thus the Korean Congress passed APEH to resolve the problem. This was only two years after the United States Congress implemented P.L. 94-142 and had the single law serve on these populations and manage nationwide special education services.

The key element guiding the passage of P.L. 94-142 and APEH was the principle of Free Appropriate Public Education (FAPE). The principal idea the United States Congress envisioned when passing P.L. 94-142 was that no more students with disabilities should be excluded from public education. Congress’s findings stated that more than half of children with disabilities were completely denied school access or lacked suitable education, and warned that children with disabilities had not been benefitting from each State’s compulsory education policy. Thus upon the passage of P.L. 94-142, the United State Congress stated the aim of the law as:

A free appropriate public education will be available for all handicapped children between the ages of 3 and 18 within the state not later than September 1, 1978, and for all handicapped children between the ages of three and 21 within the state not later than September, 1980, except that, with respect to handicapped children aged 3 to 5 and aged 18 to 21, inclusive, … (Public Law 94-142 [20U.S.C1412. 89 Stat. 780], “Eligibility” section).

However, 5 years’ monitoring of how well states adhered to P.L. 94-142 after its passage by the Education Advocates Coalition found so many shortcomings that they were described as:

A national disgrace- disgrace to the nation’s millions of handicapped children and their parents who rely on enforcement of P.L. 94-142 to provide for their children the opportunity to become independent, self-sufficient adults. It is also a violation of the trust of the United States Congress… And it is an affront to the nation’s taxpayers
who will ultimately bear the expense of these children’s dependence and lack of skills (Education Advocates Coalition, 1980, pp. 5-6).

Similarly, in South Korea, safeguarding the poorly benefitted children’s right to public education was the main issue to the enactment of law. The Ministry of Education research in 1967 reported children with disabilities’ low attendance rates, which demanded the government’s responsibility to solve that matter. The Special Education 5-Year Plan that followed up the research included the purpose of the plan as increasing children with disabilities’ school attendance rates (Yi, 2005).

Moreover, similar research on policymaking for the promotion of special education stressed that the government should reinforce expanded educational opportunities to children with disabilities aligned with the focus of Fourth 5-Year Economic Development Plan (Kwŏn, 2004). Finally, APEH mandated that individuals with disabilities shall receive special education services without expense imposed on their parents both for national/public and for private education (Ibid). Therefore, there is an overlap in the purpose between P.L. 94-142 and the Act on the Promotion of Education for the Handicapped.

Although many aspects of special education policy in the bigger picture appeared to be overlapped between the countries, the detailed implementation impresses upon us the uniqueness in history and culture of each country.

In the United States, before the passage of P.L. 94-142, individuals depended upon the interpretation of Constitution which guided the equal protection under the laws when they were excluded from public education. That is, when children with disabilities had been denied public education, they claimed that their basic right as United States citizens enshrined under the law had been violated. Although school aged children became protected by a right to education in public schools, children with disabilities were not fully benefitting from the
laws. Schools expressed difficulties in providing adequate educational services to children with disabilities (Crockett & Kauffman, 1999).

Schools excluded children with disabilities for such reasons including lack of funding and adequate resources. Consequently, numerous with disabilities, though within the ages of compulsory school attendance under each state law, were denied access to a public education or removed from a regular school. Located in separated settings from regular schools, these children received inappropriate educational services which lacked adequate evaluation and educational programs that met their needs (Harrigan, 2003).

Parents began to claim that these children had been denied public education and required that they achieve an equal right to education. Decades before this parents’ movement, the most important court case that opposed school segregation was Brown v. Board of Education (Brown v. Board of Education of Topeka, 37 U.S. 483, 1954). This case was filed against the racial segregation in public schools. The Supreme Court then ruled that schools’ segregation in some states was actually in violation of the Fourteenth Amendment to the Constitution. As such, this case first stamped an equal right to education regardless of backgrounds on every individual across the states (Turnbull & Turnbull, 1978). Moreover, this landmark decision was revisited by several later coming courts’ hearings as an example of empowering the federal government’s role in securing every citizen’s right to education (Ibid).

The United States Constitution’s separation of powers allowed negotiation and compromise between states through the process of decision making at the national level. Specifically, the engaged states of Kansas, South Carolina, and Virginia maintained the separate but equal education policy was allowed by the case of Plessy v. Ferguson (Plessy v. Ferguson, 163 U.S. 537, 1896). The educational settings, though separate, were regarded
equal in terms both of school facilities and of the quality of education provided to the plaintiffs in each state court. However, the Supreme Court’s decision reversed these state courts’ decisions. The Supreme Court held that the separation itself had created a stigma against students who had been placed in the separated settings. Therefore, the facilities, though not inferior to the schools black students had been allegedly separated from, were not equal (Rothstein, 1990). As such, the Supreme Court’s ruling reversed the previously accepted paradigm of equal education that had been maintained for about 60 years. For such landmark change, numerous individuals were involved with litigation.

The achievement of expanded educational opportunities for these minorities in the United States was only possible because the United States was rooted in the liberal democracy where individual citizens were able to involve themselves with voluntary actions to achieve an equal right. That is, the parents’ movement toward achieving the right of their children with disabilities’ to education in the United States demonstrates that there have been ongoing interactions between individuals and the implemented policy, consequently, as a way to be engaged in policy formation.

A few decades after the Supreme Court’s ruling in Brown v Board of Education, in 1971, the Federal District Court of Pennsylvania established children with disabilities’ right to special education (Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania, 334 F. Supp. 1257 E.D. Pa., 1971). Many children with intellectual disabilities had been institutionalized and had lacked appropriate educational services. A group of parents of children with intellectual disabilities sued the Commonwealth of Pennsylvania for having not provided an educational service to these children. As a result, the group of parents was relieved and children with intellectual disabilities, not only the plaintiffs but also all
school aged children with intellectual disabilities in that area came to achieve a right to a free appropriate public education.

The decision point made in this court was that all children with intellectual disabilities should benefit from public education when they reach the compulsory education attendance ages. More substantial results gained from the court was that the state shall provide these children and their parents a due process hearing including parental notification prior to any change of program or removal of children from regular schools. In the next year, the District Court of Columbia suggested that all children with disabilities receive public education or an alternative educational service when they should be removed from regular education classrooms (Mills v. Board of Education of the District of Columbia, 348 F. Supp. 866, 1972).

Courts’ decision including Brown, PARC, and Mills, reestablished the idea of equality of rights that had often been applied to and resulted in minimal exercise of law in mandating persons with disabilities’ civil liberties (Turnbull & Turnbull, 1978). The courts’ decision and interpretation of equal right to education, furthermore, impacted upon the passage of P.L. 94-142. Therefore, children with disabilities and parents actually gained their rights as participating in democratic rules and legal system. While parents were involved in this process, the courts provided the basis to implement special education policy.

In South Korea, some parents of children with disabilities attempted to involve themselves with actions to gain their children’s due rights. They submitted petitions to the government and educational authority. From the late 1940s, individuals with disabilities claimed that they were born with an equal right to education like other South Korean citizens. In this case, numerous children with disabilities had been denied access to middle and high schools because of their physical or intellectual disabilities. Then students who wanted to enter middle schools and high schools had to pass physical exams. Individuals with
disabilities were often discouraged from attempting to apply for schools. Many of them had disabilities from polio (Yi, 1967).

As there were a considerable and increasing number of school age children with polio, these children’s educational opportunity became a serious issue in the country. Many in the public criticized individual schools’ denial of students with disabilities. Parents of children with polio made civil appeals when their children were denied public education for such reason. But individual schools’ admission policy against students with disabilities continued on through the 1960s and 1970s. In 1972, parents and professionals sent out petition letters to the Superintendent of Seoul. As a result, hundreds of high school candidates were admitted to high schools. A year later, the Ministry of Education Korea finally announced that students with disabilities shall be exempted from the unequal physical exam (Chŏng, 1973). APEH was passed four years after then.

Both in the United States and in South Korea, children with disabilities and their parents sought to achieve their right to education. In the United States, parents filed cases against schools when their children were denied access to public education. In South Korea, parents protested and let the public spread that they had an equal right. While parents’ involvement with litigation impacted upon the passage of P.L. 94-142 in the United States, APEH evolved more independently from such individuals’ actions. In the liberal democratic system, individuals exercise the legislative power and achieve their enshrined right under laws when their right has been violated. They also react to policy implementation in this way as they have some sense of right and are aware of legislative system exercised by the representation of citizens (Dry, 1985). In this sense, it appears that parents in the United States used this system.

Individuals in South Korea, compared with over two hundred years of democracy in
the USA, were only allowed a much shorter period of time to practice the system. This never means that people with disabilities in South Korea have not tried to achieve their right. Looking back at the past Korean history, individuals with disabilities benefitted from national rehabilitation policy from more than hundreds years ago. Moreover, people with disabilities developed a sense of right since then (Chŏng, 2011).

Korean people faced several national crises and dynamic political and economic development processes. The tragedy they experienced included Japanese colonization and the division of country. Right upon the independence, the government implemented an identical democratic system with the United States. Many parts of the country were rebuilt and created, which included education, political and economic systems. The Act on the Promotion of Education was passed only two years after the passage of P.L. 94-142 within such efforts. Therefore, the evolution of special education laws in the two countries came from different history and divergent impacting factors. It seems to be difficult to separate educational policy from such divergent elements. Moreover, each country had been rooted in its own culture and tradition which affected individuals’ behavior and interaction with policy implementation. Although APEH was modeled after the US law, the implementation of the law appeared to bear dissimilar characteristics. This dissimilarity includes individuals’ reaction to policy. Such dissimilarity may come due to historical and cultural influences within each country. Consequently, the comparison of special education law between the USA and South Korea was motivated from this assumption that similar and dissimilar elements in the laws came from historical and cultural influences.

Why Culture and History?

I assumed that there had been similar approaches to addressing disability across countries and reviewed that such approaches had appeared at different time points in the
United States and South Korea. Moreover, the approaches to disability appeared closely linked to disability policy and perception of disability by contemporaries in each society. While comparing the appearance of similar special education laws evolved at the similar time as influenced by history and culture in this study, I applied the appearance of approaches to addressing disability as the evidence of difference in history and culture between the two countries.

**Approaches to addressing disability.** There have been different approaches that defined disability and provided the basis to implement disability policy in the United States and South Korea. The approaches include medical approach, rehabilitation approach, professional model of disability, and rights-based approach. They appeared at slightly different time periods in the United States and Korea, creating dissimilar disability policies in the countries.

**Medical approach.** The medical approach defines disability as resulting from an individual’s physical condition or limited mental functioning. Affected individuals are unable to perform certain activities like non-disabled individuals due to their impairment or lack of ability. Proponents of this approach has viewed that disability was only little linked to social environment (World Health Organization, 1980). Thus the solution to the problem of disability in this view is confined to individuals. In this approach, policymakers have been encouraged to set the goals of helping individuals with disabilities overcome their own impairments.

**Rehabilitation approach.** Similar to the medical approach, in the rehabilitation approach disability is perceived as a deficiency that can be relieved by usage of appropriate services. Based on this perspective, rehabilitation service providers and school counselors have focused on helping individuals with disabilities cope and gain socially and economically
required functioning. In the United States, federal rehabilitation programs were created to help veterans who served in the military during World War II. Vocational rehabilitation services have helped persons with disabilities be able to work and live independently.

**Professional approach.** This approach can be also seen as an offshoot of the medical approach. Within this perspective, professionals often have identified an individual’s disability and taken an action to improve their impaired condition. Numerous early years’ professionals treated disability like a disease and applied diverse measures to treat it.

**Rights-based approach.** The rights-based approach appeared most recently as individuals in the United States sought their right to be treated equally under the law. In this view, disability is related to socio-political dynamics where individuals with disabilities achieve their rights. This approach has been developed as persons with disabilities became actively involved in litigation to achieve their rights in society, which gained some meaningful legislative achievements in the USA.

**Perceptions of disability resulting in disability policy as impacted by history and culture in the USA and Korea.** The ways that people in a society perceive of disability has been influenced by culture and history. Within such influences of history and culture, disability policy in the two countries has been developed. The ability to connect perceptions of disability with history and culture is possible through access to historical archives and documents. Disability policy has been implemented within the political system, with tacit consensus led by contemporaries who have lived and interacted with the process to build the basis of and make policy decisions.

In previous eras disability tended to be viewed as the problem of affected individuals, whose situation was a result of such possible factors as their destiny, the outcome of past lives, or punishment for having sinned. As the society has developed into accepting diverse
individuals’ voices and rights, perceptions of disability have shifted to viewing disabled individuals as equal members of the society. Individuals with disabilities have played significant roles to create such change in the perception of disability and influence policymakers create programs to support individuals with disabilities. For example, the United Nation’s Convention on the Rights of Persons with Disabilities in 2007 promised individuals with disabilities’ right as equal global citizens. This actually impacted upon policymaking in South Korea.

In the 1970s, special education professionals in South Korea appealed for disability rights by citing the global change in how individuals with disabilities were perceived. A major reason for this global change was efforts by individuals who advocated for domestic disability rights and to make the society a more disability-friendly environment. For example, a disability rights movement rose in the 1960s in the USA, which has led to the society’s interest in viewing individuals with disabilities as equal both at the national level and at the global level.

In the medieval times and pre-modern times of Korea, policy decision-making was guided by the perceptions of disability of individuals in the central leadership. Therefore, the comparison of past and present within the focus of a country’s history and culture may lead to similar and/or dissimilar perceptions of disability compared with other countries. Moreover, looking at the cultural differences between the two countries at similar time points may lead us to better understand how perceptions of disability shaped and affected disability policy within each country.

Persons with disabilities have long been members of the community. Ancient sculptures and documents have demonstrated that persons with disabilities lived in sub Saharan Africa early in human history (Wehmeyer, 2013). At such ancient times, humans
were known to have diverse disabilities including epilepsy, blindness, and mental illness and the categories developed as the populations increased and more new disabilities became identified. As the society developed and social class was diversified, people with disabilities came to be recognized as less able to fight in wars to expand territory, which was the main opportunity for social participation then (Chŏng, 1998).

Moreover, people with disabilities born in impoverished families lacked sufficient treatment and/or support from the community. This was because the primary responsibility for caring for them mainly rested with the family both in Western and Eastern culture before the society became more responsible for looking after the poor and disabled. Individuals with disabilities are seldom described in ancient writings, but such invisibleness does not necessarily mean that there had lived no influential members with disabilities.

A compilation of ten years’ study on persons with disabilities who had lived in Korean medieval and early modern society suggested that disability populations consisted of a broad range of classes including Kings to members of high poverty families (Chŏng, 2011). According to Chŏng (2011), social policy in the medieval times of Korea recognized the needs of individuals with disabilities, as “The King granted residents of the capital who were over 80 years old and/or with disability wine and dine, and tea and piece goods commensurate with their condition” (p.33).

King Sejong the Great who invented Korean alphabet (Han’gŭl) had begun suffering from visual impairment as he turned to 35, which worsened to make him become unable to walk without a stick when he became 45 years old (Chŏng, 2011). Moreover, King Sŏnjo suffered from mental illness. King Sukchong, the 19th king in the Chosŏn dynasty, had visual impairment, although visual impairment was then viewed as a disease not as a disability (Ibid). As disability was perceived as a kind of disease, these kings continued to serve as
rulers. Diverse methods for treatment were attempted to alleviate these “diseases” instead of terminating their mission by turning over the throne to their sons.

Moreover, officials and some relatives of royal families born with epilepsy and speech impairment also continued in their posts. It was documented that the first official was born with visual impairment and served the government in 566. Many persons with disabilities became officials when they made contribution to the country regardless of their disability in the pre-modern times. Persons who were born with or acquired disabilities including visual/hearing impairments, physical deformity, mental illness, and other physical disability often served high posts (Ibid). Consequently, it seemed that individuals with disabilities enjoyed more or less expanded opportunities through the Chosŏn dynasty compared with previous times. This was possible because individuals were judged based on their contribution to the country or actual ability to perform the role in the position regardless of whether they had an inborn or acquired impairment in physical or mental functioning. Moreover, some government positions were reserved only for people with disabilities (Kim, 2005). It seems that opportunities were given to individuals regardless of having disability, which demonstrates that the society maintained some sense of egalitarianism.

Perceptions of disability in the medieval and early modern times of Korea were shaped based on the philosophical approach of egalitarianism and respect of the disabled individuals. An anecdote about a prime minister described that he had reproved a person when he spoke to the prime minister about someone who was lame. The person said, “This guy has one shorter leg.” So the prime minister asked, “Why are you saying someone’s weakness? You should say, he has one longer leg.” (Chŏng, 2011, pp. 91-92). Children were often disciplined not to call beggars or one-eyed persons the one-eyed (Ibid). Also, documents about disabilities often stated that deaf people were good at watching and blind
people were good at hearing.

National relief policy was implemented in the 1st century and lasted through the medieval times and early modern times. Many with disabilities were provided for by the country when their families were not able to afford taking good care of them. It was not documented whether or not systematic rehabilitation and support services were established specifically for persons with disabilities. Rather, national social policy focused on helping impoverished individuals and families, a great many of them had disabilities. In the Chosŏn dynasty, these people resided in the capital and were assisted by national rehabilitation services that provided them with food and medicine.

Some educational opportunities were open to these individuals. Schools were established to serve particularly persons with disabilities in the early 10th century. Individuals with disabilities also took the national exam and became government officials. It seemed that education and rehabilitation policy was developed based upon the idea that persons who were not able to see, hear, walk, or mentally ill should be supported or, at least, not excluded from the community. The primary responsibility of providing for people with disabilities rested with families, but the central leaderships came to be regarded as also having responsibility for those who were impoverished.

After Korea became a Japanese Colony in 1910, which lasted for 36 years, some individuals with visual/hearing impairments and intellectual disabilities were placed in a modern rehabilitation center which provided treatment. While the educational system then was established to provide colonial education and raise faithful colonial citizens, a few students with disabilities were cared for in the center and the number increased annually. The central educational authority set the plan to provide special education classrooms in a few regular schools in Seoul; however, this plan was not actually moved into practice (Ministry of
Education, 1993). A newspaper article published at that time described policymakers’ perceptions of disability:

It is such a critical issue as 18% of school students are reported feeble students. The schools should reinforce P.E. classes to help these weak students become healthy (Setting up special care classes in the second group primary schools was immediately postponed, Maeil sinmun June 5, 1940; Special care classrooms expansion, Maeil sinmun November 15, 1942).

School children with nutritional deficiency or diseases were regarded as special-care required students and they were encouraged to be in a rehabilitation program.

Following World War II, professionals have continued to perform leading roles in helping individuals with disabilities, which has been transformed into efforts to achieve children with disabilities’ right to education. That is, diverse approaches to address disability have been used throughout the Korean disability policy history. Studies on special education policy developed in the late 1880s through 1910 suggested that professional movement had become active upon the country’s opening the door to foreign countries and as numerous professionals had contributed to the development of special education (Im, 2005; Kang, 1998; Kim & Na, 2002). Pak Tu-Sŏng developed a Korean braille system and disseminated it to educate blind children (Kang, 1998). Yi Pang-ja established special education schools in the 1960s and 1970s. Kang Sŏng-suk devoted her life to special education services in a few deaf and blind schools (Pak, 2002). Kim Tong-gŭk established a public special education school specifically targeting school children with intellectual disabilities (Ku, 2003).

The United States history of special education has also been influenced by developments from other parts of the world, especially Europe. In the 19th century, several European special education professionals led questions on disability. Specifically, contributions made by these professionals included applying treatment for developmental disabilities which has passed down to and has affected the establishment of special education
policy in the United States. For example, physicians including Itard and Seguin who served the National Institute for Deaf-Mutes in Paris did not hesitate to express their opinions on disability.

Itard first viewed the concept of intellectual disability as “incurable defective” (Wehmeyer, 2013, p. 83) while he tried to develop some sort of educated mind in his first student, Victor. In Itard’s mind, Victor became an “idiot” since he had been abandoned in wildlife without any provision of education. Such deficiency of education caused the impairment in Victor’s ability to learn that consequently remained incurable while Itard tried steady treatment for Victor. Seguin made some good results from his experiment against idiocy. Seguin believed that human idiocy was manageable if some effective and appropriate training was given. However, Seguin also held that disability was something that should be cured to become able to function normally in the society.

Early physicians’ attempt to eradicate idiocy with clinical treatments was continued on as raising the awareness of appropriate remedy for intellectual disability, which became the origin of special education in the USA. Several professionals impacted by these physicians’ contributions developed diverse educational programs for children with disabilities. Howe, inspired by Seguin’s work through the early and mid-19th century, initiated special education services focused on cultivating children with disabilities in separated settings from home which was the origin of public special education in the USA.

He believed that idiocy came as the consequence of morally inappropriate behavior by parents of children with intellectual disability and the public responsibility for treating these children was crucial (Mogilka, 1989). That is, Howe trusted that public education shall imbue educated minds into these children. This was only possible when the educational system was established in the connection between individual good and public services of the states. This
approach to disability appeared to be paralleled with early modern times’ rehabilitation professionals’ ideas in Korea.

In the medieval times through early modern times in Korea, nationwide rehabilitation policy was initiated based upon the idea that the central power was to some extent responsible for the living of individuals with disabilities from impoverished families. Korean rehabilitation policy was not motivated by the idea of lessening the impact of morally degenerated action by families as Howe proposed; however, it is overlapped that both countries believed in the public role to take care of these impaired individuals so that they became able to live independently. This is based upon medical/rehabilitation approach to disability.

Compared with early modern times’ Korean rehabilitation services, United States’ special education programs by these professionals were much more focused on developing individuals’ self-sufficiency. For example, Perkins Institution was established aimed at providing deaf and blind students with training programs of basic knowledge and skills that enabled them to serve society (Ibid). Howe believed that the school program would alleviate the evil of society created from idiocy as school children with intellectual disabilities developed their ability. In Korea more community-based culture and respect for groups enabled contemporaries to view disability as something that needs be supported. By contrast, the United States professionals held religious beliefs of Christianity and attempted to develop individuals with disabilities’ capability to live independently within the individualistic culture and political system. Therefore, the similar approach of disability was developed independently within each country’s cultural roots.

Gallaudet, the father of deaf education in the United States, led big improvements in deaf communication and education. Gallaudet stood for policy improvements for the
education of deaf students. This became possible as President Abraham Lincoln signed the legislation on establishing the world’s first deaf-mute college in 1864. Such policy improvement was initiated by Gallaudet’s unbiased perception of disability. He believed that deaf/mute persons were capable of academic progress equally as individuals who could hear and speak. Based upon this distinctive view, Gallaudet developed diverse teaching/learning methods while he assisted students with sign language interpreters instead of adjusting curriculum. While individualistic values have been invoked to explain social and economic development, on the other hand, numerous professionals have also established a “substantial grounding” (Ibid., p. 3) to the development of special education policy in the United States.

As the United States society developed into integrating more diverse individuals into education and life opportunities, unequal educational opportunities for African-Americans and persons with disabilities became an issue. The main issue included school segregation which was criticized as providing unequal educational opportunity to “equal” citizens of the United States. Compulsory education laws were passed in the States around mid-19th century; however, there appeared some differences in the quality and range of benefit through public education. Black students and children with disabilities sought to achieve equal protection under laws (e.g., “Plessy v. Ferguson in 1896”; “Brown V. Board of Education in 1954”; “Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania in 1971”; “Mills v. Board of Education of District of Columbia in 1972”). A disability rights movement rose in the early 1960s in the United States and greatly increased political action leading to passage of the Rehabilitation Act in 1973, which intended prohibition of discrimination in federally funded services. This paved the way for the enactment of the Americans with Disabilities Act in 1990.

Beginning with the Universal Declaration of Human Rights in 1948 that called for
every human’s equal right to compulsory elementary education, in 1966, the International Covenant on Economic, Social and Cultural Rights emphasized particularly children with disabilities’ school accessibility. In 1971, the Declaration on the Rights of Mentally Retarded Persons declared that persons with intellectual disabilities should be assured an equal right to education and appropriate rehabilitation services. The Declaration on the Rights of Disabled Persons specified persons with disabilities’ access to educational and vocational services as to enable them become self-sufficient, which was adopted in the Convention on the Rights of Persons with Disabilities in 2007 (the United Nations, 1976). These global trends to integrate individuals with disabilities into a more equal environment of social and educational opportunities affected the passage of APEH in 1977 in South Korea (Ch’oe, 2003). A summary of the change in perceptions of disability and disability policy until the passage of special education laws in the USA and South Korea as Table 1-1.

Table 1-1. The Evolution of Rights Based Approach in the USA and South Korea

<table>
<thead>
<tr>
<th>USA</th>
<th>Year</th>
<th>South Korea</th>
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<tbody>
<tr>
<td></td>
<td>10C</td>
<td>Relieved the poor and people with disability</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Special education system implemented for the blind but the education was limited to fortune-telling (Sŏgyŏng School)</td>
</tr>
<tr>
<td>Relief Policy</td>
<td>15C</td>
<td>The poor and disabled were institutionalized in Tongsŏ hwairinwŏn and received special treatment (1435)</td>
</tr>
<tr>
<td></td>
<td>18C</td>
<td>The blind started to serve as governmental officials in Sŏungwan (1445)</td>
</tr>
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</table>

The US Constitution came into force (1787)
<table>
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<tr>
<th>Professionals Efforts, Medical/Rehabilitation Model of Approaches</th>
<th>19C</th>
</tr>
</thead>
<tbody>
<tr>
<td>The deaf and blind were institutionalized in Maengawŏn (1878)</td>
<td></td>
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<tr>
<td>Treaty of Peace, Commerce and Navigation between Korea and the USA (1882)</td>
<td></td>
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<tr>
<td>US missionary R.S. Hall started to teach Korean blind students (The first modern special education service initiated in Korea, 1894)</td>
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<tr>
<th>Growing Awareness of Rights and the Equal Opportunity</th>
<th>20C</th>
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<tbody>
<tr>
<td>Korea became a Japanese colony and struggled against the rules (1910-1945)</td>
<td></td>
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<tr>
<td>People with disabilities remained institutionalized; Maengawŏn renamed as Chaesaengwŏn (1913)</td>
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<tr>
<td>The Republic of Korean government established and the first democratic Constitution was implemented with the assistance of the US (1948)</td>
<td></td>
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<tr>
<td>The Education Act first declared an equal opportunity of education for all South Korean citizens (Article 144) and enforced special education service in Seoul and other large cities in South Korea (1949)</td>
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</table>

Horace Mann established a school for the blind established (1832)

People with intellectual disabilities and mental health problems were institutionalized and received special treatments (Pennsylvania Training School for Idiots, Asylums in New York)

Compulsory Education Laws became active (1852)

President Lincoln first signed into the law on higher education of deaf students (1864)

The Fourteenth Amendment of US Constitution enshrined the equal opportunity under the laws (1868)

Plessy v. Ferguson (1896): “Separate but equal” doctrine still prevailed

Brown V. Board of Education (1954): The US Supreme Court first held that “separate but equal” was not equal and a violation of the Fourteenth Amendment
| The Training of Professional Personnel Act (P.L. 86-158) | President Rhee implemented the 6-Year Compulsory Education Plan (1954-1959) and school attendance reached up to 96% by the end of 1959 |
| The Teachers of the Deaf Act (P.L. 87-276) | The government established the first special education department in Taegu University (1959) |
| Training of Professional Personnel Act (P.L. 88-164) | |
| The Civil Rights Act (P.L. 88-392) (1964) | |
| ESEA (P.L. 89-10), President Lyndon B. Johnson, “War on Poverty” (1965) | |
| The International Covenant on Economic, Social and Cultural Rights: Increased school accessibility of children with disabilities (1966) | President Park implemented the Special Education Five-year Plan (1967-1971) in purpose of increasing children with disabilities elementary school attendance rates up to 50% & expanding special education classrooms into regular schools and securing special education finances |
| Title VI added to ESEA in purpose of funding primary and secondary education and expanding all school age children’s equal access to education as well as shortening achievement gaps between individual students (1966) | |
| The Declaration on the Rights of Mentally Retarded Persons | |
| The Rehabilitation Act (P.L. 93-112): Prohibition of discrimination against those with disabilities in federally funded programs (1973) | |
| Amendment to P.L. 94-142, P.L. 93-380: Response to right to education litigation, LRE, nondiscriminatory testing/evaluation, due process procedures (1974) | |
| The Declaration on the Rights of Disabled Persons: Self-resilience of individuals with disabilities & expanded educational/vocational opportunities (1975) | |
The Education for the Handicapped Children Act, EHCA (P.L. 94-142); FAPE for all children with disabilities (3-21), IEP, parental involvement, procedural safeguards (1975)

<table>
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<tr>
<th>The Evolution of Rights-based Model of Special Education Laws</th>
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As seen in Table 1-1, perceptions of disability in the two countries developed independently in line with their cultures and histories. Both in the USA and Korea, medical/rehabilitation approach to disability came first. Social policy was initiated towards persons with disabilities focused on providing food and appropriate assistance for living. As Western perceptions of disability were introduced in the Enlightenment Period of Korea, professionals began identifying the cause of disability using scientific measures. This approach still lasts with rehabilitation service providers and professionals’ roles today in Korea. In the United States, professionals’ efforts were initiated in the early 19th century.

The disability rights movement emerged in the United States in the 1950s, a period during which South Korea had to be focused on recovering from colonial occupation and war. Over the next decades, however, recognition of individuals’ rights and legislative activity supported the progress of special education policy in South Korea. Therefore, perceptions of disability in the two countries, though they appeared at different times and with dissimilar policy implementation, appeared to have some connection. Moreover, policy improvements can be traced back to some undiscovered origins and accumulated steps that might have impacted upon the current policy. Consequently, I find that tracing the historical factors underlying the passage of special education laws in the two countries is needed.

Culturally shaped perceptions of disability throughout each country’s history have changed, thereby impacting social and educational policies implemented based upon egalitarianism in the two countries. The United States’ professionals’ movement toward
empowering individuals with disabilities to developing capability and serving in the community came alongside the professional model of disability. These efforts to lessen the gap in the capability between those with disabilities and “normal” people came as the evidence of culturally shaped perceptions of disability.

Different approaches to disability appeared at the similar time points when people in Korea were still under the power of dynasty and the USA citizens established the modern political system of democracy. That is, diverse approaches to disability were developed within each country’s own politics and culture shaped by the contemporaries’ belief system and ruling ideology. Disability rights movement came earlier in the USA under the country’s political system and individualistic belief in equality of rights even later impacted upon individuals’ recognition of rights in Korean society. Therefore, the egalitarianism values have maintained at some level within each country’s culture and history, which has touched the contemporaries’ policy decision-making. Moreover, the value in studying culture as impacted upon policy changes is that perceptions of disability have formed within independent settings from each culture; however, simultaneously, they were formed through similar patterns, medical/rehabilitation/professional approaches to rights based approach, and a culture impacted upon the other.

**Definition of Terms**

**A Child with Disability**

“(a) A child with mental retardation, hearing impairments, speech or language impairments, visual impairments, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and
(b) who by reason thereof, needs special education and related services”8.

**A Free Appropriate Public Education (FAPE)**

“Special education and related services that: (a) have been provided at public expense, under public supervision and direction, and without charge, (b) meet the standards of the state educational agency, (c) include an appropriate preschool, elementary, or secondary school education in the state involved, and (d) are provided in conformity with the individualized education program”9.

**The Categories of Cultural Influences upon Perceptions of Persons with Disabilities**

- Political Culture: Democracy, liberal democracy federalism, federal courts system vs. nation-state democracy
- Religious Culture: Protestantism (Puritanism) vs. Confucianism, Christian
- Sensitivity to Diversity: Higher sensitivity to diversity vs. lower sensitivity to diversity

**The Categories of Historical Influences on the Development of Disability Rights Policy**

1. USA

   - Independence of British colony (1754-1783) ~ professionals’ movements Period (continued through 19th century), Compulsory education laws (1852)
   - The Civil War (1861-1865), Liberation of blacks
   - Plessy v. Ferguson (1896), “Separate but equal”
   - The Second World War (1939-1945)
   - The Civil Rights movement (1954-1968)
   - The Disability Rights movement (1960s-), the passage of Civil Rights Act

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820 U.S.C.1401(22).

(P.L. 88-392) (1964)

- President Lyndon B. Johnson, “War on Poverty” (1965), the ESEA (1966)
- The passage of the Education for the Handicapped Children Act of 1975

2. South Korea

- The declining years of Chosŏn dynasty (18th century)
- The Enlightenment (kaehwa) period (the late 19th century)
- The Japanese colonial period (1910-1945), The Second World War (1939-1945)
- The post-liberal period ~ the national division (1948), the Korean War (1950-1953)
- The civilian government ~ the military government period (1961-1971)
- The passage of APEH of 1977
CHAPTER 2

REVIEW OF THE LITERATURE

Special Education Policy Studies in the USA

P.L. 94-142 and FAPE

Several researchers initiated inquiries on special education policy as developed in the USA at the state and local levels, and as focused on the principles of significant legislation (Cremins, 1983; Gilhool, 1989; Goldberg, 1982; Johnson, 1986; Podemski, Marsh, Smith, & Price, 1995; Turnbull & Turnbull, 1978; Tweedie, 1983). P.L. 94-142 contained the funding statute by which special education services were tightly controlled (Cremins, 1983; Sage & Burrello, 1986; Weintraub & Ballard, 1982). State and local agencies were required to comply with requirements under P.L.94-142 to get funding from the federal government (Ibid). Students with disabilities were entitled to procedural steps including a nondiscriminatory evaluation and an individualized educational plan in the least restrictive and appropriate educational setting (Turnbull & Turnbull, 1978).

When students with disabilities and their parents felt the educational programs provided were not appropriate to the individual needs of students, they were entitled to due process rights (Goldberg, 1986; Johnson, 1986; Turnbull & Turnbull, 1978). As such, P.L. 94-142 has been maintained as a rigid statute and has protected students with disabilities’ right to education in the States. P.L. 94-142 resulted from numerous court rulings instigated by individuals with disabilities and their parents. They struggled to achieve access to FAPE for a considerable amount of time (Bierlein, 1993; Kluger, 1975; O’Brien, 1993; O’Shea & Gajar, 1983; Reynolds, Wang, & Walberg, 1987; Sage & Burrello, 1994; Rothstein, 1990; Turnbull & Turnbull, 1978).

Researchers agreed that P.L. 94-142 was an important achievement on behalf of
children with disabilities who had been excluded from educational services (Lipsky & Gartner, 1987). Also, many described how federal court cases helped resolve problems of educational inequity (Ferguson & Asch, 1989; Bauer & Lynch, 1993; Lipsky & Gartner, 1989; Osborne, DiMattia & Curran, 1993; Sigmon, 1983; Stainback & Stainback, 1990). Several researchers advanced the idea that, although P.L. 94-142 was passed and reinforced through several amendments, the process of completing the law was still ongoing as many students with disabilities still remained excluded from educational activities in which their non-disabled peers could participate in (Gilhool, 1989; Lipsky & Gartner, 1996; Lipsky & Gartner, 1989; Osbrne, DiMattia, & Curran, 1993; Reynolds, Wang, & Walberg, 1987; Stainback & Stainback, 1990), although some stated that the inclusion process had been pretty much completed (Fuchs & Fuchs, 1994; Roberts & Mather, 1995).


Colachico (1985) reviewed the historical traces of P.L.94-142 focusing on behind-the-scenes efforts by interest groups to gain its enactment. Colachio stated that “a federal law is not created spontaneously by Congress but is a culmination of decisions, pressures, events and rulings through time” (p. 2). Numerous individuals with disabilities and their advocates worked closely with special interest groups and helped them toward the tipping point for P.L.
After Brown v. Board of Education of Topeka\textsuperscript{11} established the basis for the principle of equal and not separate education, in 1954, several similar other cases followed through the 1960s and 1970s (Colachio, 1985). Colachio (1985) stated that basic issues involving children with disabilities’ right-to-education as presented in court cases of the time were based on several principles: first, public education must be deemed as a basic right for every citizen protected under the Fourteenth Amendment of the United States Constitution; second, individuals with disabilities were able to benefit from public education; and finally, the state was interested in providing educational and related services (p. 27).

Parents of children with disabilities used these principles to bring successful court cases with support from key interest groups, including the National Association for Retarded Citizens (NARC) and the Council for Exceptional Children (CEC). CEC developed “model statutes” designed to provide “full legal basis for practicable and effective programs of education for education for the handicapped”\textsuperscript{12}. The model statute was used as a guideline for states to revise laws related to the education of children with disabilities. NARC helped parents of children with intellectual disability unify and express their concerns for public education\textsuperscript{13}. When the Pennsylvania Association for Retarded Children (PARC) sued the Commonwealth of Pennsylvania on behalf of all mentally retarded individuals for denying a free public education, CEC, NARC, and the American Association on Mental Deficiency

\begin{thebibliography}{13}
\bibitem{Brown v. Board of Education of Topeka, 347 U.S. 483 (1954).}
\bibitem{CEC Model Statutes” In Weintraub, Frederick. Public Policy and the Education of Exceptional Children (Reston, VA: The Council for Exceptional Children, 1976), 195-211.}
\bibitem{You will recognize, I am sure, that this statement of equal opportunity applies to the handicapped as it does to the minorities” (Colachio, 1985, p. 50).}
\end{thebibliography}
helped the plaintiffs in presenting testimony\textsuperscript{14}. The positive court decisions that resulted were used as the basis for the principal regulations of P.L. 94-142.

Milgrim (1986) investigated judicial rulings related to P.L. 94-142 and looked at the consistency in the interpretation of the least restrictive environment (LRE). For the 10 year time period after the passage of P.L. 94-142, the due process section of the statute underwent numerous reviews to clarify differences between states in their interpretation of the language and to resolve disagreements between parents and school districts in understanding the rights to education for children with disabilities. Harrigan (2003) closely looked into the process of the development of special education policy across the States with regarding FAPE and LRE from the passage of P.L. 94-142 in 1975 through 2003 and also described federal and state court cases as important venues for clarifying how the law should be interpreted and implemented.

The passage of the Education for All Handicapped Children Act (EDHCA)\textsuperscript{15}, renamed the Individuals with Disabilities Education Act (IDEA) in 1990, represented the national will to ensure children with disabilities’ right to education viewing them as humans of equal dignity. Several amendments when the Act was reauthorized in 1990 and 1997 added important provisions pertaining to procedures applicable to special educational services (Turnbull & Turnbull, 1978). The goal for this tailoring work was to eliminate “unnecessary discretionary power, not to eliminate all discretionary power” (Davis, 1976, p. 217). Harrigan’s (2003) study described how rights to FAPE and LRE enshrined by the legislative process were clarified through federal and state court cases focused on how the language in the Act should be interpreted, thereby defining a framework for policy implementation.


\textsuperscript{15}The Education for All Handicapped Children Act of 1975, P.L. 94-142.
Price-Ellingstad (2001) conducted a case study investigating events that influenced the reauthorization of P.L. 94-142. Millions of children with disabilities who had been located in inappropriate education programs and received no education at all became protected the right to FAPE since the passage of P.L. 94-142. As a result, more than 90% of school age children with disabilities came to enroll in public education and often to sit next to non-disabled students. Price-Ellingstad (2001) stated that the reauthorized Act of 1997 added unique characteristics in response to the results of litigation and the advocacy efforts of Congress and interest groups, such as the addition of requirements for individualized planning for the transition of students with disabilities to adulthood.

Zirkel (2012) conducted an empirical study on judicial appeals decisions under IDEA, analyzing 65 hearings held in the State of Illinois in the time from 1982 through 2010. IDEA requirements serve as the standard to determine whether a child with a disability is provided an individualized education program that provides a free appropriate public education in the least restrictive environment (p. 375).

The “due process hearing”\textsuperscript{16} authorized in IDEA allows a one or two level system and the second level is done by a review officer before children with disabilities and their parents turn to the state or federal court. Currently most states apply the one-level system with the assistance of hearing officers. This review found that the vast majority of court decisions led to results, as defined by the researcher, that were twisted to support positions held by districts and states rather than families.

Egnor (2000) explored the reauthorized IDEA of the 1990s focused upon the roles of policymakers and stakeholders mainly involved with the reauthorization process. Analysis of interviews with key individuals and of recordings of meetings led to the finding that “the

\textsuperscript{16}IDEA (P.L. 105-17), 34 C.F.R. 300.140.
IDEA reauthorization followed a pattern of legislative policymaking generally consistent with existing theory on crisis policymaking in Congress” (p. 7). According to Egnor (2000), the reauthorization of 1997 was driven by the concerns of schools and general education rather than by families and special education as in 1990.

**Special Education Policy Studies in South Korea**

Yi and Kim (2004) stated that policy researchers often attempt to distinguish areas of educational policy and educational administration. Kim (1996) advanced that educational administration played an important role as a legitimate authority under the separation of three powers in the liberal democratic political system in South Korea. Chŏng (1999) viewed educational policy as part of educational administration because educational policy affected the process of educational administration. Educational administration has been understood as the process of putting policy decisions into practice (Ibid). In this regard, special educational administration is defined as the process of implementing special education policy decisions, which are viewed as derived from general education policy in South Korea (Yi & Kim, 2004).

Special education policy has been also regarded as an independent area. Policymakers and researchers have studied and suggested ways to increase the efficiency of implementing the services required by special education policy (Ibid). Special education policy researchers have attempted to solve problems pertaining to special education services as part of long term planning, particularly with regard to the social integration of students with disabilities (Ibid).

Ch’oe (2003) analyzed studies on special education policy conducted from 1993 through 2002 in South Korea and categorized them. Several researchers analyzed how special education policy was developed historically (Yi, 1995; Pak, 1997) and suggested the way toward future development (Chŏng, 1999; Chŏng, 2002; Kang, 1993; Kang, 1996; Kim, 1993; Korea National Institute for Special Education, 1995; Sŏk, 2000). The Ministry of Education
(1967; 1974; 1988; 1993; 1998; 2012; 2013) reports how the nationwide special educational system has operated annually. Other policy studies were also conducted focused on looking at the current status of special education administration (Kim, 1993; Nam, 1996). U (1995) suggested that special educational administration was closely related to the appropriate arrangement of human resources.

APEH

Since the passage of APEH in 1977, many researchers have studied the impacts of special education law (Kim, 1993; Kim, 2005; Yi, 2005; Yi & Kim, 2004; Han, 2003; Han & O; 2003). Chŏng (1988) reviewed special education law including the Education Act and APEH and suggested the way to improve the Act. Chŏng (1991) conducted an in-depth analysis of APEH separately again. Kim (1992) conducted a study on special education financing in the USA, focusing on the US federal government’s funding system. Kim (1993) reviewed how persons with disabilities came to achieve their right to education, including precedents that contributed to passage of the Act. Kim (1993) also proposed that APEH be amended to reinforce compulsory educational opportunities for children with disabilities, increase the supply of special education teachers, and include requirements for individualized educational plans. Im (2002; 2003; 2004) studied how the IDEA expanded special education opportunities in the USA.

Various policy issues were discussed, including how disability is understood in the special educational system and the role of special education assistance policy related to inclusion (Han, 2000; 2001; 2003; Han & An, 2001; Kim & Han, 2001). Han (2003) analyzed changes in the language presented in APEH from its passage in 1977 to its 1994 amendment. Han and O (2003) discovered the same Act focused on children with disabilities’ right to education. Chŏng, Han, & Kim (2004) analyzed the current status of special education policy
mainly focusing on special education law and human resources, and special education finance.

Pak (2005) conducted a study on the condition of special education policy. Several other professionals reviewed special education policy as practiced in the school system and suggested some ways to improve special education law (To, 2005; Kim, 2005; Kim; 2007; Yi & Kim, 2005; Nam, 1997). The Ministry of Education (2006) reviewed previous studies on special education policy and its implementation along with the amendment of special education law.

Yu (2002) analyzed the current status of education for persons with disabilities in South Korea and concluded that persons with disabilities were treated unequally in the school system. Compared with non-disabled persons, persons with disabilities had much lower enrollment rates both in K-12 education and in higher education. In 2001, the Ministry of Education & Human Resources Development (2001) reported that a total count of 24,380 students with disabilities attended special education schools, 26,815 students were placed in special education classrooms and 2,701 students were in general education classrooms. More than 90% of K-12 students with disabilities were placed in separated educational settings. Compared with the disability emergence rates for each school level, substantially fewer students with disabilities continued on to the next school level than non-disabled students17.

Cross-national comparisons have included Kim’s (1994) study of the special education systems of South Korea and Japan. Kang (1987) compared the compulsory educational system for K-12 special needs children across the USA, Japan, and South Korea, surveying Korean students with disabilities and their families. The survey concluded that the compulsory educational system and special educational laws needed to be improved. Kim

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17 Transition rates from elementary school to middle school and middle school to high school for the whole students in Korea were 99.9% and 99.6%, respectively. For students with disabilities, only 34.5% transitioned to middle schools and 72.9% to high schools (Yu, 2002).
(2009) conducted a comparative study on special education policy between South Korea and North Korea. It was discovered that the difference in political ideology and educational philosophy between the two countries affected the overall special educational system and structure of educational administration. More specifically, special education in North Korea was hardly supported both environmentally and financially, which raised concerns over the future condition of special education administration after unification.

Pak (2003) reviewed humans’ basic right to education achieved by persons with disabilities in South Korea in comparison with some international cases, particularly in the USA and Japan. Kim and Han (2007) studied how special education law developed since the passage of APEH in 1977. Kang (2007) analyzed precedents from the Constitutional court in South Korea. A human’s guaranteed right to education enforced by the Constitution was often times misunderstood or even changed through legislation and school implementation. From the analysis of precedents regarding a Korean student’s right to education from 1988 through 2005, it was discovered that many of the cases pertained to the opportunity for higher education. This indicated that frequent policy change attempts regarding university entrance led to individual complaints as those candidates sought an expanded access to higher education.

Kim (2007) conducted a study on civil appeals related to the right to early childhood special education reported to the Ministry of Education & Human Sources Development. The researchers collected civil appeals reported by 306 parents of children with disabilities and 98 teachers. It was discovered that parents and teachers lacked understanding of the process to place infants with disabilities in an appropriate educational setting. The researchers also recommended that issues of inconsistent special education policy presented across several special education Acts needed to be resolved through policy improvement.
**Historical Analysis on Special Education Policy.**

Historical analysis of past educational systems and policies has revealed some of the roots underlying the current special education system. Chŏng (2007) reviewed how special education policy was developed from 1880 through 1910. Kang (1998) focused on Protestant missionaries’ roles in establishing the concept of special education and expanding special educational activity across Korea. Na (2001) conducted a study of the relief policies affecting persons with disabilities through the Koryŏ dynasty, from early 10th century through late 14th century. Kim and Na (2002) proposed that labeling of persons with “disablement (p’yejil)” first appeared in medieval times of Korea, which now indicates persons with disabilities. The disability categories described in Korean history included visual impairment, physical impairments, hearing/speech impairments, mental impairment, and multiple impairments (Chŏng, 2005). Physical disabilities were illustrated as those one-legged, lame, unable to walk, humpback, dwarf, and harelip (Ibid). Those who were with schizophrenia, mental retardation, and epilepsy were categorized as having mental impairments. Also, lepers and persons with diseases like smallpox and stroke were deemed to have disability (Ibid).

Cho (2002) reviewed thoroughly the process of special education development in Korea, from the Samguk Era through the present time. *Samguk sagi*, referred by the researcher, retained the early traces of social policy towards persons with disabilities who were not able to live independently. However, this policy did not develop into educational programs. Im (2005) similarly inquired into when the first special education school was established in modern times of Korea, and found that R. S. Hall, a missionary from the US, began with special education services in 1880s in P’yŏngyang. Chang (2007) explored how

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18 Disablement (p’yejil) means “becoming the disabled because of an incurable condition” (Kim & Han, 2007).
educational services for deaf children first started and developed in the USA beginning in the 17th century. Ch’a (1983) stated that the historical approach to the development of professionals led us to understand the social aspects which persons with disabilities experienced. Chang (2006) proposed that investigation into persons who had initiated education services for children with disabilities before the special educational system set up led us to establish the history of special education. Kim (2008) also emphasized that it was important to discover the people who devoted their lives to educating persons with disabilities in South Korea, particularly illuminating the contribution of King Sejong the Great, Pak Tu-sŏng, and Pak Yong-sik.

In 1926, Pak Tu-sŏng created Korean braille, called *Hunmin chŏngŭm*, and disseminated it (Kang, 1998). Yi Pang-ja established special education schools, including Chahye School and Myŏnghye School through the 1960s and 1970s (Chi, 1998). Kang Sŏng-suk devoted her life to a few special education schools including a deaf school and Myŏnghye School (Pak, 2002). Ku (2003) stated that Kim Tong-gŭk served a rehabilitation center and contributed to establishing Nam-Yang School in 1968, which was the first public special education school for children with intellectual disability.
CHAPTER 3

METHODOLOGY

Theoretical Framework

Social Justice Theory

Social justice theory is based upon the philosophy of human dignity and the equality of all humans. Central to this idea is the belief that an oppressed human has a right to equal treatment by and inclusion in society (Longmore, 2003; Waddington & Diller, 2000). Every human, regardless of disability status, should benefit from results of democratic social decisions and participate in such process as an independent citizen.

Historically, individuals with disabilities have tended to experience oppression (Crow, 1996). Before civil rights movements came to develop into systemic social justice struggles for the right to education of children with disabilities, the majority of those with disabilities were denied an educational opportunity (Nussbaum, 2006). Movements toward achieving rights to education and social participation began changing perceptions of individuals with disabilities and ensuring full participation of individuals with disabilities in inclusive environments of education and employment (Malhotra, 2001). The social justice view has been a critical idea driving all these human efforts and social reforms.

At the core of looking at the world and social community within this approach is that, quite often, systems and structures established by a society served to maintain traditional systems and social patterns that privilege certain groups but discriminate against others (Baldwin & Johnson, 2006). Longmore (2003) claimed that implementation of social/medical benefits for individuals with disabilities often served as a tool to institutionalize and discriminate against them. That is, we came to think that those with disabilities need medical services due to personal defects, which was also a negative stereotyping of them
The traditional model of viewing disability as a personal problem was based upon how it lowers the functionality of an individual (Crow, 1996; Shakespeare, 1996). That is, an individual’s physical or mental limitations are regarded coming as personal and not connected to the society or environment. As a result, such individuals’ impairments were regarded as needing to be cured or accommodated in order for them to be included in the society.

Criticisms were raised against this functionality-based medical model as it often resulted in the segregation of disability populations (Waddington & Diller, 2000) and reinforced stereotypes against persons with disabilities (Longmore, 2003). In response, the social model of disability emerged, defining disability as an outcome of relationships with others in the society. That is, disability was regarded as resulting from the collective perceptions of other people in the society. Their negative perceptions of disability were found by researchers to be largely responsible for “restrictive environments and disabling barriers” (Oliver, 1996, p. 75) that resulted in discrimination and exclusion of those with disabilities from social participation and community activity.

This social model of disability provided a new lens of how to see barriers individuals with disabilities feel within the society. It redefined disability as: (a) a difference that only emerges from interactions with other members in the society (Shakespeare, 1996), and (b) a failure of society in adjusting to meet the needs of individuals with disabilities (Block, Kroeger, & Loewen, 2002). As a result, how to create more person-centered environments that include individuals with disabilities came as an important task for the society.

Applying the social justice approach of disability led to developing helpful strategies to promote persons with disabilities’ education opportunities (Loewen, & Pollard, 2010).
Attitudinal changes regarding people with disabilities within the society were also regarded as critical. Mary Robinson wrote:

True equality for the disabled means more than access to buildings and methods of transportation. It mandates a change in attitude in the larger social fabric, of which we are all a part, to ensure that they are no longer viewed as problems, but as holders of rights that deserve to be met with the same urgency we afford to our own. Equality puts an end to our tendency to perceive “flaws” in the individual, and moves our attention to the deficiencies in social and economic mechanisms that do not accommodate differences (Nussbaum, 2006, pp. 198-199).

The comparison of special education policy in this study is based on this approach as policy comes as part of the consequences of community’ perceptions.

Why Historical Analysis?

Why explore the past to design future policy? George Santayana claimed, “those who cannot remember the past are condemned to repeat it” (1953, p. 82). Exploring the past helps us understand who we are today and where we are going. History is an account of a past event or combination of events. Therefore, historical analysis is a method of discovering what happened in the past from records and accounts. In historical analysis, researchers consider a diverse range of historical sources, including historical texts, newspaper reports, and diaries. Observing and analyzing changes over time is essential in this approach to understanding why a contemporary text is the way it is. Without understanding our past and having a sense of how our culture has changed over time, we cannot fully imagine how current and future change will occur (Wyche, Sengers, & Grinter, 2006).

Comparative Historical Analysis

Comparative historical analysis has a long tradition with prominent founders from Adam Smith to Karl Marx, who all pursued historical comparisons to derive and support their social theories (Mahoney & Rueschemeyer, 2003). Numerous modern researchers have conducted comparative historical inquiries to identify the causal arrangements of events
impacting social structure and culture. Central to this analysis is causal argument as carefully selected and tested by the researcher (Collier, 1998). Skocpol and Somers (2005) suggested three kinds of comparative historical analysis: “macrocausal analysis”, “parallel demonstration of theory”, and “contrast of context” (pp. 181-183). The standard to distinguish the types is whether the study focuses more on theoretical generalization or rather denies the possibility of theory but remains with the interpretive narrative. Researchers have located the causes of significant outcomes within a wide range of causal inference (Munck, 1998; Mahoney, 1999). Researchers have leaned toward defining the influence of temporal structure of events. For example, Collier and Collier (1991) examined the influences of different “incorporation periods” in Latin America. Temporal structures of events have also been treated as outcomes as in Tilly’s (1992) inquiry on the process of city-states and federations in Europe in transforming to modern states at dissimilar levels. Historical events located in time have been considered both as causes and as effects as researchers compare similar and contrasting events in a contextualized manner.

**Comparative Historical Analysis in this Study**

In the current study, I took the comparative historical approach to each of the cultural milestones assumed to have led to the evolution of special education law in each country. I set the time frame from the mid-and-late 18th century when the USA was liberated from Great Britain (1754~1783) and professionals initiated education and training of children with disabilities. Relevant events that happened at similar times in South Korea include the decline of the Chosŏn dynasty and the society’s movement toward the formation of democracy and egalitarian values through the Enlightenment (kaehwa) period of the late 19th century. Major upheavals in the USA include the Civil War (1861-1865) which led to the liberation of Blacks, and in Korea colonization by Japan through the end of World War II.
(1910-1945). The detailed events within the time frame are presented Table 3-1.

Table 3-1. The Evolution of Special Education Laws through the Successive Comparable Events in the USA and South Korea

<table>
<thead>
<tr>
<th>USA</th>
<th>Year</th>
<th>South Korea</th>
</tr>
</thead>
<tbody>
<tr>
<td>The US Constitution came into force (1787)</td>
<td>18C – 19C</td>
<td>The deaf and blind were institutionalized in Maengawŏn (1878)</td>
</tr>
<tr>
<td>Horace Mann established a school for the blind established (1832)</td>
<td>The Fourteenth Amendment of US Constitution enshrined the equal opportunity under the laws (1868)</td>
<td>Treaty of Peace, Commerce and Navigation between Korea and the USA (1882)</td>
</tr>
<tr>
<td>People with intellectual disabilities and mental health problems were institutionalized and received special treatments (Pennsylvania Training School for Idiots, Asylums in New York)</td>
<td>Plessy v. Ferguson (1896): “Separate but equal” doctrine still prevailed</td>
<td>US missionary R.S. Hall started to teach Korean blind students (The first modern special education service initiated in Korea, 1894)</td>
</tr>
<tr>
<td>Compulsory Education Laws became active (1852)</td>
<td>President Lincoln first signed into the law on higher education of deaf students (1864)</td>
<td>Korea became a Japanese colony and struggled against the rules (1910-1945)</td>
</tr>
<tr>
<td>The Civil War (1861-1865), Liberation of Blacks</td>
<td>The Declining Years of Chosŏn Dynasty - The Enlightenment (Kaehwa) Period</td>
<td>People with disabilities remained institutionalized; Maengawŏn renamed as Chaesaengwŏn (1913)</td>
</tr>
<tr>
<td>“Separate but Equal”</td>
<td></td>
<td>Jorean Independence from</td>
</tr>
</tbody>
</table>
---|---|---
Brown V. Board of Education (1954): The US Supreme Court first held that “separate but equal” was not equal and a violation of the Fourteenth Amendment.

The Training of Professional Personnel Act (P.L. 86-158)
The Teachers of the Deaf Act (P.L. 87-276)

Training of Professional Personnel Act (P.L. 88-164)
The Civil Rights Act (P.L. 88-392) (1964)
ESEA (P.L. 89-10), President Lyndon B. Johnson, “War on Poverty” (1965)

Title VI added to ESEA in purpose of funding primary and secondary education and expanding all school age children’s equal access to education as well as shortening achievement gaps between individual students (1966)

The Korean War (1950-1953)

Japanese Colony (1945)
The Republic of Korean government established and the first democratic Constitution was implemented with the assistance of the US (1948)
The Education Act first declared an equal opportunity of education for all South Korean citizens (Article 144) and enforced special education service in Seoul and other large cities in South Korea (1949)

President Syngman Rhee implemented the 6-Year Compulsory Education Plan (1954-1959) and school attendance reached up to 96% by the end of 1959

The government established the first special education department in Taegu University (1959)


President Park implemented the Special Education Five-year Plan (1967-1971) in purpose of increasing children with disabilities elementary school attendance rates up to 50 % & expanding special education classrooms into regular schools and securing special education finances
Mills v. Board of Education of District of Columbia (1972)

The Rehabilitation Act (P.L. 93-112): Prohibition of discrimination against those with disabilities in federally funded programs (1973)

Amendment to P.L. 94-142, P.L. 93-380: Response to right to education litigation, LRE, nondiscriminatory testing/evaluation, due process procedures (1974)

The Education for the Handicapped Children Act, EHCA (P.L. 94-142): FAPE for all children with disabilities (3-21), IEP, parental involvement, procedural safeguards (1975)

The passage of the Education for All Handicapped Children Act

The passage of APEH

The Yusi Period (1971-1979)


I analyzed each period or event and significant characters’ roles using cultural lenses as follows: political culture, belief system and morals, and sensitivity to diversity (Table 3-2).

Table 3-2. Cultural Variables in the Analysis of the Process to the Legislation

<table>
<thead>
<tr>
<th>USA</th>
<th>South Korea</th>
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</thead>
<tbody>
<tr>
<td>Federalism (Federal Court System), Liberal Democracy</td>
<td>Nation-State Democracy, Liberal Democracy</td>
</tr>
<tr>
<td>Protestantism/Christianity, Individual-Based Cultural Values</td>
<td>Confucianism, Christianity Influence, Community-Based Cultural Values</td>
</tr>
<tr>
<td>Multi-Racial, High Cultural Sensitivity to Diversity</td>
<td>Single-Racial, Lower Cultural Sensitivity to Diversity</td>
</tr>
</tbody>
</table>

Four cultural variables were chosen from a review of extensive research conducted on Korean history of special education from the ancient times through the late 19th century. These studies mainly discussed the rehabilitation policy by the rulers of the Chosŏn dynasty, which were influenced mostly by ruling ideologies under Confucianism and by perceptions of
disability (Chŏng, 2007; Chŏng, 2011). By the time the dynasty collapsed, the society became more diverse in accepting values and religions from Western ideologies and belief systems. Many Protestant missionaries promoted changes in the perception of disability and new opportunities came to be in place, which demonstrated that Christianity was the main foreign religious culture influencing the society (Kim, 1994; Kim, 2008; Ministry of Education, 1993). Therefore, by and large, the belief system and morals in South Korea were categorized into Confucianism, Christianity, and Community-based values. For the US, I analyzed Protestantism as the main influence of religion upon disability policy.

I reviewed the process of evolution of special education laws in each culture and assumed that each political culture influenced the legislative process and individuals’ actions. The federal court system in the United States and the cases compiled within it was the evidence of individuals with disabilities’ interaction with the system, which actually led to the change in disability policy. Thus I applied the political system as a main influence on legislation and for the comparison of the cultures.

The disability history in the two countries demonstrated that individuals with disabilities had been separated from mainstream society in both. In the United States, this was observed in the disability rights movement where individuals with disabilities sought for equal access to all public services, including education. This disability rights movement was inspired by the civil rights movement in which African American citizens had claimed their equal right (Fleischer & Zames, 2001). Thus I focused on the sensitivity to diversity as a variable to look into the impact of culture on disability legislation. The detailed process of analysis is as Table 3-3.

<table>
<thead>
<tr>
<th>Causal Events of Evolution of Laws</th>
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Table 3-3, Comparative Historical Analysis
<table>
<thead>
<tr>
<th>USA</th>
<th>South Korea</th>
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<tr>
<td><strong>Cultural Variables</strong></td>
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<tr>
<td>Federalism (Federal Court System), Liberal Democracy</td>
<td>Political Culture</td>
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<tr>
<td>Protestantism/Christianity, Individual-Based Cultural Values</td>
<td>Religious Culture</td>
</tr>
<tr>
<td>Higher Sensitivity to Diversity</td>
<td>Sensitivity to Diversity</td>
</tr>
</tbody>
</table>

| **Historical Variables** | | |
| 1. Independence of British colony (1754-1783) ~ Professionals' movements period (continued through 19th century), Compulsory education laws (1852) | Causes of Landmark Events & Key Players | 1. The declining years of Chosŏn dynasty (18th century) |
| 2. The Civil War (1861-1865), Liberation of Blacks | | 2. The Enlightenment (kaehwa) period (the late 19th century) |
| 4. The Second World War (1939-1945) | | 4. The post-liberal period ~ the North-South division (1948), the Korean War (1950-1953) |
| 7. President Lyndon B. Johnson, “War on Poverty” (1965), Title VI added to the Elementary and Secondary Education Act (1966) | | |
| 8. The passage of the Education for All Handicapped Children Act of 1975 | | |

| **Outcome** | | |
| FAPE Language in P.L. 94-142 | FAFE Language | FAPE Language in APEH |

Data Analysis through Focused Synthesis

- Similarities in the FAPE Language
- Differences in the FAPE Language
- Identification of Cultural Variables on the FAPE languages
- Identification of Significant Historical Variables on the FAPE language
- Identification & Comparison of FAPE language (Intent & Focus of the Laws)

| **Policy Implications** | | |
| Suggestions on Prospective Legislation in the USA | Suggestions on Prospective Legislation in South Korea |

**Focused Synthesis**

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While gathering the relevant literature and analyzing the cause and effect of each historical event, I used focused synthesis. Researchers have used this method when collecting information from a variety of sources related to their research questions (Doty, 1982). Overall, focused synthesis is not much different from traditional literature review in collecting and analyzing literature based on research questions, but it differs from the traditional approach in three ways: (a) while traditional literature review is only drawn from published articles, focused synthesis allows researchers to utilize various sources of literature including personal experience, unpublished articles, congressional hearings and court hearings, (b) the purpose of focused synthesis is combining available sources on the research problems, and (c) it is more focused on giving detailed information on the research subject (Majchrzak, 1984).
CHAPTER 4

FINDINGS

Historical Milestones in the USA

American Political Culture

Each country’s political culture is rooted in the shared beliefs and values of its citizens. Shared values and norms define the relationships between citizens and the government authority, and individuals with each other. As politics affect citizens’ economic life, the economic system has been viewed as part of political culture. Important values in American political culture include liberty, equality, democracy, individualism, and civic responsibilities. These values have evolved from the American Revolution as immigrants from different European countries arrived and settled in.

It was Alexis de Tocqueville who observed American political culture during the 1830s. Tocqueville first came to the United States with a question of “why are the Americans doing so well with democracy, while France is having so much trouble with it?” He thought that France might learn something from the American political culture. Tocqueville identified factors that led to American democracy, which were the natural fertility of the land, economic opportunities endowed to individuals to thrive, freedom expanded by the absence of a feudal system and class discrimination, and independent minds and frontier spirits (Tocqueville, 2003).

Settlers of early immigration days of the country were mainly from England, who spread the notions of rights and liberty. These notions were particularly seeded by the New England Protestants. The Protestant settlers came without any sense of superiority over others. Freedom and democracy embedded in this culture enabled democracy to thrive in their new society.
Myrdal’s (1944) study emphasized the Enlightenment ideals and liberalism as the basic creed that formed the American political culture. An example of the idea was the leaders of the American Revolution who used these beliefs for justifying their exertions for independence from Great Britain. However, Myrdal expressed that tensions still existed between liberty and equality. Egalitarian values became more prevalent than liberalism in the early revolution days.

Louis Hartz (1955) also agreed with Tocqueville’s argument that early immigrants pursued the ideas of Enlightenment and egalitarianism, and also stressed that the lack of a feudal system and classes formed the atmosphere of social freedom in the country. However, Hartz proposed that early Americans’ beliefs had not descended from a particular heritage, for example, the British heritage, but had been shaped unconsciously within the given conditions. That is, the nonhierarchical structure led Americans to believe in their rights. Hartz also stated that conflicts between individuals were natural within the rules of liberty. Slavery should be abolished but, for him, this was not a serious problem to be considered. Thus Tocqueville, Myrdal, and Hartz saw strengths in the USA’s political values as a liberal democracy, but they did not recognize the conflicts between races as a major problem.

Tocqueville noted that he focused his attention on the European Americans not on the other main races, the Native Americans and the Blacks. That is, he argued that American democracy is distinguished by a more general sense of egalitarian ideas that, however, would not provide the solution of racial problems. Instead, he argued that the American Indian would resist civilization and become extinct as European immigrants occupied their land. Regarding the many Blacks who were enslaved in the South, he interpreted the slavery institution from an economic perspective and predicted slavery should soon disappear as it would not provide any economic advantages. However, the slavery institution persisted.
through the coming decades until the Civil War between the North and the South and the
abolishment of slavery by President Lincoln’s Thirteenth Amendment to the US Constitution.

American Individualism

The term “individualism” was first employed by Tocqueville from a French thinker, Joseph Maistre. He described the Americans pursuit of individualism in life as: “each American appeals to the individual exercise of his own understanding alone” (Tocqueville, 2003, II, pp. 1-2). Tocqueville suggested that early Americans were able to accomplish democracy as they followed through the principles of individualistic institutions as distinct from feudal institutions. American Enlightenment leaders particularly connected this idea with nationalism while seeking the independence of the colony. A more recent explanation of individualism by Elias (1991) focused on its promotion of a person’s autonomy and respect of different others (1991). An example that shows how individualism was accepted by the early Americans is George Mason’s Virginia Declaration of Rights:

All men are by nature equally free and independent and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

Thomas Jefferson borrowed this thought for the Declaration of Independence as follows:

All men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.

This language indicates that each person is endowed with freedom to pursue individual rights and happiness with government protection. In this sense, individualism as a core of political belief has led to the development of legal systems and due process of the law in the USA. Americans have believed that individuals should live their own lives as they see
fit rather than for the benefit of a group of people or the government. Thus American individualism places a higher value on individual humans rather than on collections of individuals. In this sense, individualism is placed on the opposite side of collectivism which subordinates the individual to the group’s interest.

Although the Protestants in New England developed individualism, they were different from modern individualists in that they lived in tight communities of people who adhered to religious dictates to serve and support each other. They believed that they should love their neighbors as the way to love the public, including help for impoverished individuals. That is, their service to the community was motivated by religious morals. Thus this traditional Christianity’s ethics were based on religious norms rather than modern individualistic values or communitarian ideals.

More recently Christian values have also motivated and guided the efforts of diverse minorities to gain their rights through political actions a part of civil rights movements. Instead of being involved in independent political actions, they collaborated to pursue the religious values and morals of their groups.

The United States Federalism

In a single republic, all the power surrendered by the people is submitted to the administration of a single government; and the usurpations are guarded against by a division of the government into distinct and separate departments. In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself.
-James Madison

Madison proposed that federalism would provide double security to protect an

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individual’s freedom, based on (a) the power division between the three branches both in the federal government and in state/local governments, and (b) decentralization of some powers and responsibilities to the states and centralization of others at the federal level. The decentralized state approach emerged in the early 19th century, with perhaps the most significant states-rights Supreme Court decision being the Dred Scott case of 1857\textsuperscript{20}. More recently centralized federal authority has tended to dominate, as in the Supreme Court’s decision of Brown v Board of Education that reversed the several state courts’ decisions\textsuperscript{21}.

Americans supported federalism as a guiding principle of preserving states’ autonomy challenging the ideas of centralization (Forrest, 2000). Thomas Jefferson was one of the leaders who suggested the balanced relationship between the central and state/local governments\textsuperscript{22}.

**Protestantism**

The Protestants first settled in America from Western Europe as the Reformation began in the 16th century, where reform leaders including Martin Luther and John Calvin criticized the Catholic Church for corruption. These reform leaders, particularly, emphasized the relationship between individuals and God (Sampson, 2000); salvation is guaranteed only

\textsuperscript{20}In March 1857, one of the most controversial cases was brought by Dred Scott. Scott had lived with his owner in a free state. When returning to the slave state of Missouri, he argued that he had been entitled to emancipation while he had spent time in a free state. However, Chief Justice Roger B. Taney held that blacks were not allowed to claim U.S. citizenship and, as such, his petition could not be accepted. This decision intensified the North-South tensions and three years later the American Civil War ensued.


\textsuperscript{22}“While those [legislative] bodies are in existence to whom the people have delegated the powers of legislation, they alone possess and may exercise those powers; but when they are dissolved by the lopping off one or more of their branches, the power reverts to the people, who may exercise it to unlimited extent… We forbear to trace the consequences further [should Parliament continue their current practices]; the dangers are conspicuous with which this practice is replete.” Peterson (1984), A summary view of the rights of British Americans. Thomas Jefferson: Writings, New York: The Library of America, p. 118; See also the Articles of Confederation and the Constitution of 1787: in November 1777, Congress adopted the first constitution of the United States. However, the Articles limited the central government’s power leaving most of the roles on the state governments. Such weakness became apparent when local rebellions attempted to subvert the nation. Nationalists began working toward reinforcing the federal government. In 1787, the Constitutional Convention in Philadelphia signed on establishing a stronger federal government with three branches of executive, legislative, and judicial within the checking system of balancing the power.
by God, not by the Church. For example, before the Reformation, many believed that they would be saved by the Church and through praying to saints. However, Luther broke down this idea by claiming salvation came through personal faith in God. This led many believers to turn their backs on the Roman Catholic Church and convert to the new Christianity.

Luther’s idea of individual faith challenged the Church’s authority not only in religious terms but also in politics. His thesis against the Catholic Church’s corruption spread out and gave rise to the birth of early capitalism in Europe. Luther defined individual professions in religious terms, stating that not only priests but also all individuals should devote their lives to their profession. In England, this idea developed into forming the sense of individual wealth that enabled the middle class to thrive. In contrast with Catholic tradition where a collection of believers’ relationship with God was mediated within the hierarchical orders of the Church, Puritans sought their professions in their belief in the direct relationship with God.

The English Reformation established the Anglican Church as invoking the independence of the King’s authority from the Catholic Church’s. But the reforms did not end in England. Some believers followed Protestant reformers’ ideals that advocated greater piety towards God (McNeill, 1954). Their religious practices, however, were barred by their political opponents. Escaping persecution, many Puritan Protestants moved in to America and established some of the British colonies. Puritan Protestants made up the majority of the American population and established the dominant culture (Gelertner, 2007). Hofstadter (1962) described Puritan leaders “as close to an intellectual ruling class as America has ever had” (p. 59) amongst the early settlers. According to Gelertner (2007), “Before the Civil War, Puritanism remained the country’s dominant spiritual influence” (p. 153).

Protestant morals were widely practiced as the individual’s belief and behavioral
standards throughout the 18th and 19th centuries. Colonies established churches that served as the rules in the 18th century. However, state and church became separated in the 19th century when the constitutional authority invoked the individual’s freedom of conscience. Nevertheless, Americans retained the Protestant culture by enforcing its religious standards in the laws. For example, the Virginia Bill of Rights and Constitution, from 1776 through 1902, declared that “it is the mutual duty of all to practice Christian forbearance, love, and charity towards each other.”\textsuperscript{23} Laws tended to fit in the Protestant creed and the legal system was allied with Christianity\textsuperscript{24}.

**The Origin of Special Education in the USA**

Within these cultural backgrounds, special education services first became available in the early 19th century led by European professionals. Jean-Marc Gaspard Itard, a physician in the National Institute for Deaf-Mutes in Paris, was one of the earliest professionals to provide special education for a child with intellectual disability (Lane, 1976). This was Victor the Wild Boy of Aveyron, so-called because he had apparently been abandoned and grew up alone in the woods, thereby suffering developmental delays that included lack of speech\textsuperscript{25}. Although Victor was unable to make much progress in learning to speak, read, and write, Itard’s effort helped launch efforts to identify and treat developmental disability, then referred to as “idiocy” (Wehmeyer, 2013).


\textsuperscript{24}The Pennsylvania Supreme Court in 1824 held that “Christianity, general Christianity is and always has been a part of the common law of Pennsylvania ... not Christianity founded on any particular religious tenets; not Christianity with an established church, and tithes, and spiritual courts; but Christianity with liberty of conscience to all men.” Updegraph v. Commonwealth, 11 Serg. & Rawle 394, 400 (Pa. 1824); Vidal v. Girard's Executors, 43 U.S. 127 (1844); Cooley (1871) also stated that “Questions of public policy, as they arise in the common law, must always be largely dependent upon the prevailing system of public morals, and the public morals upon the prevailing religious belief.” (p. 207).

\textsuperscript{25}Pinel, Itard’s teacher argued that Victor was “an idiot as he was left in the woods” (Wehmeyer, 2013, p. 83).
In 1848, the first asylum was established in the USA with the help of European professionals. Idiocy was viewed as tragic in both the European and United States culture (Ibid). Based upon this perception, professionals began trying different treatments to cure children with intellectual disabilities. An optimistic approach was that a child with intellectual disability can be trained by appropriate interventions. Edward Seguin was one of the most passionate in this belief as he attempted to provide individuals with intellectual disabilities with training he believed appropriate to save them from idiocy.

Specifically, Sequin considered idiocy to be due to dysfunctioning of the nervous system that caused disability in controlling the human body and impaired both thinking and proper moral behavior. Seguin believed that this disability should be viewed as damage, not an absence of mind as Locke believed, and that appropriate methods could remedy the condition.  

By the mid-19th century, Seguin inspired several educational reformers in the USA who to raise awareness about providing adequate programs for children with intellectual disabilities. Horace Mann and George Summer were amongst the pioneering American educators. They traveled to Paris and attended Seguin’s classes in the early 1840s. James B. Richard had moved to work with Seguin and learned things he applied to his educational services in Boston. Harvey B. Wilbur established the first private school for children with intellectual disabilities in Massachusetts in 1848 (Mogilka, 1989). After immigrating to the USA in 1848, Seguin established the special educational system (Ibid). He visited Samuel Gridley Howe and instituted school programs in South Boston, and later served at the Pennsylvania Training School for Idiots and the Idiot Asylum in New York through the early

26See also Brady’s statement, “Modern science and an enlarged philanthropy are, however, gradually removing this unhappy idea, and are showing that there is no class of unfortunates of our species to whom enlightened treatment may be applied with a more cheering hope of success” (Wehmeyer, 2013, p. 87).
1860s. He also chaired the Association of Medical Officers of American Institutions for Idiotic and Feebleminded Persons (later renamed the American Association of Mental Deficiency) (Ibid).

Howe and his colleagues defined idiocy as “most often the consequence of the morally degenerate behavior of the parents, enhanced by the immoral proclivities of the afflicted offspring themselves” (Wehmeyer, 2013, p. 87). Howe therefore pushed the need for specialized training programs to cultivate children in settings separated from home. He believed that society was responsible for the public education of children which led to a myriad of reforms in special education (Mogilka, 1989). In his mind, public education was the only possibility to connect the individual good to the public good while solving the state’s problem (Ibid).

Howe first began with blind and “feebleminded” students while serving as the director of the Perkins Institution of Massachusetts (Mogilka, 1989). He learned educational methodologies for teaching blind students from Valentin Hauy while he stayed in Paris in 1831\(^27\). Howe further improved the printing system for blind students by modifying the space and size of letters. Howe claimed that children with disabilities should also be placed in common school programs\(^28\). He believed that educational services in which deaf and blind students learned basic useful knowledge and skills would enable them to join social life as self-sufficient beings (Ibid). At Perkins Institution, he tried many methods to “strike at the

\(^{27}\)Valentin Hauy developed a printing instrument to assist blind individuals with reading letters.

\(^{28}\)“I trust that others, with more zeal and vigour than I have left, will put this into practice, until it shall be the custom to send to the common school such blind children as do not need the special attention and instruction which can only be had in institutions calculated to meet their wants. The practice of training and teaching a considerable proportion of blind and of mute children in the common schools is to be one of the improvements of the future” (Laura Richards, Letters and Journals of Samuel Gridley, Howe: The servant of humanity [Boston: Dana Estes and Co., 1909], p. 25, as cited in Mogilka, 1989, p. 76).
root of the evil” of these very needy individuals. The focus was on training technical skills and mechanical labor which was deemed essential for these students’ independent living.

Early professionals as such pioneered special education by seeking definitions of different disabilities and created institutions for training children with disabilities. Later advances would be built on the sense of equality that began to germinate amongst citizens of the USA.

**Compulsory Education Laws**

Thomas Jefferson and Horace Mann first endorsed free public elementary education for students in Virginia and Massachusetts, which led to some consensus on public education from the 1770s through the early 1800s (Campbell, Cunningham, Nystrand, & Usdan, 1990; Mondale & Patton, 2001). Another champion was Henry Barnard who founded the public school systems of Connecticut, Rhode Island and Wisconsin (Mondale & Patton, 2001). Howe and Gallaudet promoted school reforms on behalf of children with disabilities. Specifically, Gallaudet supported federal policies regarding educational finance and teacher training (Mogilka, 1989). Howe’s influence inspired Horace Mann to not only design the public school system but to also found a school for the blind in 1832.

In 1852, a compulsory education law was enacted in Massachusetts, which required every child to receive primary education focused on grammar and arithmetic. Parents who refused to send their child to school were fined. Consequently, school enrollment rates began rising precipitously and finally reached at 55% between the late 19th century and the early 20th century. By 1917, all states had come to pass the law except Mississippi. Although

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29. First report of the Perkins Institution, p. 5-6, cited in Mogilka, 1989, p. 66.
30. Mann stated Howe’s support as: “How can I thank you enough for the interest you take in me....I have tried many times but I choke, I feel that, if I have any success, I have been mainly in debt to you for it. Without your aid, I do not believe the cause would have survived to this time....If I love the cause then, how must I feel toward one to whom it is so much indebted” (Letter of Mann to Howe dated August, 1841, as cited in Harold Schwartz, Samuel Gridly Howe, p. 98; Mogilka, 1989, p. 87).
numerous children with disabilities still remained in asylums, others enrolled in public schools that were greatly challenged in educating them excluded from the public schools. Crockett and Kauffman (1999) quoted an educator who described the situation in 1924 as follows:

Not only have the truant and the incorrigible been brought into the schools in consequence, but also many children suffering from physical defects and disorders as well as those of low mentality. As a result our schools have experienced great difficulty in handling such children, and an educational problem has been created with which we formerly did not have to deal to any such extent at present (p. 42).

Special education policy therefore began to address the problem of providing adequate services to children with disabilities in the public school system. A common view was that children with disabilities were abnormal and needed special treatments to correct the abnormality. Schools began using standardized testing for school entry, thereby excluding many children with disabilities (Harrigan, 2003). Some schools did have special education classrooms, defined as “a place to provide the best universal education with the benefits of low teacher-pupil ratios, specially trained teachers, individualized instruction in homogeneous classrooms, and a curriculum focused on vocational and social goals” (Harrigan, 2003, p. 10). However, this special education service was not available for many school aged children with disabilities, who were instead sometimes separated from non-disabled children and sent to residential schools where they were trained to become laborers (Crockett & Kauffman, 1999). Therefore, despite the implementation of compulsory education laws across the states, many children with disabilities were excluded from appropriate public educational services.

As earlier described, the roots of special education were established by professionals working at the local and state levels to create special schools for children called “idiot”, “deaf”, and “blind”. The federal government first began to develop educational policies and
programs for people with disabilities over a century before passage of P.L. 94-142 (Price-Ellingstad, 2001; Turnbull & Turnbull, 1978). In 1864, President Lincoln signed a law for higher education of deaf students (Weintraub & Ballard, 1982). The purpose of this bill was to provide grants to states for establishing institutions for deaf and blind education (Martin, Martin, & Terman, 1982). Many years later, this bill became diversified into several funds that included training of special education teachers.\textsuperscript{31}

**The Civil War and Reconstruction, 1861-1877**

The Declaration of Independence asserted that “all men are created equal” but in fact laws did not treat all men equal. As seen in the last chapter of Tocqueville’s *Democracy in America* (2003), Blacks and Native Americans in particular were viewed as less equal: “there is more than one way to look at the peoples that inhabit the New World” (p. 365); “these two unlucky races have in common neither birth, appearances, languages, nor mores” (p. 366). However, the unequal treatment of Blacks came to be challenged through the Civil War and Reconstruction eras.

Laws allowing Blacks to be kept as slaves were passed in 1643 by the New England Confederation and later by the 13 colonies that formed the initial 13 United States. Because northern states began abolishing the system of slavery and therefore became safe havens for slaves who had escaped, the southern states required the inclusion of the “Fugitive Slave Clause” in the Constitution created in 1787, which prohibited the release of slavery bondage to a free state. Then in 1793, over the strong objections of many northern state members, Congress passed the Fugitive Slave Act which expanded on the Fugitive Slave Clause, for example by giving slave owners the right to search for slaves who had escaped to other states.

\textsuperscript{31}In 1959, the Training of Professional Personnel Act (P.L. 86-158) was established and the Teachers of the Deaf Act (P.L. 87-276) ensued in 1961 (U.S. Office of Special Education Programs, 1994).
Northern states refused to enforce the law and took actions that would provide captured slaves a trial or protect free Blacks. However, when such antislavery measures were challenged at the Supreme Court in Prigg v. Pennsylvania, the Court held that the Fugitive Slavery Clause in the Constitution superseded state laws. Despite this ruling, northern states continued to shelter numerous ex-slaves, leading southern politicians to successfully pressure Congress to pass a revision to the Fugitive Slave Act in 1850. This Act faced redoubled resistance, with northern states including New York, Pennsylvania, Vermont and Wisconsin attempting to skirt the law. In addition, numerous blacks fled to Canada to escape USA jurisdiction. Despite northern opposition, the law remained in effect until the Civil War began and Congress finally repealed it in 1864.

Although the northern states opposed slavery, Blacks tended to experience much discrimination in that region (Pease & Pease, 1990). In several states, they were denied the rights to vote or to testify in courts when Whites were involved, and they were segregated in public accommodations and schools based on the discriminatory laws (Litwack, 1988). Noting the importance of political rights to be respected and equally treated, northern Black leaders began demanding freeborn Blacks’ equal treatment as American citizens.

The foundation for this argument came from the Constitution which defined any American-born person as an American citizen. Based on the concept of full equality under the law, Blacks carried on campaigns against segregation in public accommodations. In the late 1840s, Robert Morris, the first Black attorney in the country, took on school segregation in Boston when he represented Benjamin Roberts, a Black activist, in a lawsuit when his 5-year old daughter, Sarah, was denied access to schools in Boston except for those serving only Black students. The case was appealed to the Massachusetts Supreme Judicial Court with the assistance of Charles Summer, who later became a US senator. He argued the admission
policy was not only discriminatory against Black students but also harmed White children by segregating them from other races. He further pointed out that the admission policy violated the guarantee of equality in the state constitution as follows: “Equality declared by our fathers … was Equality before the Law. Its object was to efface all political or civil distinctions, and to abolish all institutions founded upon birth.”

However, the Massachusetts Supreme Judicial Court ruled that segregated schools did not perpetuate racial discrimination. According to Chief Justice Lemuel Shaw, laws would not change discriminatory views of Blacks. This ruling heralded the “separate but equal” doctrine which came to be used by many state courts and which was confirmed as valid by the US Supreme Court in Plessy v. Ferguson in 1896 and lasted for several more decades until Brown reversed it. It took over half a century for the separate but equal doctrine to be struck down by the Supreme Court in Brown v. Board of Education. However, states were always free to mandate integration, as the Massachusetts legislature did in 1854 when it banned school segregation based on race, color, or religious opinions.

New possibilities opened for Blacks as a result of the Civil War which broke out soon after Abraham Lincoln won election in 1860 pledging to abolish the slavery system. Seven southern states seceded and formed the Confederate States of America, which threatened to fragment the USA which Lincoln and many northerners vowed not to allow. On April 12, 1861, the Confederate army opened fire and four more states joined the Confederacy. A large number of Black men joined the Union Army wishing that the national government would establish a new system of equality (Miller, 1996). After numerous battles and massive casualties on both sides, the Confederate armies surrendered in 1865.

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Black leaders attempted to take the full advantage of the new political atmosphere after the war. They organized the National Equal Rights League (NERL) “to obtain a full recognition of our rights as American citizens … to the attainment of equality for us before the law” (Aptheker, 1990, p. 527). NERL, led by Henry Highland Garnet, Frederick Douglass, and John Mercer Langston, promoted equal citizenship for Blacks. The League also worked to expand their educational opportunities. In the early 20th century, W.E.B. DuBois, then leader of the League, attempted to include White Americans in the organization. Blacks led repeal of discriminatory laws in states including California and Illinois and attempted to do likewise in the South but were blocked by so-called Jim Crow laws that kept many Blacks from voting and maintained segregation based on the separate but equal doctrine.

**President Abraham Lincoln, Slave Emancipation, and the Civil War**

It is difficult to exclude Abraham Lincoln when explaining how Blacks succeeded in achieving full citizenship throughout the USA. When Lincoln was elected president in the world’s most advanced democracy at that time, the North and South had quite different economies, with the South being highly agricultural and the North becoming increasingly industrial. Beginning in the late 18th century, the main cash crop in the South was cotton, for which slavery was critical to compete with other cotton growers around the world. As summarized by Lawrence (1972), Karl Marx perceived that the huge cotton exports from America contributed to the thriving of European capitalism and with slavery being the key:

> Without slavery you have no cotton; without cotton you have no modern industry… it is the colonies that have created world trade, here would be no cotton, without cotton, there would be no modern industry. It is slavery that has given the colonies their value; it is the colonies that have created world trade, and it is world trade that is the pre-condition of large-scale industry. Thus slavery is an economic category of the greatest importance (p.1).

In the meantime, northern states were transitioning from small farms to an industrial system based on innovations in technology and transportation. These two contrasting
economic dependencies brought about conflicts in federal policy over trade, with southern states desiring free trade and lower tariffs but northern states seeking measures to prohibit their new industries from being threatened by lower tariffs. But most of all, whether or not slavery was legal became the biggest concern as new states joined the Union. Southern states wanted the slavery system maintained as their “property” rights in opposition to abolition movements that had already been underway for decades in many northern states.

President Lincoln took a rather moderate stance between these different poles. Based on moral perspectives, he wanted to see slavery ended, but he did not initially plan to take action to abolish slavery. When thinking of slavery, President Lincoln considered that the founders of the USA had not specifically defined the right or wrong of slavery in the Constitution, although some believed slavery was morally wrong and thought it would become ultimately extinct (Potter & Fehrenbacher, 1976). Thus he believed that Blacks were equal to Whites but he was not also optimistic about the future of America in terms of Blacks achieving equality. Thus when he addressed audiences in his campaign he often assured racists that he would maintain White superiority, reflecting the political dilemma between his ideals and the reality he struggled with (Guelzo, 1999).

President Lincoln’s moderate voice changed into one dedicated to action to emancipate Blacks during the Civil War. In reinvestigating the Declaration of Independence, he came to view it as incompatible with the slavery system. He issued the Emancipation Proclamation of 1863 to free slaves, although only in the Confederate states where the federal government would have no power during the war. By freeing slaves in the Confederacy, President Lincoln intended that once the slave states were beaten, they would return to the Union without slavery (Potter & Fehrenbacher, 1976). Later, President Lincoln initiated the Thirteenth Amendment to the US Constitution to end slavery completely throughout the USA,
which was passed a few months before he was assassinated in April 1865.

Research indicates that Blacks played a major role in convincing President Lincoln to become proactive as they “acted resolutely to place their freedom--and that of their posterity--on the wartime agenda” (Berlin, Fields, Moller, Reidy, & Rowland, 1992, p. 2). “Lincoln continued to hesitate about the legal, constitutional, moral, and military aspects of the matter,…the relentless movement of the self-liberated fugitives into the Union lines… tool their freedom into their own hands” (McPherson, 2015, p. 101). In addition, Blacks felt the Emancipation Proclamation only “confirmed and gave ambiguous legal standing to the freedom which Black people had already claimed through their own surging, living proclamations” (Harding, 1981, p. 235). Thus slaves played a major active role in emancipating themselves as they escaped the North and joined the Union army.

McPherson (2015) suggests that with all discussion about the key persons and events that led to emancipation of the slaves, the answer really comes down to the Civil War because it stood at the center of the chains of events: “without the war there would have been no confiscation act, no Emancipation Proclamation, no Thirteenth Amendment (not to mention the Fourteenth and Fifteenth), certainly no self-emancipation” (p. 3). After two centuries over which slavery had become increasingly entrenched as essential to the Southern economy, there seemed little likelihood that slavery could have been soon eliminated without the landmark event of the Civil War.

The Civil Rights Movement, 1945-1968

In spite of the outcome of the Civil War, many Blacks found they continued to be treated as less than equal and there were often efforts to correct this situation. For example, A. Philip Randolph led protests against discriminatory hiring policies that excluded Blacks from federal contracts. Responding to such complaints about discrimination, President Roosevelt
issued an executive order creating a Committee on Fair Employment Practices (FEPC) which investigated and publicized complaints of racial prejudice and encouraged Blacks to pursue newly opened job opportunities. Blacks also used litigation to try to overturn laws that made it difficult for them to vote in elections, especially in the South which was at that time dominated by the Democratic Party because of its support of these laws whereas the Republican Party was widely disliked by Whites because it was the party of President Lincoln (Lawson, 2006).

According to Lawson (2006), the major impetus for the Black civil rights movement can be traced to the impacts of World War II. To help ensure a sufficient workforce as men went off to fight, in 1941 President Roosevelt issued an executive order establishing the Fair Employment Practice Committee (FEPC) and blocking companies with government contracts from discriminating in hiring based on race or religion. In addition, a large number of Blacks volunteered for military service, which offered them an opportunity to escape from rural poverty and influences of the Great Depression. Black soldiers served in separate units from Whites, mostly engaged in noncombat jobs, but a number came to be recognized for heroism in combat. However, when they returned home from war, despite their fulfillment of their mission for the country, they found that they were still denied civil rights. Instead of returning to their home towns, some Black veterans sought employment in other places using the skills acquired during the war. This migration not only promoted Blacks self-sufficiency but also helped reignite efforts to break down racial discrimination that had been gaining momentum before World War II put them on the back burner.

Litigation against discriminatory voting laws also began to see success. In 1944, Thurgood Marshall charged that Texas’ Democratic Party had racial segregation in franchise entrenched while barring blacks from participating in major elections. In a landmark civil
rights ruling in 1944, the Supreme Court accepted the argument of Thurgood Marshall (who would later become the first Black Supreme Court justice) that it was unconstitutional for the State of Texas to allow the Democratic Party to set its internal rules, which enabled it to hold White primary elections that excluded Blacks. The Court ruled that this violated the Fourteenth and Fifteenth Amendments because:

The United States is a constitutional democracy. Its organic law grants to all citizens a right to participate in the choice of elected officials without restriction by any state because of race. This grant to the people of the opportunity for choice is not to be nullified by a state through casting its electoral process in a form which permits a private organization to practice racial discrimination in the election.33

Further progress was made during the presidency of Harry S. Truman as he responded to pressure from Black leaders to take action to reduce violence against blacks in the South and establish the President’s Committee on Civil Rights (PCCR) to take the lead in ensuring that all institutions in the country uphold the Constitutions’ guarantee of civil rights for all. PCCR proposals led to the desegregation of military and legislation to reinforce equal rights in housing, education, and employment, although Southern politicians prevented legislation making the FEPC permanent.

This period also saw progress in supporting people with disabilities, who had increased greatly as a result of war injuries. President Franklin Roosevelt34 signed the G.I. Bill (the Servicemen’s Readjustment Act of 1944) into law35 which included not only the

34President Roosevelt contracted polio when he became 39 years old. During the Great Depression, he passed the Social Security Act that supported older and disabled peoples who were unemployed (Fleischer & Zames, 2014).
35“This bill therefore and the former legislation provide the special benefits which are due to the members of our armed forces- for they “have been compelled to make greater economic sacrifice and every other kind of sacrifice than the rest of us, and are entitled to definite action to help take care of their special problems.” While further study and experience may suggest some changes and improvements, the Congress is to be congratulated on the prompt action it has taken” (U.S. Department of Veterans Affairs website, President Franklin D. Roosevelt’s Statement on Signing the G.I. Bill on June 22, 1944). This legislation was later amended to benefit veterans of the Korean War, and all veterans.
well-known supports for higher education but also provided veterans with medical services and vocational rehabilitation programs.

**Brown v. Board of Education, 1954**

During the 1950s, the lack of educational opportunities for children with disabilities began to be highlighted by the new National Association for Retarded Citizens and the Council for Exceptional Children, which often took the lead in litigation (Crockett & Kauffman, 1999).

The efforts to gain educational rights for children with disabilities were inspired in part by the Supreme Court’s 1954 decision in Brown v. Board of Education of Kansas which struck down the “separate but equal” doctrine that had allowed segregated public schools based on race. This case helped clarify the issue which had arisen in recent District Court cases in Kansas, South Carolina, Virginia, and Delaware.

Chief Justice Earl Warren concluded that as education had been provided to White and Black children by the state of Kansas, a “property interest” had been also created by the state (Rothstein, 1990, p.2). The Court held that even if Black children had been placed in facilities deemed equal to those of White children, they had been actually unequally treated because separation had created stigma (Ibid). The Court’s argument was based on violation of the Fourteenth Amendment of the US Constitution that guarantees equal protection under the law regardless of race and other unalterable characteristics. Thus the Court supported the idea that public education should be provided as a necessary and equal opportunity for all children to succeed their lives.

Brown was a landmark case that confirmed the equal right to education for minorities and other groups of people who had been excluded from public education (Bierlein, 1993; Brown v. Board of Education of Topeka, 347 U.S. 483 (1954).
Kluger, 1975; O’Brien, 1993; Walker, 1995). Justice Warren stated that a public education was “a principal instrument for awakening the child to cultural values” (Harrigan, 2003, p.11). If any child was excluded from such necessary opportunity, the child would face reduced chances of success in life and, thus, public education should be provided on equal terms. Although Brown recognized that the federal government and state governments have their own spheres of influence, it enhanced the federal government’s ability to empower all citizen’s to fully participate in public education (Price-Ellingstad, 2001). Also, Brown reinforced the application of equal protection under the law to the field of education, as “guaranteed” under the Fourteenth Amendment of the Constitution (Stickney & Marcus, 1984; Wong, 1999; Wright, 1988). Furthermore, the Brown decision led to further “right-to-education” cases while it served as “the precedent for judicial resolution of related civil rights issues on similar constitutional grounds” (Turnbull & Turnbull, 1978, p. 13).

**President John F. Kennedy and Public Law 88-164, 1962**

On October 11, 1961, President John F. Kennedy appointed 26 members to the President’s Committee on Mental Retardation, which consisted of professionals from a range of fields including education, science, psychology, and law. With the goal of “combat” against intellectual disability, the Panel conducted intensive research to find possible ways to prevent and provide adequate treatment for intellectual disability. The 1962 report completed by the Panel contained 112 recommendations for increased and reinforced educational programs and improved social services providing a new legal concept of

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37Ibid.

38The full name of this act called: the Act of October 31, 1963 (“Mental Retardation Facilities and Community Health Centers Construction Act of 1963”)


40Bazelon & Boggs 5.
intellectual disability. The report led to the establishment of Public Law 88-164, which authorized funding for developmental research centers in universities, which also heralded the beginning of federal involvement and fiscal aid to states on this issue.

**President Lyndon B. Johnson and Civil Rights Act (Public Law 88-352), 1964**

In 1964, President Lyndon B. Johnson signed the Civil Rights Act (Public Law 88-352), which was developed while he chaired the President’s Committee on Equal Employment Opportunities under President Kennedy. Versions of this Act had been often proposed but not passed following World War II in response to complaints about discrimination.

In 1957, the US Congress formed the US Commission on Civil Rights which investigated the situation and forwarded recommendations to President Eisenhower. President Kennedy responded to the US Commission on Civil Rights’ report and growing pressure from civil rights leaders by proposing the Civil Rights Act of 1963. Following President Kennedy’s assassination, intense lobbying of Congress by President Johnson helped lead to passage of the bill which he signed into law on July 2, 1964. Title VI of this Act states as follows:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.\(^{41}\)

**The Passage of P.L. 94-142**

**Background of the enactment of P.L. 94-142.** With the civil rights movement as an example, many parents of children with disabilities and their advocates challenged public school policies that excluded their children or provided them with inappropriate education services compared with their needs (Turnbull & Turnbull, 1978).

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The overall circumstance the US Congress found before the enactment of the Act can be summarized as follows:

(a) the special educational needs for children with disabilities were not fully met, (b) more than one-half of the children with disabilities in the nation did not receive appropriate educational services that would enable those children to have full equality of opportunity, (c) one million of the children with disabilities in the country were excluded entirely from the public school system and would not go through the educational process with their peers, (d) there were many children with disabilities throughout the country participating in regular school programs and their disabilities that were not detected prevented them from having a successful educational experience, and (e) because of the lack of adequate services within the public school system, families were often forced to find services outside of the public school system, often at great distance from their residence and/or at their own expense. (Brademas, 1986; Katz, 1996)

Part of the argument to redress this situation was that under the US Constitution, all citizens shall be entitled to an equal opportunity, and this should be so regardless of an individual’s ability. This idea of egalitarianism was enshrined under the Fourteenth Amendment of the US Constitution, which was applied in granting children with disabilities equal protection of the laws (Turnbull & Turnbull, 1978). When some educators and schools interpreted the language in the Constitution, they felt that equal opportunity meant helping these children achieve a more normal condition by educating them under specific circumstances. Achieving this was only possible when they accepted that children with disabilities had an equal right to education.

Before P.L. 94-142, parents sometimes sued a school for its exclusion of their child with disabilities. These cases often cited Brown. Although school districts had believed they conformed to the equal protection of the law both for Black and White students by providing separate facilities claimed to be “equal”, Justice Warren held that Black students’ right to

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education was violated when they were placed in the separate facilities because this was stigmatizing. The Brown decision led to a number of lower court cases to clarify the meaning of the language in the laws.

**Pennsylvania Association for Retarded Citizens (PARC) v. Commonwealth of Pennsylvania, 1971.** In 1971, the Federal District Court in the Eastern District of Pennsylvania established a federal right to education for children with disabilities. At that time numerous children with intellectual disabilities in that state were only provided custodial care, separated from home and institutionalized in state facilities. (Weiner & Hume, 1987). These facilities were not equipped with adequate educational programs for the school aged residents, who numbered over 70,000 (Zelin, 1993). From the early 1960s, parents of children with intellectual disabilities pushed the nation and state to deinstitutionalize these children.

The District Court concluded that children with intellectual disabilities (the plaintiffs) were entitled to a right to free public education, which overturned a Pennsylvania law that had established schools to exclude these children from regular public education (Martin, Martin, & Terman, 1996). Parents of 13 children with intellectual disabilities, supported by the Pennsylvania Association for Retarded Children (PARC), turned to the court claiming that the state had provided inferior services compared with local public schools. They argued that Pennsylvania statutes wrongly assumed that children with intellectual disabilities were not able to benefit from public education, which resulted in discrimination in the provision of educational services for children with intellectual disabilities (Zelin, 1993). As the exclusion of these plaintiffs was based upon the false assumption, the state violated the equal protection under the laws. The Commonwealth of Pennsylvania (defendants) agreed to provide children

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with intellectual disabilities with access to a free public education as appropriate to their capacity\textsuperscript{44}.

The court’s decision initiated the claim that children with disabilities should be placed in regular school classrooms preferably over any other types of education. The PARC decision stated: “(a) all children with intellectual disabilities are entitled to benefit from some form of education or training, …, (c) the Commonwealth of Pennsylvania shall not then deny any child with intellectual disability access to education; and (d) the earlier a child with intellectual disability begin public education, the greater benefit he/she is likely to be granted” (Zettel & Ballard, 1979). PARC thus established the ground that children with intellectual disabilities were able to receive public education appropriate to their capacities and preferably in the “least restrictive placement” (Martin, Martin, & Terman, 1996, p. 28). The court also required that the state provide parents and children with due process hearings and notification of any proposed program changes prior to any removal and change in a child’s educational placement (Rains, 1998).

\textit{Mills v. Board of Education of District of Columbia, 1972.} A year later, Mills v. Board of Education followed. The United States District Court of Columbia ordered that the Board of Education provide a “free and suitable publicly-supported education regardless of the degree of the child's mental, physical or emotional disability or impairment”\textsuperscript{45}. Parents of seven children with intellectual disabilities filed the suit, but they represented all children with disabilities who had been excluded from an appropriate education or denied access to school by being deemed uneducable in public schools in the District of Columbia. The Federal District Court referred to the Fifth Amendment of Constitution that had prohibited the

\textsuperscript{44}Ibid.

federal government from denying a citizen of “life, liberty, or property without due process of law” (Zelin, 1993, p. 11). The court required that the District of Columbia must provide the children with public education, and that placement in an alternative educational program be based on an individualized plan (Zettel & Ballard, 1979).

The court also established procedural and due process safeguards that came to also be included in later special education law. The requirements include:

(a) identify and evaluate each child with a disability, (b) reevaluate the child’s status on a periodic basis, (c) consider placement in a regular education class with appropriate ancillary services as preferable to placement in special schools, (d) provide parent notification of any proposed placement, (e) provide parent notification of their right to an independent evaluation, and (f) conduct an administrative hearing to address parent/school disagreements with services, placements, and suspensions. (Price-Ellingstad, 2001, p. 25)

The court ruled that funding for special education services for children with disabilities should be managed equally and adequately. The District of Columbia claimed that conforming to the court’s order would require additional federal funds as to be provided for the provision of special education for children with disabilities (Jones, 1979). The defendants also claimed that this would cause insufficient funding to other children outside of special education services, which violated the equal protection under the laws. In response to this defendants’ claim, the court ruled that the lack of funds would be resolved by available state funds in a way ensuring that no child with disability in that area shall be excluded from public education (Weiner & Hume, 1987; Zettel & Ballard, 1979). The court stated:

The defendants are required by the Constitution of the United States, the District of Columbia Code, and their own regulations to provide a publicly-supported education for these ‘exceptional’ children. Their failure to fulfill this clear duty to include and retain these children in the public school system, or otherwise provide them with publicly-supported education, and their failure to afford them due-process hearing and periodical review, cannot be excused by the claim that there are insufficient funds (Colachio, 1985, p. 56).

The Mills case extended rights to FAPE to all students with disabilities and served as

The basis of this entire concept is the existence of a variety of options or program settings that can be used to provide education to handicapped children depending on their individual needs. Some legal theorists have indicated that a decision to place a handicapped child in any setting other than that used for his non-handicapped peers is inherently restrictive, and consequently, a deprivation of individual liberty, a circumstance which demands due process of law. (p. 16)

**The Elementary and Secondary Education Act, 1966.** In 1966, under Title VI of the Elementary and Secondary Education Act (ESEA)\(^46\), the Bureau for the Education of the Handicapped within the Office of Education and the National Advisory Council was established, which has now become the National Council on Disability (Weiber & Hume, 1987). Adding Title VI to the ESEA was the first federal initiative to ensure all school age children with disabilities’ education by providing grants to states to improve special education services\(^47\). When Congress initially passed this bill, it aimed at funding public elementary and secondary education to promote all school age children’s equal access to public education and shorten achievement gaps between individual students. Congress made this decision as it was discovered that millions of children with disabilities were excluded from public education (Zettel & Ballard, 1979). Thus Title VI has been called the first version

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\(^{46}\)Elementary and Secondary Education Act of 1966, Public Law 89-750.

\(^{47}\)The Elementary and Secondary Education Act passed in 1965 and currently named the No Child Left Behind Act is known for the most far-reaching federal legislation impacting education passed by the United States Congress.
of the Education of the Handicapped Act (Martin, Martin, & Terman 1982).

The reauthorization of ESEA, P.L. 90-24 included details on providing improved educational services to children with disabilities (Ibid). In 1970, Congress mandated expanded services by adding Title III that funded local educational services (Ibid). In 1970, Congress replaced Title VI of the Elementary and Secondary Education Act with the Education of the Handicapped Act (EHA). This was to support states’ educational services for children with disabilities under comprehensive statute and mandates of Title VI (Weiner & Hume, 1987).

Moreover, this federal fund opened the possibility for states to improve special education facilities and programs and better serve children with disabilities (Ibid). In 1974, courts’ decisions from PARC and Mills led to the amendment to the Act, P.L. 93-380, which included due process rights and the element of the least restrictive educational program for children with disabilities (Jones, 1979). This amendment set the stage for the passage of P.L. 94-142.

Section 504 of the Rehabilitation Act, 1973. In 1973, Congress passed Section 504 of the Rehabilitation Act to protect major civil rights of persons with disabilities. This Act states:

No otherwise qualified handicapped individual in the United States shall solely by reason of his handicap, be excluded from participation in, be denied the benefits, or be subject to discrimination under any activity receiving federal assistance.49

By passing Section 504, Congress intended to include persons with disabilities into every aspect of the society which included public education as a critical area of individuals’ participation (Gardner, 1985). Specifically, Section 504 mentions that the rights of a child with physical or mental disabilities must be protected (Ibid). That is, schools are required to

provide special education services designed to meet the needs of children with disabilities. This responsibility includes identification and evaluation, programming, placement, reevaluation, and procedural safeguards (Harrigan, 2003). Thus this Act prohibited discrimination against individuals with disabilities by any agencies or organizations receiving federal funds. However, it failed to make any significant improvements in special education policy. Moreover, the Act was not released until 1978 (Gerry & Benton, 1982).

The passage of P.L. 94-142, 1975. In 1975, Congress passed the Education for All Handicapped Children Act (P.L. 94-142) which was an amendment to the Education of the Handicapped Act of 1970. The purpose of enactment of this law was providing federal financial incentives to states to conform to the federal special education policy. The Fourteenth Amendment of the US Constitution established the foundation for the provision of educational opportunity to children with disabilities.

P.L. 94-142 in this sense provided a framework for states to follow in providing special educational services. States were only funded when they had ensured the provision of appropriate special education services for these children upon meeting federal requirements for the provision of FAPE. The law states that children with disabilities shall receive FAPE within the least restrictive environment (LRE).50

A number of US senators and professional groups were instrumental in passing P.L. 94-142 (Price-Ellingstad, 2001). Senator Williams, Chair of the Senate Labor and Public Welfare Committee, worked closely with the Council for Exceptional Children (CEC). About the time when the bill was to be passed, there were two concerns among senators. First, this

bill was opposed by many senators who viewed education as the states’ responsibility. The economic cost was another issue (Melnick, 1995). Many states struggled with the lack of funds to comply with court requirements to provide FAPE (Gottron, 1975a). Nevertheless, the Senate finally passed this bill in June 1975. It was called, “the most important education legislation enacted since the landmark Elementary and Secondary Education Act was enacted in 1965” (Gottron, 1975b, p. 2591).

**Free Appropriate Public Education (FAPE)**

As the primary purpose of the law, free appropriate public education was authorized in the law as follows:

A free appropriate public education will be available for all handicapped children between the ages of 3 and 18 within the state not later than September 1, 1978, and for all handicapped children between the ages of three and 21 within the state not later than September, 1980, except that, with respect to handicapped children aged 3 to 5 and aged 18 to 21, inclusive, the requirements of this clause shall not be applied in any state if the application of such requirements would be inconsistent with state law or practice, or the order of any court, respecting public education with such age groups in the state.

Congress required that in order to receive federal funding for special education, states had to set up the goals of providing full educational services to children with disabilities. States were also required to assure all children with disabilities between three and 21 were not excluded from the FAPE opportunity. One controversial issue addressed by P.L. 95-142

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51 Education is primarily a responsibility of the states and the federal role should be limited to one of capacity building and assurance of equal opportunity.


53 “It is an all-encompassing term, which (1) covers all handicapped children aged birth through 21, (2) includes a basic planning dimension (including making projections of the estimated numbers of handicapped children), (3) permits each agency to establish its own timetable for meeting the goal, and (4) calls for the provision of additional facilities, personnel, services to further enrich a handicapped child’s educational opportunity beyond that mandated under the “FAPE” requirement. The term “goal” in the absolute sense, it must be committed to implementing this provision, and must be in compliance with the policies and procedures in the Annual Program Plan under this provision. Further, the agency is not relieved from its obligations under the “FAPE” requirement” (Fed. Reg., Aug. 23, 1977, p. 42506, as cited in Turnbull & Turnbull, 1978, pp. 50-51).

54 “(1) If State law or a court order requires the State to provide education for handicapped children in any...
was its application to private education. According to the Act, when a child with disability chooses to attend a private school, the school shall also comply with the FAPE policy if the school is within a state which has been federally funded for the purpose. Congress defined two private education situations.

First, a child may be referred by a public local educational agency to a private elementary or secondary school. In this case, the child is protected by the provision of FAPE and the state shall formulate a plan for placement of the child, concerning the school location and the number of children in the school. That is, the private school must provide the referred child with disability with appropriate special education and related services related to the child’s unique needs as prescribed in an individualized educational plan (IEP) without cost imposed on his/her parents (Turnbull & Turnbull, 1978, p. 52).

The second occurs when a child with disability has been referred to be placed in a public school by the local educational agency but the child and parents desire to be placed in a private school. In that case the agency is not required to pay for the expense of the child’s educational program in the private school. When the two parties (children and parents vs. LEA or SEA) have failed to meet an agreement related to the financial responsibility for the child’s education, they can require a hearing for a decision. Consequently, the provision of FAPE falls to the state’s responsibility whether a child with disability has chosen a public school or private school. Congress intended to ensure no child with disability be excluded from a FAPE (Ibid).
When Congress first initiated the discussion about passing P.L. 94-142, it found that more than half of special educational needs children were not being provided an appropriate education. The law specified that an appropriate education is successfully performed when an IEP has been set up based on a child’s needs, which includes objectives, duration of instruction, and how progress will be evaluated. The law described the individualized educational program as follows:

The term “individualized educational program” means a written statement for each handicapped child developed in any meeting by a representative of the local educational agency or an intermediate educational unit who shall be qualified to provide, of handicapped children, the teacher, the parents of guardian of such child, and whenever appropriate, such child, which statement shall include (a) a statement of the present levels of education performance of such child, (b) a statement of annual goals, including short-term instructional objectives, (c) statement of the specific educational services to be provided to such child, and the extent to which such child will be able to participate in regular educational programs, (d) the projected date for initiation and anticipated duration of such services, and appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved.

The IEP is developed based on an assessment of the child’s needs and strengths, which is to be done fairly without discrimination based on a child’s disability or race. When parents and their children are dissatisfied with their educational service, they are allowed to seek relief through “an impartial due process hearing” and for the hearing process the SEA must be present when the hearing is held at the local level. “Any party aggrieved by the findings and decisions of a hearing also has “the right to bring a civil action in any state or

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55Public Law 94-142 (20U.S.C1401. 89 Stat. 776).
56See Public Law 94-142 (20U.S.C1415. 89 Stat. 788), “Procedural Safeguards” section, Whenever a complaint has been received... the parent or guardian shall have an opportunity for an impartial due process hearing which shall be conducted by the State agency or by the local educational agency of intermediate educational unit, as determined by State law or by the State educational agency”.
57See Public Law 94-142 (20U.S.C1415. 89 Stat. 789),“Any party aggrieved by the findings and decision made Civil action, under subsection (b) who does not have the right to an appeal under subsection (c), and any party aggrieved by the findings and decision under subsection (c), shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy”.
Least Restrictive Environment (LRE)

Turnbull and Turnbull (1978) suggested that the right-to-education movement gave rise to promoting placement of children with disabilities in the LRE. These authors suggested that the term “mainstreaming” bore the potential to generate the misunderstanding of the meaning. Mainstreaming in special education is more than only placing students with disabilities in regular classrooms. It guides an educational service which meets the needs of those with disabilities to the maximum extent appropriate with “non-disabled” peers. However, the metaphorical mainstream has caused some confusion when schools believed they provided the mainstreamed education to the minorities. Schools’ discrimination against Blacks in Brown demonstrated that the word of mainstreaming was inaccurately applied, which supported separate but equal education. That is, schools regarded that Black students were included in the mainstreamed education as they were receiving public educational services, however, they were kept separate from White students, which brought about the discussion of mainstreaming in terms of color. In this civil rights case, mainstreamed education the schools accepted was no more than compulsory education, which generates questions about mainstreaming in terms of special education. In the area of special education policy, mainstreaming can be used to improve educational conditions for children with disabilities by removing them from segregated environments and including them in regular education classrooms.

For example, the consent agreement made in Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania in 1971 ruled that children with intellectual

58Ibid.
59Turnbull & Turnbull, p. 137.
disabilities should be given regular education services as follows:

It is the Commonwealth’s obligation to place each mentally retarded child in a free, public program of education and training appropriate to the child’s capacity, within the context of the general education policy that, among the alternative programs of education and training required by statute to be available, placement in a regular public school class is preferable to placement in a special public school class and placement in a special public school class is preferable to placement to any other type of program of education and training.61

This preference for mainstreaming responded to the stereotyping of many children with disabilities as different from non-disabled children, leading to their exclusion from mainstreamed educational settings. In this sense, mainstreaming is accepted as away to protect children with disabilities from segregation based on such perceptions of difference (Ibid). P.L. 94-142 authorized that children with disabilities could be placed in diverse instructional settings designed to meet their specific needs. These diverse settings include both regular education classrooms and special education classrooms, and even residential program. However, placements outside of regular education require justification in the IEP, with IDEA requiring that the LRE be selected. Due process hearings allow parents to contest placements they consider to violate the LRE principle, or in some cases seek non-mainstream services they believe better address their children’s needs.62

Congress required that states provide special education and related services in the LRE and at “maximum extent appropriate” (Ibid). According to the law, children with disabilities shall be only removed from regular education classrooms when they cannot learn

62See Public Law 94-142 (20U.S.C1412. 89 Stat. 781), “all children residing in the state who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services are identified, located, and evaluated, and that a practical method is developed and implemented to determine which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services”.
even with the use of supplementary methods because of the severity of disability. Any other removals violate the FAPE principle. This also indicates that schools should consider what is appropriate for children with disabilities first, regardless of the schools’ circumstances or non-disabled children’s reaction to disability.

States could choose whether to adhere to P.L. 94-142, but were required to do so if they received federal education funds (Martin, Martin, & Terman, 1996). Thus P.L. 94-142 did not make any change in intergovernmental power between the federal government and state governments based on the consensus that “education is primarily a responsibility of the states and the federal role should be limited to one of capacity building and assurance of equal opportunity” (Gottron, 1975, p. 1485). However, because all the states did receive federal education funds, all had joined in implementing P.L. 94-142 within six years after its passage (Martin, Martin, & Terman, 1996).

After the passage of P.L. 94-142, the provision of FAPE and LRE was promoted through parents’ involvement in hearings and actions and monitoring by the US Department of Education of SEAs and LEAs, which were provided with detailed manuals to be used in applying the law (Milgrim, 1987).

**Historical Milestones in South Korea**

**Perceptions of Disability in the Confucian Traditions**

The lives of persons with disabilities in ancient and medieval times are not well known. The majority of documented characters were leaders of the community within the dominant culture. Dynastic annals enabled me to compare detailed historical records and review ancient and medieval social policies toward persons with disabilities (Ch’oe & Kang, 2008; Chŏng, 2005; Chŏng, 2011; Kim, 2008; Kim & Na, 2002; Na, 2001). In the past people formed stereotypes against persons with disabilities which greatly limited their opportunities
Korean proverb from Ch’oe & Kang (2008) indicates that negative perceptions against these populations had been largely formed and continued through the Chosŏn dynasty, with people with intellectual disabilities being the main characters (Ibid).

A person with disability was called “p’yejilcha.” This label indicates that persons with disabilities were viewed as having an incurable disease. Many with disablement were also described as needy people. A similar point of view on these people appeared in Silla of the 8th century (Kim, 2008). These people sought ways to live independently, however, they were only allowed very limited opportunities and were shunned by others because of their disablement they had (Ibid). On the other hand, despite being low within the class system, the rulers, as noble men, often provided for them (Chŏng, 2011).

This interpretation is possible when reviewing how ordinary people lived within the very rigid social order in which common people had to yield to the nobles. Korea maintained this order between nobles and common people until the Enlightenment (kaehwa) period when the paradigm of class distinctions shifted into the ideology of equality. Thus common people with disabilities under the class order were not able to enjoy liberty and share the equality of opportunity. But this inequality they lived in was not only attributed to disability but also to the system. That is, non-disabled common people also experienced discrimination.

Through the Chosŏn dynasty, rulers provided for persons with disabilities even more systematically and widely compared with previous times. In 1443, King Sejong the Great invented Hunmin chŏngŭm, the first Korean script, to help common people learn to read and write. By that time, nobles (yangban) had adopted Chinese characters (hancha) for written communication, but common people could not afford the time or money to learn the letters.

63 A priest said to people that he could have the blind open their eyes and bring people back from the dead… the persons with p’yejil (disablement) like the blind, the deaf, and the lame gathered to the front (Koryŏsa, Vol. No. 99).
King Sejong sympathized with these people and created the new letter system which was very easy to learn compared with hancha\(^{64}\). Decades after Sejong developed this letter system, Korean braille and fingerspelling was developed and disseminated for deaf and blind people (Kim, 2008)\(^{65}\).

King Sejong did not stop there. In 1445, he established Sŏungwan that enabled blind people to learn ŭmyanghak\(^{66}\). Every year 10 blind people were selected and trained to become officials in the department\(^{67}\). Sŏungwan was the first postsecondary educational program for persons with disabilities and remained until 1894 (Im, 2005).

The king stabilized the relief service system for the disabled and impoverished. Grains were stored and provided only for these individuals\(^{68}\). A dual system of relief programs for the capital and provinces was maintained to provide for these people\(^{69}\). In 1435, the king supported Dongsŏ hwarinwŏn in which these people were accommodated\(^{70}\). Moreover, they were all excluded from manual work and paying taxes and often exempted from punishment for committing a crime\(^{71}\).

**Enlightenment Leaders**

The idea of special education as modern education became known along with the

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\(^{64}\)Matching the unique sounds of Korean language with Chinese characters did not represent the meaning (Hunmin chŏngǔm: Kim, 2008). King Sejong resolved this issue by creating letters that enabled people to emblemitize every sound they pronounced.

\(^{65}\)Although it has been more than four centuries passed since Hunmin chŏngǔm was made, it might be impossible to release a braille if the King Sejong the Great did not establish such a simple and inventive writing system.

\(^{66}\)Sŏungwan was a governmental office remained from Koryŏ through the early Chosŏn. It was to make astronomical and meteorological observations which was valued for the agrarian society.

\(^{67}\)Sejong sillok, Vol. No. 107.

\(^{68}\)Ibid., Vol. No. 3.

\(^{69}\)Ibid., Vol. No. 6.

\(^{70}\)Ibid., Vol. No. 75.

\(^{71}\)Kyŏngguk taejŏn, Vol. No. 4.
arrival of foreign culture (Chang, 2006). Special educational services were then initiated mainly for deaf and blind people. The arrival of American Protestant missionaries opened this opportunity in the late 19th century (Kim, 1994). The first special education service for blind people in the region was the establishment of an institution for the blind (Maengawŏn) in 1878 at Kyoto, Japan. This began with 27 blind students, 31 deaf students, and three teachers (Chŏng, 2007). Individuals placed in the institution were mainly provided with remedial services to recover their remaining capacity. In 1880, the institution was expanded to provide vocational programs (Ibid). In 1881, a group of enlightenment (kaehwa) leaders including Kim Ok-kyun, Pak Chŏng-yang, Im Pyŏng-jik, and Yu Kil-chun observed this special education system while visiting Japan and adopted it for the Chosŏn dynasty.

One of the most prominent enlightenment (kaehwa) leaders was Yu Kil-chun, a government official and diplomat. He led the kaehwa movement through the declining years of Chosŏn using what he had learned about modern systems while in Japan and the United States. He supported the idea that Chosŏn needed to adopt the modern system from developed countries. In particular, he supported parliamentary democracy from the United States and attempted to reform the political economic system in Chosŏn72. He published a book called Sŏyu kyŏnmunnok which introduced European and American culture. He also introduced the perception of disability in the book, pointing out that hearing impairment causes communicational barriers. People with this disability depend on fingerspelling and speech reading for communication with non-disabled people (Chŏng, 2011). He also included detailed information about the American educational system and its special education institutions where individuals with disabilities were placed (Ministry of Education, 1993).

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72This reform movement led to Kapsin chŏngbyŏn. He was imprisoned for the “treason” attempt for six years but continued serving the government leading reforms for modern system including establishing modernized schools under the ideals of educating for all common people.
After Korea entered into a treaty with the US in 1882\textsuperscript{73}, many Protestant missionaries began medical and educational services. The first Protestant missionary was a doctor named Allen, who was joined by Underwood and Appenzeller the next year in 1885. These missionaries began with medical services in national hospitals and providing medical education. Allen opened the first nationally funded hospital called Kwanghyewŏn. This was renamed Chejungwŏn and expanded medical and rehabilitation services for common people who had not previously benefitted from the services.

Beginning in 1907, Rossetta Sherwood Hall provided educational services for the blind at P’yŏngyang. More than 10 years before she had first initiated medical services for a blind girl\textsuperscript{74}. Hall first applied Korean braille adopted from the New York style to teach her blind student finger reading\textsuperscript{75}. A few years after, she adopted training methods for deaf students from a Chinese deaf school in which her colleague missionary Mill had served.

Although many have agreed that Hall pioneered special education through the Enlightenment (Kaehwa) period, the exact year she joined the school in P’yŏngyang remains unknown. Some researchers have stated that the first special education service was initiated in 1894 as follows:

Hall had already realized the need to educated children with visual impairment even before she came to Korea. She served as a doctor at a hospital in P’yŏngyang for several years. In 1897, she went back home in the USA and further received training to read braille at the New York School for the Blind. She revisited Korea in 1898 and continued serving blind girls; however, the girls were not her first students as several schools had already provided services since 1894. This opens the possibility that she might have taught another student” (An, 1974, pp. 23-24, as recited in Im, 2005);

\textsuperscript{73}Treaty of Peace, Commerce and Navigation between Korea and the USA.

\textsuperscript{74}“Mrs. Hall felt that she could be helped to learn to read if only Mrs. Hall had knowledge of the proper technique for teaching the blind” (Hall, 1978, p.144, as cited in Im, 2005, p. 300).

\textsuperscript{75}“The 1st embossed book for the blind of Korea: the syllabary and 1st six lessons Mrs. Jones Ch’ohak ŏnmun pricked on oiled K.[Korea] paper by hand 1897 before receiving the proper apparatus from the NY Inst. [New York Institute] for the blind- and worn smooth by the fingers of- 1st blind child to learn to read in Korea Oh Bong Rae during 1898 at Pyŏngyang” (Kim, 2008, p. 173)
Although it might not be given as school education, Mrs. Hall perhaps had begun special educational services with braille reading to a blind girl in 1894, which continued on through 1904 (Kim, 1993, pp. 70-71, as recited in Im, 2005).

Hall invented a Korean braille for her blind students, based on a New York style in 1898, which was two years after the school had been established. This is also supported by Hall’s description of her own services and life in Korea. Hall also remembered that she provided services for blind students at a private school in 1898 as the Principal (Im, 2005).

Recently, a book written by Hall’s son has been translated into Korean. In this book, Hall recalled:

So I set about contriving away to prick Korean oiled paper with a needle to teach little Pongnai (Hall, 1978, p. 144, as recited in Im, 2005, p. 300); She resolved to learn more about it, for it could be a means of combating the superstition which prevented the blind from enjoying a life of usefulness (Hall, 1978, pp-144-145, as recited in Im, 2005, p. 301).

This indicates that Hall initiated learning special educational methods to teach the blind and worked on completing the Korean braille system from 1897 through 1898. Moreover, she trained her first blind student, Pongnai, for a year to learn to read the braille (Kim, 2005). There is a lack of evidence that special education had been initiated earlier than 1898.

**Japanese Colonial Period, 1910 – 1945**

Korea was a colony under Japanese occupancy from 1910 through 1945. In 1911, the Japanese government general in Korea (Chosŏn ch’ŏngdokpu) announced that children in Chosŏn shall be mandated a colonial education under the educational ordinance (Yi, 2005). This educational system consisted of three different types of education: common education,

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76“A decade has passed since we began teaching the blind in Korea” (Hall, 1908, p. 78, as cited in Im, 2005); “The 15th Annual Report of the Department for the Blind and the Deaf” (Ryu, Ok, & Yi, 1994, p. 192, as cited in Im 2005).

vocational education, and technical education. The ordinance stated that every Chosŏn child over eight years old would acquire modern knowledge and abilities in a common school for four years. Children also learned how to speak Japanese. When they become 12, they were transitioned into vocational education schools and learned to become farmers or artisans for two years. The highest level of education was technical education where the students participated in academic activity for three to four years. However, numerous Korean children were marginalized from this educational system as the Japanese government general in Korea only provided free education to Japanese students who resided in Korea while requiring Korean students to pay.

The educational curricula at that time were focused on raising loyal citizens who conformed to colonial ideology (Chosŏn Educational Ordinance, Article No. 2). The Japanese government general in Korea directly controlled educational materials and school curricula (Ibid, Article No. 29). Within such a centralized and controlled system, children with disabilities came to face discrimination (Korea National Institute for Special Education, 1995). Although these children lacked opportunities in the formal educational system, some were able to benefit from American missionaries who remained through this colonial period. Maengawŏn was developed into Chaesaengwŏn and continued providing medical services for disabled individuals. It was integrated into public education to serve as a special education institution in 1913 (Ministry of Education, 1993).78

Some deaf and blind children and ones with intellectual disabilities were accommodated into this system and received special treatment (Chang, 2006).79 Specifically,

78 The Japanese government general in Korea (Chosŏn ch’ongdokpu) authorized that the blind and orphans are institutionalized in Chaesaengwŏn.
79 Chaesaengwŏn was later renamed and replaced with the National School for the Blind after the independence. This is currently the Seoul National School for the Blind.
Chaesaengwŏn provided three years’ curricula for blind students and five years for deaf students. Once these children completed the curricula, they were transferred to a one-year course program. There were only 38 students in 1914 (Yi, 2005) which increased to 105 by 1933 (Ministry of Education, 1993).

Many non-disabled children were separated from other students into special classrooms because of malnutrition and unhealthy physical condition. This was the first public concern for special education inside regular school programs (Ministry of Education, 1993). Several common schools provided special education services within settings separate from regular classrooms (Yi, 2005). The Japanese government general in Korea planned for increasing special education classrooms inside common schools as an increasing number of children had suffered from malnutrition and health problems. However, the plan was cancelled due to the impacts of World War II.

Chosŏn ch’ongdokpu proposed increasing special education classrooms within common schools for the particular purpose of segregating unhealthy looking and disabled children from regular education. The segregation was not for providing adequate services or special needs education like today’s special education services (Yi, 2005). The disability categories applied in accommodating children in special classes were also different from the categories accepted by modern special education laws. The categories during the colonial period included distrophia, tumentia, absenteeism, extremely feeble children after disease, anemia, and chronic internal disease (Ministry of Education 1993).

National Independence, 1945

Upon the surrender of Japanese imperialism to the Allied forces on September 2, 1945, Korea came under the US military administration (The Ministry of Education, 1974). This administration worked to set up a new educational system based upon liberal democratic
ideals (Pak, 1999). The central administration system through the colonial period (Han’gmuguk) was transformed into a newly authorized power that continued public services under the US Military administration (Ibid). It authorized that every citizen in Korea shall be provided educational services regardless of individual characteristics including race and religion, which set the basis of ensuring the right to education for all school aged children (Yi, 1993).

Many Korean professionals actively participated in the discussion about establishing the educational system. About one hundred professionals were gathered to form the committee (The Ministry of Education, 1974). They set the educational agenda and built every part of the education system which included: educational theory, educational administration, elementary and secondary education, vocational education, teacher training, higher education, textbooks, and medical education (Ibid).

President Syngman Rhee’s struggle to establish the Republic of Korea Government

The establishment of the Republic of Korea government was unique compared to many of the Western cases where political values like equality and freedom evolved inside of the already established nation. The French Revolution is an example in which the citizens abolished the monarchy, while Americans began their federalist democracy once they drove out the British and gained an independent nation.

In contrast, after World War II many former Asian colonies struggled with settling political values while establishing a nation after dislodging previously dominant imperialist influences. After being liberated from imperialist Japan, Koreans were faced with the problem of establishing a modern national system based on the ideology of liberal democracy for the first time. Democracy was new to Koreans, who only knew that they did not want to return to the monarchy.
Syngman Rhee emerged as a leader for establishing an independent Korean government. He possessed characteristics close to the ideal of a learned person sought by the Confucian tradition, as he had been educated through the United States higher educational system (In, 2011). He had been awakened by Protestant missionaries to the developed modern system of the United States and attempted to implement it by establishing a democratic government in the newly beginning state.

Rhee struggled to keep his faith in liberal democracy while imprisoned for treason in the time of the diminishing Chosŏn (Yi, 2011). While suffering extreme tortures, he completed a manuscript on the future direction of country, in which he first suggested the presidential system modeled after the US. After, he barely escaped with his life to the US where he was trained at the elite educational courses of George Washington, Harvard, and Princeton. He was significantly impacted by Thomas Woodrow Wilson, who was his academic advisor and later became the 28th US president. After earning a doctorate at Princeton, he moved to Hawaii and practiced his ideals as a committed educator by serving immigrated Korean women at the first coeducational school in Korean history.

As president of the provisional Korean government in Shanghai, he adhered to pro-US diplomacy to regain the deprived sovereignty of Korea. As he considered the future of the East Asian colonial power structure, he foresaw that as imperialist Japan extended its influence it would cause conflict with the US. In his thought, colonized Korea would become able to fight against the Japanese occupation by staying with the US side. His diplomacy reached President Roosevelt and the US State Department where he gained their approval of the Korean provisional government. By doing that, in Rhee’s thought, the US would benefit by being better able to defeat imperialist Japan by using Koreans in the war and to deter the Soviet Union’s ambition of occupying the Korean peninsula. As such, Rhee
insisted on keeping the embers of the independence movement alive by moving his base to Washington D.C. This led to conflicts with some nationalists who supported more active armed struggles instead of depending on diplomacy.

Those who opposed Rhee were believers in socialism. The ideology of socialism was introduced into the colonized state in the early 1920s, and rapidly spread and inflamed intellectuals and laborers as the competing ideology with imperialism. Some of the independent activists in northeast China were strongly impacted by socialism and generated ideas about the future of liberated state that conflicted with those of Rhee. That is, their aspirations for national independence were based on their beliefs that a Communist regime would achieve class equality.

In contrast, Rhee believed that a system of liberal democracy would lead to an advanced way of life that the people had not previously been allowed to experience. However, despite Rhee’s active involvement in gathering voices opposing the socialists, the peninsula became divided into two Koreas. This resulted from the desire of the US and European front line countries to maintain the relationship established with the Soviet Union oppose Nazi Germany.

Rhee came to know that the US desired a coalition between left and right in its plan for an independent state in the peninsula. This was confirmed in a meeting with Alger Hiss, who was serving as a leading official in the US State Department and was later revealed to be a Soviet Union spy. Hiss enlightened Rhee about the US government’s position that it would need to negotiate with the Soviet Union about the Korean Peninsula after World War II ended.

In 1943 in Cairo, the independence of Korea became officially determined. However, Rhee was not able to get rid of his suspicions about the real intention of the US. He particularly questioned the line, “in due course Korea shall become free and independent.”
He requested clarification about the definite meaning of and intentions for using the clause, “in due course”, but the US government did not respond. He realized his suspicions were correct from newspaper articles reporting President Roosevelt’s intention of trusteeship. This was later confirmed by Cordell Hull, then Secretary of State, in his memoirs.

Confronted with this unfavorable situation, Rhee expressed his intention to participate in the United Nations Conference on International Organization in San Francisco in April, 1945, but he was not allowed to attend. Despite the left-right coalition prevailing and being approved by the US Senate, Rhee proceeded in his lonely struggles to establish an independent liberal government in the peninsula.

In the North, Stalin’s ambition was going to come true as he secretly manipulated the North to set up a Communist regime as the first step to communize the whole peninsula. Though he did not officially express his intention, a provisionary peoples’ council was already set and undertook Communist reforms regarding currency and land matters. While proceeding with such secretive steps, the Soviet Union officially negotiated with the US to establish an independent Korean government. By doing this, it aimed to shift the entire blame about the coming North-South division on the South and the US.

Concerned about the situation, Rhee attempted to return to his liberated country but was impeded for two months by proponents of the left-right coalition due to his opposition.

The US government had set the goal of establishing a Korean government as soon as possible and pulling out its troops, for which it needed the consent of the Soviet Union. The final decision to establish the coalition government under the trusteeship of the United States, the United Kingdom, China, and the Soviet Union came by the end of December, 1945 in Moscow. Opposing to this measure, Rhee fired up public resistance by delivering speeches across the country. He asserted that the trusteeship would lead to a tragic end in which the
country would succumb to the Communists and the Soviet Union. In Chŏngŭp, Rhee argued that the south should not postpone establishing an independent liberal government any longer and should, ultimately, drive out the influences of Soviet Union from the peninsula.

In 1946, Rhee flew to Washington D.C. with the assistance of MacArthur in Japan and gathered some Americans who would assist him with his mission. The collaborating individuals were Robert T. Oliver, Jay Jerome, Williams, John W. Staggers, Frederick Brown Harris, and Preston Goodfellow (Oliver, 2002). They submitted to the US State Department a proposal for an election across both the North and South. The State Department officials did not accept their suggestion, except for John Hilldring, Assistant Secretary.

However, the US the public became favorable for Rhee, concerned with the Soviet Union’s extension to East Asia and Europe. In response, George Marshall, Secretary of State, led a council in 1947 to discussing the peninsula matters and seeking alternatives to the proposed trusteeship. Three months later, the United Nations finally announced that an election for establishing a government in the peninsula would be held in Seoul. In January 1948, the UN election supervisors arrived in Seoul but the Soviet Union and North persistently refused to participate, so the election was not carried out.

The election was finally held on May 10th, 1948, but only in South Korea. With extremely high voter turnout, Rhee’s party gained the most seats and he became president.

When approaching Korean unification matters, it is critical to inquire into how they impact universal values like freedom and human rights. If these values are sacrificed to achieve unification, then little of value would be achieved. Rhee’s resolution has been highly commended as he tenaciously opposed Communism and protected the values of freedom as the ultimate goal of unification.

The newly established South Korean government enacted the Education Act in 1949,
which included Articles that mandated the provision of special education to school aged children with disabilities. Congress enforced Article No. 144 that mandated establishing special education schools in Seoul and other major cities. These special education services were also provided through community centers and other available resources.

By the time the government was established, many children with disabilities had been placed in private schools in which American missionaries had provided educational and medical services. Thus the government first began with building up schools for these children. Large cities accommodated private schools for blind students, including Seoul, Taegu, Pusan, Suwŏn, and Kwangju (Kim, 2004).

Moreover, some of these schools met the demand for training special education teachers. The Seoul National School for the Blind and the School for the Deaf provided a 3-year higher education training for pre-service special education teachers. In 1961, Taegu University was the first to establish a department of special education (Kim, 2004). However, only a few special education programs were built through the 1960s as the country was growing. The efforts of many professionals contributed to forming the special education system, based on what they learned about special education philosophy from developed countries. In the meantime, the government mainly focused on meeting the goals of compulsory education for all school aged children but special education was not yet mandated at the national level.

80The Education Act of 1962 (Act No. 806), Article No. 143.
81“At least one special school should be established in Seoul, a city under the direct control of the central government (a.k.a. Chikhalsi), and in each province” (The Education Act of 1962, Article No. 144).
82The Education Act of 1962, Article No.145.
83Yi Tae-yŏng was one of the professionals, who established a college in which students were trained to develop expertise in special education and contributed to the enactment of the Act on the Promotion of Education for the Handicapped. Yi stated that “every child with disability should be able to receive education as the same as a right to life (Kim, 2004).
The Korean War, 1950-1953

On June 25, 1950, the North Korean army invaded South Korea as an outcome of tensions that had been rising for a long time. President Rhee had tried to root out Communists left in the country and supported unification of the peninsula by expanding northward. Kim Il-sŏng, leader of North Korea, pressed for withdrawal of the US Armed Forces in South Korea, and as soon as they did so he visited the Soviet Union to obtain weapons.\(^{84}\)

Within three days of being invaded, the South Korean army had to retreat to Pusan until General Douglas MacArthur and UN Forces landed in Inch’ŏn. The alliance of the UN and South Korean army recovered Seoul and the war ended on July 27, 1953 through an unlucky state of truce in the peninsula that remains to this day. Upon the truce, President Rhee requested and signed a mutual defense treaty with the US to cope with any future invasion by the North.

**The 6-Year Compulsory Education Completion Plan (Ŭimŭ kyoyuk wansŏng yukkaenyŏn kyehoek)**

Left with the ashes of war, the government proposed reinforced education plans with the goal of increasing compulsory school attendance rates up to more than 90%. Right after the independence, more than 80% of Korean citizens were not able to read. During the Japanese colonial period only 14% of Koreans had received regular education and only 0.2% of them were college degree holders. It was nearly impossible to practice democracy in a populace

\(^{84}\)On March 5, 1949, upon Kim Il-sŏng’s request, the Soviet Union and North Korea held a secret talk in Moscow. Kim Il-sŏng attempted to convince Stalin of his ability to communize the Korean Peninsula; however, Stalin did not accept the plan immediately. Stalin was not interested in communizing the peninsula. Instead, he wanted to use the Korean War as a chance to take advantage of the fight between the USA and China in the Far East while the Soviet Union would extend influences over Europe. A few month after the outbreak of war, in his letter to Gottwald, he confessed that he had intended to “give the American government a free hand” to intervene in the Korean War and struggle with the large armed forces of China which would “provide the time necessary to strengthen socialism in Europe” (Letter from Filipov (Stalin) to Soviet Ambassador in Prague, Conveying message to CSSR leader Klement Gottwald, August 27, 1950). On May 14, 1950, Stalin committed himself approving the north’s invasion of the south through the diplomatic document to Mao Zedong. On May 29, 1950, Kim Il-sŏng conveyed the receipt of arms from the Soviet Union for the invasion.
with such poor educational backgrounds.

Responding to such basic needs of education, in 1949, Congress passed a plan of compulsory education that mandated every child’s elementary education for six years (Yun, Pak, Yu, & Cho, 2012), but this plan was deferred by the Korean War. However, Congress reauthorized the bill with reinforced goals of increasing elementary school attendance rates up to over 90% during the 5-year period from 1954 through 1959. In 1954, the attendance rate was 82.5% and by 1959, more than 96% of all school aged children in the country were attending elementary schools (Table 4-1). The government was able to accomplish the goals by building schools and classrooms, although the pupil counts per classroom were very high compared with the present.

Table 4-1. A 6-Year Compulsory Education Completion Plan and the Outcomes (1954-1959)

<table>
<thead>
<tr>
<th>Year</th>
<th>School age children attendance rates (%)</th>
<th>Numbers of classroom</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>School age children attendance rates (%)</td>
<td>Goal</td>
</tr>
<tr>
<td>1954</td>
<td>88.4</td>
<td>82.5</td>
</tr>
<tr>
<td>1955</td>
<td>91.7</td>
<td>89.5</td>
</tr>
<tr>
<td>1956</td>
<td>93.4</td>
<td>89.9</td>
</tr>
<tr>
<td>1957</td>
<td>95.8</td>
<td>91.9</td>
</tr>
<tr>
<td>1958</td>
<td>96.0</td>
<td>92.5</td>
</tr>
<tr>
<td>1959</td>
<td>96.1</td>
<td>96.4</td>
</tr>
</tbody>
</table>


In 1960s, the percentage numbers steadily rose and reached 98.1% in 1966 and 100% in 1970. All elementary children came to attend a school. Compared with other

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85 Compared with Japanese colonial period, the number of elementary schools increased from 2,834 to 4,620 and school attendance rates increased by 2.6 times compared with 1945. Middle schools reached 1,053 from 97; the number of students increased ten times. High schools and the student numbers respectively increased about three times. College enrolled students reached 97,819, up from 7,819 in the colonial period (Yoon, 2012).
underdeveloped countries, the country accomplished much higher elementary attendance rates. The below table shows that the central government focused on increasing elementary attendance first to promote basic abilities and lower illiterate rates. Middle school attendance rates began rising in the 1980s as did high school attendance rates, although they remained lower than developed countries including North American states (Table 4-2).

Table 4-2. The Percentages of School Attendance by Country and Year

<table>
<thead>
<tr>
<th>Country/Year</th>
<th>60</th>
<th>65</th>
<th>70</th>
<th>75</th>
<th>80</th>
<th>85</th>
<th>90</th>
</tr>
</thead>
<tbody>
<tr>
<td>Korea</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Elementary</td>
<td>94</td>
<td>92</td>
<td>96</td>
<td>99</td>
<td>100</td>
<td>94</td>
<td>100</td>
</tr>
<tr>
<td>Middle</td>
<td>27</td>
<td>31</td>
<td>39</td>
<td>52</td>
<td>89</td>
<td>84</td>
<td>84</td>
</tr>
<tr>
<td>High</td>
<td>4.6</td>
<td>6.2</td>
<td>8.0</td>
<td>10.3</td>
<td>15.8</td>
<td>34.2</td>
<td>39.7</td>
</tr>
<tr>
<td>Total World</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Elementary</td>
<td>59.1</td>
<td>66.5</td>
<td>65.4</td>
<td>70.7</td>
<td>73.5</td>
<td>77.1</td>
<td>79.0</td>
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<tr>
<td>Middle</td>
<td>44.4</td>
<td>46.4</td>
<td>45.7</td>
<td>51.3</td>
<td>50.6</td>
<td>51.3</td>
<td>52.9</td>
</tr>
<tr>
<td>High</td>
<td>9.7</td>
<td>12.1</td>
<td>14.8</td>
<td>17.7</td>
<td>19.2</td>
<td>18.2</td>
<td>18.6</td>
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<tr>
<td>Asia (East and Southeast)</td>
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<td></td>
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</tr>
<tr>
<td>Elementary</td>
<td>52.5</td>
<td>60.3</td>
<td>60.6</td>
<td>68.3</td>
<td>70.5</td>
<td>77.2</td>
<td>80.5</td>
</tr>
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Moreover, the country sent many young promising individuals to study abroad. From 1953 through 1966, a total count of 7,398 students went abroad to study, with 86% of them sent to US universities. This was possible as the United States had provided an exchange plan for educational services to the Korean government. This was an achievement that helped found the future development of the newly developing country (Korea Development Institute, 2011).
The compulsory education system enabled all citizens to obtain the opportunity to education, which had been impossible under the class system that had persisted throughout Chosŏn and previously maintained pre-modern societies. Although some educational opportunities were given to common people through Sŏdang education in Chosŏn dynasty this was not in response to public concern about education like the modern compulsory educational system. Sŏdang was established voluntarily by nobles but the curriculum was only limited to reading and morals. Moreover, the culture discouraged common people from learning based upon the ideology of “respect for the officials and disrespect for the people (kwanjŏn minpi)”. Consequently, Sŏdang education declined toward the late Chosŏn dynasty. Through late 19th century, Enlightenment (kaehwa) leaders attempted educational reforms to enable every individual to pursue an educational opportunity like nobles, yet, this was frustrated as the reform leaders came to be labeled traitors and imprisoned.

Although educational opportunities increased after this lethargic dynasty finally fell to become a colony of imperialist Japan, the Japanese colonial education system was entirely focused on creating citizens loyal to Japan. The system also discriminated between classes and backgrounds, and especially between Japanese citizens, who received free education, and Koreans, who had to pay. Specifically, Japan began providing compulsory education to Japanese citizens in 1885. In 1909, this expanded to Japanese people who resided in Korea. In 1910, the Japanese government general in Korea (Chosŏn ch’ongdokpu) authorized all children residing in Korea to receive common school education; however, this educational opportunity was not provided as free compulsory education to Korean children, but only to the citizens of Japan. Therefore, the 6-Year Compulsory Education Plan in 1949 came as the first achievement of equal educational opportunity in Korean history.

During the early years of the South Korean republic, the central government was
focusing on establishing compulsory education and children with disabilities were by and large excluded from an educational opportunity. However, the Korean Constitution enshrines that every citizen has a right to primary education. The Education Act also includes a category of students with disabilities and states that a student with disability can receive education in a special classroom\textsuperscript{86}. However, the number of special education schools increased at a much lower rate than regular schools. In 1967, the number of special schools was only reported to total 25, compared with 470 in Japan, 4,513 in the US, 673 in the UK, 942 in West Germany, and 633 in the Soviet Union (Chŏng, 1967). An insufficient number of special education teachers came as another barrier to providing these children a compulsory elementary education. As such, the central government failed to provide the necessary basis for a comprehensive special education system at that time (Kim, 2004).

In 1962, the total special education expenses only reached 0.32\% of the total of compulsory education expenses (Ibid). Most special schools were run by private funds from foreign aid or religious organizations. This made special schools “serve as the group home for the crippled” (Ibid, p. 10).

The lack of special educational resources and facilities was even more of a problem as the number of persons with disabilities had increased greatly during the Korean War, while the industrialization added even more. For example, in 1970, the total count of people suffering industrial accidents reached 37,520, over 25 times more than the total of 1,489 in 1964 (Chŏng, 1974).

From the early 1960s, facing the lack of appropriate educational services for children with disabilities, professionals and parents of these children began lobbying the government

\textsuperscript{86}The first clause of Article 31 of the Constitution of the Republic of Korea; See also Article 143, Article 144, and Article 145 of the Education Act of 1962.
to pass a special education law. The Korean Association for Special Education and parents of children with disabilities submitted petitions to the government and the educational authorities (Kim, 2001). They were concerned that numerous school-age children with disabilities remained denied education overtly (Kim & Han, 2007). For one thing, many high schools often provided an explicit notice that a candidate with disability would not be accepted. Some school principals even clarified the category of disability for which children with disabilities were discouraged from applying.

The exclusion of children with disabilities in the access to education was shown in the statistics as well. In 1962, the Korean Association for Special Education first surveyed children with visual and hearing impairments for their school participation rates found that only 0.05% of the survey participants had been attending special education schools (Kim, 2004).

The number of children with visual or hearing impairments was estimated based upon international sample data that about 0.16% of children under the age of 18 (12,756,990) would have visual or hearing impairments. The survey also found there were only eight special education schools for blind students and 10 for deaf students, with 679 and 1,078 students, respectively (Kim, 2004). The survey indicated that many children with disabilities had been placed in regular schools, but many had dropped out because of lack of adequate educational services (Chŏng, 1974).

**The Second 5-Year Economic Development Plan, 1967~1971**

The first special education initiative came through President Park Chung Hee’s

87.”The crippled, don’t apply” (Kyŏnghyang sinmun, November 8, 1961); “physical condition is important considering the educational effect” (Kyŏnghyang sinmun, November 3, 1961).

88 The disability category specified as, “who has any defects in arms and legs, who has any traces of hideous appearance, who has an eyesight under 0.1, whose height does not reach to 4.1 feet, who has a barrier to hearing, who has a contagious disease” (Kyŏnghyang sinmun, November 8, 1961).
economic growth program, the Second 5-Year Economic Development Plan of 1967 through 1971. President Park, the second president in the third Republic, struggled to stabilize the country’s economy several economic development projects. Through his first economic development program period, the government was able to accomplish the goals of increasing middle school attendance rates. While President Rhee’s government reached elementary attendance rates at over 90% significantly decreasing the illiteracy rates, the Park administration further focused on the quantity growth in education by seeking increased secondary education opportunities.

Aligned with his second economic development program, the Ministry of Education first implemented the Special Education 5-Year Plan that aimed at increasing children with disabilities’ elementary school attendance rates up to 50%. This came in response to rising requests of expanding the compulsory education opportunities to children with disabilities (Yi, 1995). The detailed requirements are described as follows:

First, following the Education Act, Article No. 144, the Board of Education in each city and province shall sets up the plan of establishing special education classrooms within general education schools and special education schools as part of educational policy to expand the educational opportunity to children with disabilities; second, each city and province shall establish a special education school and gradually will expand special education classrooms instead of special education schools; third, the Board of Education actively encourages children with intellectual disabilities and physical disabilities to enter a school, as continuing to investigate the condition related to educational services for them; fourth, elementary special education is compulsory; as compulsory education years become stretched special education at the middle school level shall become compulsory; fifth, as part of policy to secure the teacher supply for the provision of special education, the number of national and public special school teachers shall increase every year based upon this plan. For teacher supply in private schools, elementary special education schools shall be supplemented by the target count. For middle school and high school levels, 85% of the number prescribed by law shall be secured; sixth, considering the specialty of special education schools, special education finances shall become secured consistently aligned with the school size and regardless of school types, public or private. (Kim,

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89 The Ministry of Education (1967) reported that children with disabilities’ elementary school attendance rates only reached 10.8% at that time.
This special education plan represents the current state of special education services and further suggests the primary task necessary to improve special education services across the country. Although this first meaningful policy attempt to ensure compulsory education for children with disabilities failed to reach the goals within the described years, some new public special education schools were built and private special education schools were also integrated into the public school system (Kim, 2005).

The continuing pursuit of a quantitative growth of education, from the first Republic, led to a policy focus that somewhat overlooked the needs of children with disabilities (Kim, 2004). This led by particular circumstance of the country. The county was very poor as its economy remained as the bottom of world statistics. Thus the country inevitably set the most significant national task to overcome poverty first and put priority on implementing policy focused on economic growth as such special education policy was a little pushed back then (Pak, 1997). This push back was linked to the 50% of individuals with disabilities who were unable to read (Han & O, 2003).

In the beginning of the 1970s, the council of education professionals launched a long-term comprehensive education plan which built an independent section of special education area under the Ministry of Education (Ch’oe, 2003). The council also set the comprehensive goals of special education. This long-term plan set the basis of and guided the future direction for special education policy which focused on, first, identifying potential special education students; second, guiding the way to expand special education services; third, providing the required types of special education and teacher supply (Kim, 2005). This long-term plan served as a base line for the next 5-year period of education plan.

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See the Ministry of Education’s *special education 5-year plan* (Seoul: Ministry of Education, 1967).
The Third 5-Year Economic Development Plan, 1972~1976

Following the requirements in the long-term plan developed by the Ministry of Education in 1969-1970, the Board of Education attempted to expand the educational opportunity for children with disabilities by establishing at least one special education school within each city and province, with a goal of 11 new schools (Ch’oe, 2003; The Ministry of Education, 1966). At the same time, it was promoted that special education classrooms be created in regular schools. By doing this, the regular schools came to serve children with disabilities. This policy decision came from a rigorous finance decision that intended to make the policy work out within the designated amount of educational budget; the idea was that building a special school was much expensive than adding several special education classrooms into regular schools (Yi, 2005). Thus students with disabilities came to attend regular schools despite the separated instructions.

The number of special education classrooms built in elementary schools had risen to 210 across the country by 1974, which made a big progress compared to the beginning of 1962 when there were only 10 special education schools and 85 special education classrooms which had accommodated a total count of 1,343 students with disabilities and 120 special education teachers (Yi, 2005). The numbers steadily increased and, in 1977, reached 51 special education schools, 617 special education classrooms, 7,342 students with disabilities, and 756 special education teachers (Ibid).

The Passage of APEH

Background of the enactment of APEH. On December 31, 1977, President Park passed APEH as a big step up from his continuous plans, which took the initiative to ensure the right to education of all school age children with disabilities. This law served as the basis

91 Only one special education classroom existed in 1971 in South Korea.
for providing special education services across the country and impacted upon ongoing legislative activities for expanded educational opportunities for children with disabilities (Kim & Han, 2007).

By the time when Congress passed the Act, the Constitution had been serving as a main reference sources when seeking a citizen’s right to education92. The Constitution was first enacted on the 12th of July, 1948, replicated by the US, which enshrined an equal right of every citizen protected under the law (Ch’oe, 2003). The equal rights under the laws as prescribed in the Constitution include a free primary education (See the Constitution; Article No. 103 under Chapter No. 7; Article No. 16). The amendment to the Constitution of 1987 included an Article: citizens in the nation shall have a right to be educated equally at their ability93. As such, the Constitution had provided the basis to claim an equal right to education before the passage of the Act in 197794.

However, the clause in the Constitution was also somewhat received by some people as admitting some degree of exclusion of children with disabilities from compulsory education. School principals often received the wording “at their ability” and denied children with disabilities95.

One frequent misunderstanding of it was that a child with disability may be given only a limited access to the educational facility unless the educational facility would provide an appropriate program that meets for the child’s special needs. Thus the clause made children with disabilities’ parents and school authorities question the true meaning of the law by failing to prescribe detailed additional support that a child with disability benefits from in

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92The first clause of Article No. 31 of the Constitution of the Republic of Korea.
93Article No. 16 of the Constitution was amended in 1962 adding “at their ability”.
94Ch’oe, “The deaf are sad” (Tonga ilbo, January 1, 1977); “A girl student with physical disability sued and entered a university” (Kyōnghyang sinmun, January 29, 1981).
95Article No. 16 of the Republic of Korea Constitution.
As well as the Constitution, the Education Act of 1949 provided a legal basis for a child with disability to claim his/her right to education. The Education Act first mandated that all Korean citizens should receive compulsory education through a 6-year period in the elementary school and a 3-year period in the middle school. In 1959, the Rhee government first attempted to authorize an educational service for children with disabilities by a presidential decree (Pak, 1997). The disability categories under this Act included “the blind, the deaf, the mentally handicapped, and others with mental/physical disabilities”.

The government mandated that the Board of Education in each district provide special education services to children with disabilities within those categories at the elementary and middle school levels. Moreover, the Education Act mandated that each Board of Education expand special education facilities. Under the law, at least one special education school had to build within regular schools in large cities including Seoul and Pusan. The amendment to the Education Act in 1963 brought about an increase in the number of special education programs across the country. These special education schools also accommodated an advanced program of high school curriculum for students who had mastered a previous level.

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96 Parents must send their children to elementary and middle schools by this Act. The nation and local government must ensure all necessary facilities and resources to fulfill this Act.
97 Article No. 142 of the Education Act 1962 (Act No. 806).
98 Amendment of the Education Act on November 11, 1963.
99 Article No. 144 of the Education Act of 1962 (Act No. 806).
100 Congress amended the Education Act on February 13, 1981 that children with disabilities receive special education services from kindergarten through high school level. This amendment to the Act came with the amendment to the Act on the Promotion of Education for the Handicapped (Yi, 2005). In 1992, the disability categories became integrated into “persons with disabilities” replacing the previous “persons with physical or mental disabilities”. Furthermore, the government expanded the provision of compulsory education to children with disabilities to high school level.
101 Ibid.
Subsequent amendments of the Education Act increased the number of special education schools and adjusted the purposes of special education. However, the Education Act also contained an Article which was often misguided to limit a child with disability’s access to school. According to this Article, school age children with “deformity/disablement (pulgu)” may be exempted from compulsory education\(^{102}\). This led many school principals to easily deny a child with disability’s access to school.

Professionals and special education advocates pressed the government for the passage of a special education law which would secure an equal education for a child with disability. Responding to such claim, the Ministry of Education explained the true purposes of the Article No. 98 of the Education Act, the Article had not intended to exclude children with disabilities from public education\(^{103}\) although individual schools often implemented admission policy being misguided. The Ministry of Education announced that all parents must send their children to school to perform the compulsory education law and those who refuse to conform to the law shall be punished. Congress suggested that the compulsory education law provided two responsibilities. One is the public responsibility to educate a child at the compulsory school attendance ages which falls to the nation, schools, and parents. The other is the “to be educated” responsibility, which rests with all school age children. However, when Congress enacted this law, the senators proposed that some parents could be exempt if they felt it was difficult for their child with disability to receive school education.

After such announcement by the Ministry of Education, however, individual schools continued denying those children (Han & O, 2003; Yi, 2005). Thus before the enactment of APEH, many children with disabilities had been continuously turned away from an education.

\(^{102}\)Article No. 98 and Article No. 102 of the Education Act of 1962 (Act No. 806).

\(^{103}\)Yi, H. J. in Tonga ilbo, November 19, 1993.
despite the nation’s significant emphasis on education.

*Parents’ activities to ensure their children’s right to education.* In the early 1960s, middle schools and high schools stood firm with admission policy about accepting students by physical exams. This persistently barred numerous children with polio and other physical and intellectual disabilities from school enrollment. Many schools specified the disability categories to ban a child with disability’s admission, which most commonly included polio, visual impairment, hearing impairment, and intellectual disability.\(^{104}\)

Moreover, negative stereotypes against people with disabilities continuously led to the community’s lower expectations of these children. They believed that these individuals would not be making any progress in school.\(^ {105}\) Often some schools announced that a student’s physical disability was not a barrier to his learning but they also required a physical exam at entrance.\(^ {106}\)

Many parents of children with disabilities filed civil appeals against schools’ unequal admission policy in the 1960s and 1970s.\(^ {107}\) Most civil appeals were filed for children with polio that reached over 100,000 in 1967.\(^ {108}\) They were denied an education despite their academic capacity. A female student with polio who was denied a public school and instead entered a private school located far from her place said in a newspaper interview: “I hope to have the word, physical exam, disappear. If not, can’t people like me be exempted from

\(^{104}\) The crippled, don’t apply” (*Kyōnghyang sinmun*, November 8, 1961); “physical condition is important considering the educational effect” (*Kyōnghyang sinmun*, November 3, 1961); “who has any defects in arms and legs, who has any traces of hideous appearance, who has an eyesight under 0.1, whose height does not reach to 4.1 feet, who has a barrier to hearing, who has a contagious disease” (*Kyōnghyang sinmun*, November 8, 1961).

\(^{105}\) Ibid.

\(^{106}\) Ibid.

\(^{107}\) By the mid-1990s, every student who wanted to enter a high school was required to take an entrance exam. The entrance exam consisted of academic exam, interview, and physical exam.

\(^{108}\) The number began decreasing and finally nobody remained with polio in 1984 since the vaccine had been supplied.
From the beginning of the 1970s, parents and professionals became more active than before in struggling to achieve children with disabilities right to education (Kim, 2001). They sent petitions to the government and claimed that the denial of public education was a violation of equal civil rights under the Constitution. In 1972, the Korean Association of Infantile Paralysis and Special Childcare sent petition letters to the president, prime minister, and minister of education110.

Parents sent another petition to the Superintendent of Seoul requesting the acceptance of 631 high school candidates who had been rejected even with high academic test scores111. The president authorized all the students on the petition letters to enter the school as they had wished which resulted in about 3,000 students with polio entering their desired schools112. But even after that, schools’ denials persisted across the country113.

On the 7th of August in 1973, the Ministry of Education announced that students with disabilities shall be exempt from physical exams when they enter a high school or university (Chŏng, 1973). The announcement added a detailed admission process for these students: students with “permanent physical disability including visual impairment and polio” shall attend a process of categorization of disability by doctors beforehand for the exemption (Kyŏnghyang sinmun, 1973).

**The passage of the APEH.** The Korean Society of Special Education proposed that the Ministry of Education improve such “backward” special education policy (Kwŏn, 2004).

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109. "I hope the word, physical exam disappear” (Tonga ilbo, December 6, 1967).
110. "Reconsider the physical exam” (Kyŏnghyang sinmun, January 28, 1972).
111. Ibid.
112. "A blood circulating relief policy action” (Kyŏnghyang sinmun, February 1, 1972).
113. "The de facto restriction of the crippled to to a high school” (Tonga ilbo, August 24, 1971).
The Korean Society of Special Education pointed out that a very small number of children with disabilities had been attending schools (Ibid). By 1975, the nation had already reached a 98% elementary school attendance rate, but only 2.8% of children with disabilities attended a school. Moreover, more than 75% children with disabilities who attended school did so at private special education schools.

Global efforts in ensuring persons with disabilities’ equal right to education also motivated the legislation (Yi, 2003). On December 10, 1948, the Universal Declaration of Human Rights authorized that every human has the right to education. In 1966, the International Covenant on Economic, Social and Cultural Rights proposed that nations ensure children with disabilities’ right to education with an emphasis of school accessibility for these children. In 1971, the Declaration on the Rights of Mentally Retarded Persons stated that persons with intellectual disabilities should receive educational and rehabilitation services to help them become independent members of society (United Nations, 1975). In 1975, the United State Congress passed P.L.94-142 that mandated a FAPE to all children with disabilities (Yi, 2003). Consequently, passage of the APEH was inspired by all these international influences (Ch’oe; 2003; Kang, 2011; Kwŏn, 2004).

The disability categories for eligible students for special education under this special education law include: visual impairment, hearing impairment, mental retardation, physical disability, emotional disability, speech impairment, and other physical and mental disabilities (Yi, 2005). The law mandates that all eligible children within these categories receive special education services from kindergarten through high school. Particularly, in the law, special education is also defined as a remedial education. The law also specifies the arrangement of appropriate teachers and annual provision of teacher training programs.

To conclude, this legislation is meaningful because it is the first to clearly mandate a
South Korean child with disability’s right to public education (Han & O, 2003). Before the legislation, these children were excluded from compulsory public education, even though this violated the Education Act (Article No. 102, No, 103). It was the overall perception formed in the society against these children that barred them benefitting from public education. The APEH shifted the paradigm of discrimination against persons with disabilities in line with the egalitarian beliefs promoted by the Constitution (Han & O, 2003; Kim, 2005).

**Comparison of the FAPE in P.L. 94-142 and APEH**

Although P.L. 94-142 and the APEH were passed only two years apart, the process of their passage evolved differently in the two countries. While P.L. 94-142 came as the result of a chain of court cases by or on behalf of persons with disabilities, court cases did not play a role in passage of the Act on the Promotion of Education for the Handicapped, which instead resulted mainly from legislative activity. I reviewed the language in each of the special education laws and found that they had both similar and dissimilar points in their purpose and in their FAPE language.

**Background of Enactment of P.L. 94-142 in the United States**

At the front of Public Law 94-142, the purpose of this law is written as follows:

“To amend the Education of the Handicapped Act to provide educational assistance to all handicapped children, and for other purposes” \(^{114}\)

Congress’s findings suggested the need for the legislation as follows:

1. There are more than 8 million handicapped children in the United States today; (2) the special educational needs of such children are not being fully met; (3) more than half of the handicapped children in the United States do not receive appropriate educational services which would enable them to have full equality of opportunity; (4) one million of the handicapped children in the United States are excluded entirely from the public school system and will not go through the educational process with their peers; (5) there are many handicapped children throughout the United States participating in regular school programs whose handicaps prevent them from having a

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\(^{114}\)Education for All Handicapped Children Act of 1975. (P.L. 94-142).
successful educational experience because their handicaps are undetected; (6) because of the lack of adequate services within the public school system, families are often forced to find services outside the public school system, often at great distance from their residence and at their own expense; (7) developments in the training of teachers and in diagnostic and instructional procedures and methods have advanced to the point that, given appropriate funding, State and local educational agencies can and will provide effective special education and related services to meet the needs of handicapped children; State and local educational agencies have a responsibility to provide education for all handicapped children, but present financial resources are inadequate to meet the special educational needs of handicapped children; and (9) it is in the national interest that the federal government assist State and local efforts to provide programs to meet the educational needs of handicapped children in order to assure equal protection of the law.\textsuperscript{115}

**Purposes of P.L. 94-142**

The four purposes of this law are given as follows:

First, “to assure that all handicapped children have available to them, ..., a free appropriate public education which emphasized special education and related services designed to meet their unique needs; second, to assure that the rights of handicapped children and their parents or guardians are protected; third, to assist State and localities to provide for the education of all handicapped children; and finally, to assess and assure the effectiveness of efforts to educate handicapped children.”\textsuperscript{116}

FAPE was defined more specifically as “special education and related services” which meet the following conditions: “(a) provided at public expense, public supervision and direction, and without charge; (b) meeting the standards of State educational agency; (c) include appropriate preschool, elementary, or secondary school level education; and (d) provided within the individualized education program.”\textsuperscript{117}

**Background of Enactment of APEH in South Korea**

At the 16th Munkyo kongbo wiwŏnhoe\textsuperscript{118} held on December 7, 1977, Hwang Sandŏk, the Minister of Education, enunciated the essentials of this bill as follows:

\textsuperscript{115}Ibid, 20 USC 1401
\textsuperscript{116}Ibid.
\textsuperscript{117}Ibid.
\textsuperscript{118}Munkyo kongbo wiwŏnhoe was the National Assembly of Korea, Educational and Public Affairs Committee that deliberated the bills and affairs proposed by the Ministry of Education, the Ministry of Culture and Public Information, and the Ministry of Sports.
With this bill (APEH), the nation and local governments shall be imposed the duty of establishing the special education comprehensive plan and vocational training services, persons with disabilities entering national or public special education schools or private special education schools shall receive free education, private special education expenses shall be assisted within the national and local governments’ budgets, principals of schools shall provide free education and scholarships and individual guidance, at special education schools established vocational guidance facilities, disadvantages to students with special needs on their entrance or academic administration by school principals shall be prohibited 119.

The need of special education services has been defined as follows:

The number of children at ages between 6 and 8 are 11,850,000 and 20% of them are estimated as special needs children. About 1,000,000 children with special needs are placed in regular schools, whose handicaps prevent them from having successful educational experiences, only 0.68% of students with disabilities benefit from special education programs … this indicates that a significant number of children with special needs are abandoned not benefiting from the right to be educated as constitutionally guaranteed…120.

Purposes of APEH

The purpose of enacting this Act is given in Article #1 as follows:

To promote special education services for persons with disabilities including visual and hearing impairments and provide education on the knowledge and skills that are necessary for their life and help them contribute to social life121.

The institution of special education was defined as “special education schools or special education classes in which special needs children receive education at the Kindergarten, elementary school, middle school, and high school levels”122. Children with special needs would receive free education123. Major goals of the legislation included first, establishing special education schools at each province that was described in the education Act, second, training special education teachers actively, and third, active national financial

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119 The 98th National Assembly of Korea, Educational and Public Affairs Committee records (the 16th). The bill on the Promotion of Education for the Handicapped, December 7, 1977, 11: 57am.
120 Ibid.
121 Ibid., Article #1, Purpose.
122 Ibid., Article #2, definition of terms, #2.
123 Ibid., Article #5.
assistance.

**Comparison 1: The Need of Special Education as Compulsory Education in the USA and South Korea**

In each special education law, the educational needs of children with disabilities were significantly highlighted. In both countries, children with disabilities had not been fully benefitting from public education before the laws passed. Both laws were initiated to address urgent national problems in the equality of education for large numbers of children with disabilities. In the USA, there were over “8 million handicapped children” around 1975, of whom about a million had been excluded from public education. In South Korea, 20% of children between 6 and 8 years old were estimated having a disability.

Legislators in the USA and South Korea proposed that children with disabilities need special education aligned with their disability which had impaired their educational activity in regular educational programs. In the USA, because of the “lack of adequate services” within public education, families of children with disabilities sought educational services outside of public education which often caused them economic disadvantages compared with non-disabled children. The lack of appropriate educational programs for a child with disability led many children with disabilities and their families to spending extra money on their own education, indicating that many children with disabilities were not benefitting from free compulsory education with their non-disabled peers.

In South Korea, legislators indicated that children with disabilities needed special education aligned with the category of disability. Only 0.68% of children with special needs were estimated having benefitted from special education programs. Lack of free appropriate education for children with disabilities in both countries was the main national concern as both countries pursued the equal right to education as protected under the laws.
Comparison 2: The FAPE language

While both legislations were initiated from the needs of including children with disabilities in public education, I also found that there were significant differences in the language in the laws regarding the free appropriate public education (FAPE). Each Act was born with the FAPE principles of free, appropriate, and mandatory education. Both P.L. 94-142 and the APEH clearly state the purpose of legislation as the provision of free public education, but language used appears to indicate some different viewpoints. In the statement of the purpose section of P.L. 94-142, the act was enacted “to assure that all handicapped children have available to them, ..., a free appropriate public education which emphasized special education and related services designed to meet their unique needs; second, to assure that the rights of handicapped children and their parents or guardians are protected; third, to assist State and localities to provide for the education of all handicapped children; and finally, to assess and assure the effectiveness of efforts to educate handicapped children”124.

Thus this Act mandates that the provision of FAPE shall meet the unique needs of students with disabilities. It emphasizes the “rights” of children with disabilities and their parents and the State educational agency’s responsibility to provide FAPE. The Act also stresses that children with disabilities shall have full equality of an educational opportunity by closing the purpose section with requirements for assuring the effectiveness special education and related services. Thus the FAPE language in P.L. 94-142 appears to be focused ultimately on ensuring the right to full equality in education for children with disabilities.

The purpose of the APEH (Article #1) is described as “to promote special education services for persons with disabilities including visual and hearing impairments and provide education on the knowledge and skills that are necessary for their life and help them

124 Ibid, 20 USC 1401.
contribute to social life”\textsuperscript{125}. Specifically, the purpose consists of, first, for whom, second, for what, and finally, to what end. This Article demonstrates that the legislators then believed that persons with disabilities should be able to contribute to their social life with knowledge and skills gained from special education programs. Compared with the statement of purpose in P.L. 94-142 which emphasizes the right to equality in educational opportunity, APEH purposes appears to focus on the ultimately desired outcomes when persons with disabilities gain the right to public education.

This different emphasis regarding FAPE in the two laws has also been detailed in the definition of terms section. P.L. 94-142 described special education and related services as meeting the following conditions: (a) provided at public expense, public supervision and direction, and without charge; (b) meeting the standards of the State educational agency; (c) include appropriate preschool, elementary, or secondary school level education; and (d) provided according to the individualized education program. The two main elements in FAPE, free expense as public education and appropriate educational programs in P.L. 94-142, appear to match with Article #5 of the APEH where it states: “students entering national or public special education institutions or private special education institutions within the compulsory education levels shall receive free education”\textsuperscript{126}.

Nevertheless, while P.L. 94-142 states that students with disabilities shall meet educational goals within the appropriate level of curriculum and individualized programs, APEH appears to have focused on the identification of types of disability and provision of appropriate supporting aids and services instead. In Article #2 in this Act, special education has been defined as the provision of education and/or correction and vocational guidance to

\textsuperscript{125}The 98th National Assembly of Korea, plenary session records appendix (the 22nd), December 9, 1977, the bill on the Promotion of Education for the Handicapped, Article # 1, Purpose.

\textsuperscript{126}Ibid., Article #5.
“students with special needs” using braille and assisting devices. Thus by this definition, children with disabilities who have been identified within the disability category shall have the right to be educated in special education institutions as “children with special needs”. Here special education institution has been defined as special education schools or special education classes in which special needs children receive education at the kindergarten through high school levels. Compared with P.L. 94-142, this law was initiated to provide special education to children with special needs with appropriate services for their disability whether or not these children were placed in the regular classroom.

The APEH thus appears to take significantly different approach to an equal educational opportunity from P.L. 94-142, in which FAPE prescribes the LRE, the highest possible level of inclusion, as follows:

Handicapped children are educated with non-handicapped children including public or private institutions or other facilities, separate classes or schooling or other removal of handicapped children from regular education occurs only when education in regular classes cannot even achieve with the use of supplementary aids or services because of the nature or severity of the handicap… 127.

The right of children with disabilities to the LRE is protected in the procedural safeguards section as follows:

Whenever a complaint is received, parents of children with disabilities have an impartial due process hearing… shall have the right to bring a civil action, which action may be brought in any state court of competent jurisdiction or in a district court of the United States regardless of the amount in controversy. During the pendency of any proceedings, the child shall remain in the current educational placement, if applying for initial admission to a public school, the child shall be placed in the public school program until all such proceedings have been completed 128.

APEH also includes an Article on separation of children with disabilities from those without disabilities however it still opens the possibility of being misguided by the language


as follows:

When a student with special needs desire to enter a school, the principal of school shall not take a disadvantageous measure to the student such as rejection of application or denial of entrance because the student is with special needs. However, the principal may make an exception for a case in which the principal have obtained the supervisory agency’s approval.129

This Article therefore allows a school principal to ask for an exception to remove a child with disability to another educational setting considered better for meeting the child’s special needs. However, APEH does not specify criteria to ensure LRE or to provide parents with procedural safeguards to contest a placement.

My investigation found that APEH included vocational guidance as part of special education programs and education, with the language focused on the correction of disability as well as the provision of education. However, there was concern expressed during legislators’ discussion at the National Assembly that financial constraints would not allow APEH to reach its goals. For example, at the beginning of the 16th Munkyo kongbo wiwŏnhoe meeting, Assembly member Kim Ŭn-dal remarked:

Though it appears to be late as the public has risen on the need of special education, however, considering the nation’s educational financial circumstances and social conditions or educational agents’ skills and abilities, it is concerned that this bill would end up a mere scrap of paper without a practical application.130

In addition to concerns about the capacity of the national economy and development status to support special education, legislators were also worried about parents’ response to the new special education policy. Legislators indicated that many parents had not been in favor of sending their children to special education classes or special education schools.

129The 98th National Assembly of Korea, plenary session records appendix 1 (the 22nd), December 9, 1977, the bill on the Promotion of Education for the Handicapped, p. 14, Article # 10.
130The 98th National Assembly of Korea, Educational and Public Affairs Committee records (the 16th), December 7, 1977, 11: 57am.
Moreover, as special education policy then was about to be initiated for the first time in the Korean educational system, establishing all the basic resources including special education professionals and knowledge base on the area was seen as a major challenge, as indicated in the following discussion:

Worldwide statistics tells that 1% of newborn baby are born with intellectual disability. 3% in the United States, 3.4% in Canada, and 2.8% in Japan… When a professional asked a child with intellectual disability’s parents, 70% of the parents answered that they thought they should take good care of their children but what they were most worried about was what happened to their children after they died. So they answered, they hoped their children received vocational trainings… It may be difficult to correct this disability completely but early detection would ease it. So early education is important but the problem is currently we have no early special education teachers. The most urgent matter is to train elementary special education teachers 131.

Thus the “correction of disability” was indicated as an important purpose of provision of special education serviced and the language in the law was more focused on that end.

The comparison of the FAPE language in P.L. 94-142 and APEH is given in Table 4-3.

Table 4-3. The Comparison of FAPE in USA and South Korea in the Laws

<table>
<thead>
<tr>
<th>Background</th>
<th>USA – P.L. 94-142</th>
<th>South Korea – APEH</th>
</tr>
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<tbody>
<tr>
<td>FAPE</td>
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<tr>
<td>USA</td>
<td>There are more than 8 million handicapped children in the United States today; (2) the special educational needs of such children are not being fully met; (3) more than half of the handicapped children in the United States do not receive appropriate educational services…; (4) one million of the handicapped children in the United States are excluded entirely from the public school system and will not go through the educational process with their peers; …</td>
<td>The number of children at ages between 6 and 8 are 11,850,000 and 20% of them are estimated as children with special needs. Currently there are 7,301 students with severe disabilities and 7,013 students with mild disabilities receiving special education, this number (a total of 14,314) is only 0.68% of the total number of students with special needs.</td>
</tr>
<tr>
<td>South Korea</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

131Ibid.
The need of appropriate special education for special needs children

(5) there are many handicapped children throughout the United States participating in regular school programs whose handicaps prevent them from having a successful educational experience because their handicaps are undetected; (6) because of the lack of adequate services within the public school system, families are often forced to find services outside the public school system, often at great distance from their residence and at their own expense.

The need of Mandatory (compulsory) education

(9) it is in the national interest that the federal government assist State and local efforts to provide programs to meet the educational needs of handicapped children in order to assure equal protection of the law.

Outcomes

Provision of FAPE (Purpose of the law)

…to assure that all handicapped children have available to them, …, a free appropriate public education which emphasized special education and related services designed to meet their unique needs; second, to assure that the rights of handicapped children and their parents or guardians are protected; third, to assist State and localities to provide for the education of all handicapped children; and finally, to assess and assure the effectiveness of efforts to educate handicapped children.

Definition of FAPE

Special education and related services which meet the following conditions; (a) provided at public expense, public supervision and direction, and without charge; (b) meeting the standards of State educational agency; (c) include appropriate preschool, elementary, or secondary school level education; and (d) provided within the individualized education program.

About 1,000,000 children with special needs are placed in regular schools, whose handicaps prevent them from having successful educational experiences. only 0.68% of students with special needs benefit from special education programs …

This indicates that a significant number of children with special needs are abandoned not benefiting from the right to be educated as constitutionally guaranteed…

…to promote special education services for persons with disabilities including visual and hearing impairments and provide education on the knowledge and skills that are necessary for their life and help them contribute to social life.

Students entering national or public special education institutions or private special education institutions within the compulsory education levels shall receive free education.
Comparison 3: Procedural Safeguards

While analyzing the language in P.L. 94-142 in more detail, I also found that this law takes a very different approach from APEH in that it provides several layers to protect the right to education of children with disabilities. The latter part of P.L. 94-142 is mainly written about what individual students with their parents and educational agency shall do to secure their right to education. The procedural safeguards include: first, examination of records that have been used for identifying and evaluating a child with disability, placing the child, and providing the child with a FAPE; and second, a child with disability can go through a hearing as related to his/her complaints about the educational program, with the hearing to be impartial and be supported by evidence.
When any party, either the educational agency or a child with disability, does not accept a decision made in the hearing, they “shall have the right to bring a civil action.” Moreover, the child, while involved with a proceeding, shall also remain in the educational environment in which the child has been then placed or the school to which the child initially has applied for as a public school program. The procedural safeguards continue on into the description of Commissioner’s responsibilities with respect to securing a child with disability’s right to FAPE. When the Commissioner finds any failure in compliance with provision of FAPE to a child with disability, such as when the State educational plan does not conform to the requirements in the FAPE process, the Commissioner shall withhold further payments to the State educational agency. These clauses reinforce that FAPE is not an option but a mandatory for a child with disability.

In APEH, it is described that a school principal shall not deny or cause any disadvantage to a child with disability because of the students’ special needs. However, the Act also adds an exception that allows a principal to obtain an approval from the educational authority. In contrast to P.L. 94-142 in which several layers of safeguards are given to ensure FAPE and LRE, APEH provides safeguards for a school authority’s to avoid these principles.

On the other hand, P.L. 94-142 provides a child with disability and his/her parents’ right to review the child’s records about evaluation before the child’s placement is changed. The law provides guidelines for the child and parents to take the school to the court when they feel their right to education has been violated. The process and approaches parents can take are specifically given within the language of the law.

**Why is the FAPE Language Different between the USA and South Korea? Part 1: In-

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Depth Investigation of Closely Impacting Events and People Over the Previous 5 Years in the USA

From the findings of differences in the FAPE language in both Acts, I further reviewed the process of how the laws evolved in the two different countries. As P.L. 94-142 appears to have taken the “right” focused approach, I first reviewed events and people that had impacted upon the evolution of FAPE in the 5 years prior to the legislation. I found that there had been two main court decisions related to the legislation, which were PARC and Mills.

Mentally Retarded Children not Accepted in Schools in the Early 1990s in Pennsylvania

With Samuel Gridley Howe’s justification of the establishment of public schools for “idiots” in 1847 (Trent, 1994), specialized institutions for persons with intellectual disabilities became dominant across the States. However, the inferiority of the facilities, with serious problems including lack of funding and overcrowding, soon led to them becoming nothing more than custodial warehouses (Ferguson, 1994).

In parallel with such national circumstances, Pennsylvania founded residential schools for children with intellectual disabilities. In 1893, the first publicly run institution housed numerous “feeble-minded” individuals. The second institution was Eastern Pennsylvania State Institution for the Feeble-Minded and Epileptics. These two state institutions housed over 3,000 individuals, which exceeded the originally expected number by about four times. Moreover, these schools became mainly custodial institutions with few educational programs. Pennsylvania’s Governor investigated these schools and deplored the condition of them, as so lacking in humaneness as to be almost unbelievable in a great civilized Commonwealth (Ben-Moshe, Chapman, & Carey, 2014).
On October 17, 1949, a group of frustrated parents formed the Pennsylvania Association for Retarded and Handicapped Children (PARC). PARC actively built parents’ devotion to improve the condition of state facilities for children with intellectual disabilities who had been completely excluded from the school system. Activities included sending cards to residents at the three institutions of Polk, Pennhurst, and Laurelton.

In 1954, Pennsylvania passed legislation which prescribed the permission of public school education to children with intellectual disabilities. Two years later, an act was passed and mandated that all children with intellectual disabilities in the Pennsylvania Commonwealth shall receive public education.

The increased awareness of making better social improvements in the 1960s included raising issues about individuals with intellectual disabilities. In 1960, the federal government passed a bill in advocacy of helping individuals with disabilities to be able to live independently. This bill focused on assisting the states to improve rehabilitation services for persons with disabilities. In the mid-1960s, Associations for Retarded Children (ARCs) were established nationwide and initiated deinstitutionalization of children with intellectual disabilities.

Pennsylvania Association for Retarded Citizens (PARC) v. Commonwealth of Pennsylvania

In 1969, Attorney Thomas K. Gilhool began preparing litigation by PARC.

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133 The purpose of PARC was as followings: “to obtain the necessary legislation for the establishment, construction and maintenance at the public expense for free public schools and free institutions in the cities, towns, boroughs and villages, and to be staffed by teachers, instructors, physicians, psychiatrists, psychologists, neurologists, or any other person licensed by the Commonwealth of Pennsylvania to practice any of the medical professions, as well as nurses and other persons especially trained for the purpose of aiding, guiding, instructing, treating and rehabilitating children who are mentally retarded, blind, crippled, deaf, the victims of cerebral palsy, and who may be afflicted in some such similar manner regardless of their race, creed, color or national origin. After the legislation aforementioned is obtained and implemented, to aid such schools and institutions as far as possible.” (ARC Pennsylvania Historical Overview, 1)
Background is provided by Gilhool’s interview by the Institute on Disabilities at Temple University on September 28, 2011. He said the case was initiated when Jim Wilson, the President of the Pennsylvania ARC and Dennis Haggerty, Chair of the ARC’s Residential Services Committee, approached him with concerns about “feeble minded” individuals who were completely segregated from society. Gilhool said that Pennhurst, Pennsylvania’s flagship institution, was just founded “to segregate people”\textsuperscript{134}. When the Residential Services Committee conducted an investigation of conditions at Pennhurst, it found that the conditions in which people with intellectual disabilities were abandoned were “nasty, brutish, and short”. They therefore determined to take legal action to close Pennhurst.

At that time, many thousands of school aged children with disabilities were sent to institutions like Pennhurst, without any consideration of education. They were deemed ill and uneducable and segregation of them was regarded an appropriate measure for them. Around that time in the USA, the Supreme Court’s Brown v. Board of Education decision that segregated education is unconstitutional also opened possibilities for children with disabilities’ right to education. In Pennsylvania, it turned out that about 14,300 children with intellectual disabilities were excluded from public education (Gilhool, 1976).

The goal of the litigation was closing Pennhurst, which housed a large number of school aged children\textsuperscript{135}. For families of children with disabilities, however, it was a difficult decision to take because they depended on services provided by Pennhurst. Gilhool also

\textsuperscript{134}“They didn’t say people with disabilities, or people with developmental disabilities, or anything like that. It was to segregate the ‘idiots’, ‘imbeciles’, uh, and ‘feeble minded’ - the ‘feeble-minded’ word was all over the legislation, and as well the ‘epileptics’ and the ‘palsied’, uh to segregate, explicitly, its objective the institution was created” (Visionary Voices, Institute on Disabilities, Temple University, Chapter 2” PARC Approaches Gilhool)

\textsuperscript{135}“Well that’s the time when children as everyone with experience with children knows, begin to reach out to try to take control of their world, and shape it themselves, and most children, of course, and their families, had, schools also (laughs) as well as families, but retarded children and other disabled children did not have schools, and, um, indeed, there was nothing of much use to families in the community” (Ibid).
described the culture in the United States as follows:

Litigation in the United States is frequently regarded as kind of declaration of war on the uh, by one party on another … it’s not understood to be that, uh, in the world of commercial litigation, but in the public world it’s often felt to be that.\textsuperscript{136}

From these backgrounds, PARC brought a civil rights case as class action with parents of 13 children with intellectual disabilities between the ages 6 and 21 on behalf of all children who had been excluded from public education in the Commonwealth of Pennsylvania. All these plaintiffs were stipulated as being entirely excluded from all public education programs. The defendants were the Commonwealth of Pennsylvania, Secretary of Welfare, State Board of Education and 13 individual school districts.

**State Statutes on Exclusion of Children with Intellectual Disabilities**

Although Pennsylvania law had provisions for the appropriate education of exceptional children, it also included statutes that had been used to exclude children with intellectual disabilities. The Consent Agreement approved by the court on February 2, 1972 began with defining the presented case as “unconstitutionally of certain Pennsylvania statutes and practices under the Equal Protection Clauses of the Fourteenth Amendment.”\textsuperscript{137} The complaints by plaintiffs were based upon these State statutes. The segregating statutes are as follows:

Admission of beginners. … The board of school directors may refuse to accept or retain beginners who have not attained a mental age of 5 years, as determined by the supervisor of special education or a properly certificated public school psychologist in accordance with standards prescribed by the State Board of Education…\textsuperscript{138}

Definitions. The term ‘compulsory school age’, as hereinafter used, shall mean the period of a child’s life from the time the child’s parents elect to have the child enter

\textsuperscript{136}Ibid.


\textsuperscript{138}Ibid., III, Section 1304.
school, which shall be not later than at the age of 8 years, until the age of 17 years.\textsuperscript{139}.

Exceptions to compulsory attendance. The provisions of this act requiring regular attendance shall not apply to any child who: . . . Has been examined by an approved mental clinic or by a person certificated as a public school psychologist or psychological examiner, and has been found to be unable to profit from further public school attendance, and who has been reported to the board of school directors and excused, in accordance with regulations prescribed by the State Board of Education; . . .\textsuperscript{140},

Uneducable children provided for by Department of Public Welfare. The State Board of Education shall establish standards for temporary or permanent exclusion from the public school of children who are found to be uneducable and untrainable in the public schools. Any child who is reported by a person who is certificated as a public school psychologist as being uneducable and untrainable in the public schools, may be reported by the board of school directors to the Superintendent of Public Instruction and when approved by him, in accordance with the standards of the State Board of Education, shall be certified to the Department of Public Welfare as a child who is uneducable and untrainable in the public schools. When a child is thus certified, the public schools shall be relieved of the obligation of providing education or training for such child. The Department of Public Welfare shall thereupon arrange for the care, training and supervision of such child in a manner not inconsistent with the laws governing mentally defective individuals.\textsuperscript{141}

Plaintiffs claimed that the two provisions of Section 1304(2) and 1375 violated equal protection under law as the statutes appeared to bear some assumption that children with intellectual disabilities were uneducable and untrainable. Moreover, the two statutes breached due process as no explanation was attached about the provision of notice or hearing before a child with intellectual disability is removed from public education. Furthermore, by violating due process, the sections denied these children’s right to education which had been already authorized in the Pennsylvania Constitution and Commonwealth laws. The court’s language supports plaintiffs’ claim as follows:

Counsel for the plaintiffs asserts in his Memorandum in Support of Plaintiff’s Motion to Convene a Three Judge Court that the right to an education, once given, constitutes a fundamental right, and therefore the defendants must show a compelling state

\textsuperscript{139}Ibid., Section 1326.
\textsuperscript{140}Ibid., Section 1330 (2).
\textsuperscript{141}Ibid., Section 1375.
interest in order to lawfully exclude retarded children…

This is paralleled with the language in the Brown case as follows:

Education is required in the performance of our most basic public responsibilities. It is the very foundation of good citizenship. It is a principal instrument for awakening the child to cultural values, in preparing him for later training.

Plaintiffs also claimed that sections 1326 (compulsory school age) and 1330 (exception of compulsory attendance) had omitted due process or a prior hearing and equal protection.

On October 7, 1971, the court approved the Consent Agreement between the plaintiffs and the defendants, which ceased applying the above four statutes. The Consent Agreement provided some significant changes in the unequal clauses as shown in the Table 4-4.

Table 4-4. Changes in the language in Pennsylvania Consent Agreement

<table>
<thead>
<tr>
<th>Section</th>
<th>Original Language</th>
<th>Modified Language</th>
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<tbody>
<tr>
<td>1304</td>
<td>“The board of school directors may refuse to accept or retain beginners who have not attained a mental age of 5 years, ....”</td>
<td>“…that they shall cease and desist from applying Section 1304 so as to postpone or in any way to deny access to a free public program of education and training to any mentally retarded child.”</td>
</tr>
<tr>
<td>1326</td>
<td>“The term ‘compulsory school age, … mean the period of a child’s life from the time the child’s parents elect to have the child enter school, which shall be not later than at the age of 8 years, until the age of 17 years”</td>
<td>“…they shall cease and desist from applying Section 1326 so as to postpone, to terminate, or in any way to deny access to a free public program of education and training to any mentally retarded child.”</td>
</tr>
<tr>
<td>1330(2)</td>
<td>“Exceptions to compulsory attendance. The provision of this action requiring attendance shall not apply to any child who: … Has been examined by an approved mental clinic or by a person certified as a public school psychologist or psychological examiner,….”</td>
<td>“…they shall cease and desist from applying Section 1330(2) so as to postpone, to terminate, or in any way to deny access to a free public program of education and training to any mentally retarded child.”</td>
</tr>
<tr>
<td>1375</td>
<td>“Uneducable children provided for by Department of Public Welfare. The State Board of Education shall establish standards for temporary or permanent exclusion from the public school of children who are found”</td>
<td>“…they shall cease and desist from applying Section 1375 so as to postpone, to terminate, or in any way to deny access to a free public program of education and training to any mentally retarded child.”</td>
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</tbody>
</table>


The court also ordered that the defendants shall immediately re-evaluate all the presented plaintiffs and provide them access to free public educational program and training that is appropriate to their capacities as soon as possible. The court designated the final date of the order’s practice as October 13, 1971, six days after the day court’s decision was made. Moreover, the court held that not only the named plaintiffs but also every individual with intellectual disability aged between 6 and 21 within the Commonwealth of Pennsylvania shall have access to free public education by the final date of September 1, 1972. Moreover, a child with intellectual disability within pre-school education ages, whenever required, would receive free public education appropriate to his/her capacity (Gilhool, 1976).

**Similarity in the Language between PARC and P.L. 94-142**

By the court’s order, the Commonwealth of Pennsylvania may not deny any child with intellectual disability access to FAPE. The court ordered: first, FAPE be provided to a child with disability; second, FAPE be given as appropriate to the child’s learning capacity and general educational settings. The appropriateness of FAPE was specifically defined as a child with intellectual disability preferably placed in the regular school classroom. To ensure this FAPE opportunity for a child with intellectual disability, the court also included safeguards to prevent the plaintiffs from being denied access to FAPE. This language is actually paralleled in P.L. 94-142. Both PARC and P.L. 94-142 provide that a child with disability shall have the opportunity for a hearing before any changes will be made in his/her educational program. The two laws are compared as follows:
No Child of school age who is mentally retarded … shall be subject to a change in educational status without first being accorded notice and the opportunity of a due process hearing as hereinafter prescribed. This provision shall also apply to any child who has never had an educational assignment.\textsuperscript{145}

…there are public hearings, adequate notice of such hearings, and an opportunity for comment available to the general public prior to adoption of the policies, programs, and procedures required pursuant to the provisions…\textsuperscript{146}; …final action with respect to any application submitted by a local educational agency or an intermediate educational unit shall not be taken without first affording the local educational agency or intermediate educational unit involved reasonable notice and opportunity for a hearing.\textsuperscript{147}

This indicates that the FAPE language in P.L. 94-142 is part of the outcome of the PARC decision.

**Mills V. Board of Education in 1972**

Mills is another significantly impacting right-to education action which happened within the 5-year time prior to passage of P.L. 94-142. This case came from the failure of the District of Columbia to provide public education to children with intellectual disabilities.\textsuperscript{148}

The District of Columbia schools excluded these exceptional children from regular school classes without giving them due process. At that time in the District of Columbia, there were approximately 22,000 children with disabilities, of whom an estimated 12,340 were not being served by the public schools. The case is known by the first-named plaintiff, Peter Mills, a 12-year-old black boy who was excluded from his school after the principal obtained an


\textsuperscript{147}Ibid., “State plan” section (89 STAT. 783).

\textsuperscript{148}Section 31-201 of the District of Columbia Code requires that: “Every parent, guardian, or other person residing in the District of Columbia who has custody or control of a child between the ages of seven and sixteen years shall cause said child to be regularly instructed in a public school or in a private or parochial school or instructed privately during the period of each year in which the public schools of the District of Columbia are in session . . .” (Gilhool, 1976, p. 69).
approval to deny him access due to his behavior problems. The problem was that the school did not provide him with a hearing or any other appropriate procedure to evaluate his status. Moreover, after being expelled from the school, Peter was not given any other option to receive education within the District.

Numerous other children with disabilities were also denied public education. Duane Blacksheare, a 13-year old black boy, was excluded from the Giddings Elementary School when he reached the third grade. He was also called a “behavior problem” and his parents were not allowed an opportunity to review his status or have a hearing before he was removed from the school. In 1971, an education expert found that Duane had capability to receive education in regular school classes if relevant supports had been offered. Another plaintiff, George Liddell, never attended public school since he had been denied access to an elementary school in which he would have required special education.

Steven Gaston was an 8-year-old Black boy who was excluded from Taylor Elementary School in 1969 and could not afford to attend private school. The school excluded him because he had brain damage and was hyperactive in the classroom. Like other defendants in Mills, Steven was not provided a hearing or a chance to review his status. Michael Williams was a 16-year-old Black student with epilepsy and mild intellectual disability. He was expelled from the Sharpe Health School in 1969 because of his absenteeism as he had been in Saint Elizabeth’s Hospital. He was also not provided an adequate due process. Janice King, a 13-year-old Black girl, and Jerome James, a 12-year-old Black boy with mental retardation, were also denied access to public education without a full hearing.

These plaintiffs had a diverse range of intellectual disabilities. They sued on behalf of all children within the District of Columbia, who had been or were excluded from a free
public education. By the time around the beginning of the early 1970s, the plaintiffs had sought public education and could have been placed in publicly supported educational programs or privately granted schools. However, none of these plaintiffs were placed in any such program and had been entirely excluded from public education. Their suit was filed on September 24, 1971.

According to Congress’s decree on public education in the District of Columbia, the Board of Education was responsible for providing public education to all children including those with disabilities. In proceedings, defendants admitted they had not fulfilled their duty to provide public education adequate to the plaintiffs’ needs including special education services and due process hearings. On December 20, 1971, the plaintiffs and defendants agreed to court a stipulation as follows:

By January 3, 1972, defendants shall provide plaintiffs with, first, publicly-supported education adequate to their needs; second, … a list of all school aged children suspended, excluded, or denied a placement and consequently not attend public educational program, contact information of the excluded child’s parent or guardian and of the date of exclusion

On February 9, 1972, the Board of Education adopted a resolution described as follows:

All vacant special education positions shall be filled as soon as possible and all funds allotted for special education shall be only spent for the provision of special education; Upon the Board’s entering into the consent judgment, the Board shall plan budgets for the rights of children to public education in the District of Columbia and define and provide for due process hearings; the Board shall set up a comprehensive educational plan related to “treatment and care of physically or mentally impaired children in the age range from three to 21 years”; the Board shall establish “procedures to implement the finding that all children can benefit from education and, have a right to it, by providing for comprehensive health and psychological appraisal of children and the provision for each child of any special education which he may need. The Board will further require that no change in the kind of education provided for a child will be made against his wishes or the wishes of his parent or guardian unless he has been accorded a full hearing on the matter consistent with due process.

On March 1, 1972, the defendants responded to the proposed order and decree as
No child eligible for a publicly supported education in the District of Columbia public schools shall be excluded from a regular public school assignment by a Rule, policy, or practice of the Board of Education of the District of Columbia or its agents unless such child is provided (a) adequate alternative educational services suited to the child's needs, which may include special education or tuition grants, and (b) a constitutionally adequate prior hearing and periodic review of the child's status, progress, and the adequacy of any educational alternative.

At a court hearing on March 24, 1972, it was found that the defendants had not fulfilled the court's order of December 20, 1971, nor had they filed a plan or adopted proposals by the Board of Education. Consequently, the plaintiffs were entitled to relief based on District of Columbia statutes and the US Constitution.

The District of Columbia Code required that:

Every parent, guardian, or other person residing permanently or temporarily in the District of Columbia who has custody or control of a child between the ages of seven and sixteen years shall cause said child to be regularly instructed in a public school or in a private or parochial school or instructed privately during the period of each year in which the public schools of the District of Columbia are in session (Section 31-201).

However, it also allowed for certain children to be excused from such public attendance as follows:

… upon examination if a child is found to be unable mentally or physically to profit from attendance at school… if such examination shows that such child may benefit from specialized instruction adapted to his needs, he shall attend upon such instruction (Section 31-203).

However, when a child with disability was excluded from public education, the Board of Education had the responsibility to provide special education to the child by the Board Rules as follows:

The Board of Education of the District of Columbia may, upon written recommendation of the Superintendent of Schools, issue a certificate excusing from attendance at school a child who, upon examination by the Department of Pupil Appraisal, Study and Attendance or by the Department of Public Health of the District of Columbia, is found to be unable mentally or physically to profit from attendance at school: Provided, however, that if such examination shows that such child may benefit from specialized instruction adapted to his needs, he shall be required to attend such
The defendants suggested that Congress should provide millions of dollars to improve special education programs, because if they had to use already allocated funds then it would be inequitable action against children other than the plaintiffs.

However, the court held that the defendants are required by the US Constitution and the District of Columbia Code to provide a FAPE for children with disabilities, and failure to do so could not be excused by a claim of lack of funds. Moreover, the court cited the Brown case to emphasize that education had been already defined as the most significant duty the state should fulfill.

The court’s hearing held that:

Not an eligible child for public education shall be denied regular public school unless the child is provided an alternative educational program meeting the child’s needs, and the child shall be given adequate prior hearings and reviews of his/her status, progress, and alternative education; thus the defendants shall not exclude plaintiffs from regular public school at public expense; …shall provide every school aged “a free and suitable publicly-supported education regardless of the degree of the child's mental, physical or emotional disability or impairment”; insufficient resources cannot be an excuse for exclusion of any child from public education.

Conclusion: The Evolution of FAPE as An Outcome of Individuals with Disabilities’ action in the USA

Clearly, there are some common elements running through the language across the two court cases and P.L.94-142. Both PARC and Mills were filed by parents of children with

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149 The court cited the Brown case (347 U.S. 483): “Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.”
intellectual disabilities who were denied access to public education, and in each case, the court enjoined schools from rejecting children with disabilities. One slight discrepancy between the two cases was that while PARC first heralded children with disabilities’ equal right to education as initiated in the case with a specific purpose of closing Pennhurst, Mills was focused on confirming the state’s responsibility not to exclude a child from a FAPE without a due process hearing.

In PARC, the plaintiffs’ request for a FAPE was also based upon an individual’s right to a due process hearing. The Pennsylvania state statutes excluding children with intellectual disabilities from public education were based upon the assumption that such children were uneducable. Based on this assumption, numerous public schools in the state excluded these children without any due process hearing. In Mills, the seven plaintiffs were explicitly excluded from public education without any hearing or evaluation process to clearly identify their disabilities and adequate educational services suited to their needs. The court in the end held that insufficient state funds for special education was not a valid excuse. Requirements by the courts in these two cases included due process hearings in any case of removal from public school of children with disabilities, which is regarded as essential for assuring adherence to the principle of “zero rejection” (Turnbull & Turnbull, 1976).

I find that these court decisions contributed to the evolution of FAPE language in P.L. 94-142. In the PARC consent agreement, FAPE is described as follows:

\[
\text{[every] retarded person between the ages of 6 and 21 shall be provided access to a free public program of education and training appropriate to his capacities …}
\]

Mills similarly authorized FAPE as follows:

Not an eligible child for public education shall be denied regular public school unless the child is provided an alternative educational program meeting the child’s needs; the defendants shall not exclude plaintiffs from regular public school at public expense; …shall provide every school aged children a free and suitable publicly-supported education regardless of the degree of the child’s mental, physical or
emotional disability or impairment

Based on the slightly different use of language in these court decisions, FAPE can be defined as “very [retarded] school aged [between the ages of 6 and 21] shall be provided [receive] access to a free public program of education and training appropriate to his capacities [free and suitable publicly-supported education].” These language elements were transitioned into the FAPE language in P.L. 94-142 as follows:

A free appropriate Education …provided at public expense,…, and without charge; …include appropriate preschool, elementary, or secondary school level education; …within the individualized education program

These overlapping language elements indicate that P.L. 94-142 was an outcome of individuals with disabilities’ action inspired by the 1954 Supreme Court Brown decision affirming that the right to education should be protected every US citizen. Both the PARC and Mills court decisions cited Brown and confirmed the public responsibility for the education of children with disabilities. Therefore, this researcher’s review of events that happened within 5 years before the passage of P.L. 94-142 led to this idea that these historical events had been closely related and had together resulted in FAPE being required in all the states (Table 4-5).

Table 4-5. The Evolution of FAPE in the USA

<table>
<thead>
<tr>
<th></th>
<th>1954</th>
<th>1971-1972</th>
<th>1975</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brown</td>
<td>“…a right which must be made available to all on equal terms.”</td>
<td>PARC “A free public program … appropriate to his capacities …”</td>
<td>P.L. 94-142 FAPE “A free and suitable publicly-supported education…”</td>
</tr>
<tr>
<td>Mills</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Why is the FAPE Language Different between the USA and South Korea? Part 2: In-Depth Investigation of Closely Impacting Events and People Over the Previous 5 Years

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I found that while there appeared a significant relationship between several legal cases and the FAPE language in federal legislation in the USA, APEH came as a consequence of events and individuals’ commitment to policy decisions in South Korea.

President Park Chung Hee

It is critical to understand President Park Chung Hee to learn the evolution of special education law in South Korea because he has been deemed the key person in shaping the development of the overall society and the public educational system leading up to passage of APEH. Moreover, the passage of APEH came as the product of previous successive policy implementation, through his last presidency.

Many of the studies about President Park have employed a similar approach, viewing him as the leader of strong government (Ch’oe, 2011; Im, 2012; Son, 1993). For example, these researchers conclude that President Park succeeded in leading South Korea to remarkable economic growth but did so at the expense of democracy (Ch’oe, 2008). In particular, researchers have agreed that Park sacrificed democracy for economic growth through his Yusin regime, which began in 1972 after he declared martial law and assumed dictatorial powers.

On the other hand, it has also been proposed that Yusin came as the product of President Park’s struggles with protecting the liberal state as it still remained divided facing the enemy toward North while grasping changes in the international power structures that would impact unfavorably on South Korea’s politics and security (Cho, 2014; Kim, 1995; Kim, 2010; Ma, 2003; Nam, 1986; Pae, 1999).

Before the Constitution of the Republic of Korea of 1972 (Constitution No. 8) passed, the world faced a significant change in the Cold War orders. Specifically, in the late 1960s,
the USA encountered serious economic problems as a result of protecting its anti-Communist ally of South Vietnam. The USA paid huge costs for its military participation and economic aid for the assistance forces of allied nations, yet South Vietnam fell to the Communist North in the end.

The financial and human costs led to antiwar campaigns that became intensified across the USA as impacted by overall changes in global politics. For one thing, when President Johnson sought allies for military commitment in South Vietnam, many liberalist countries of Western Europe, including the UK, refused. The Western allies who once fought the Soviet Union-led Communist camp in the early 1950s in South Korea now turned their backs on the USA. However, other countries in Asia did agree to support the USA based on the Communist threat to the values of liberty in the region. South Korea, Taiwan, New Zealand and Australia responded to President Johnson by sending troops, with some of the Southeast Asian states, including the Philippines and Thailand also contributing smaller troop contingents.

But the consequences of the war did not lead to a favorable situation for the Johnson government. President Johnson failed to run for reelection, taking responsibility for the defeats in the war. In 1969, he was succeeded by President Nixon who declared that the USA would not become engaged in wars between other parties that might lead the national economy into trouble.

The unfavorable situation also impacted South Korean politics. Despite President Nixon’s announcement about the international policy, President Park believed that the USA would not give up its previous commitments to help protect South Korea. This included President Johnson’s promises about the USA’s immediate intervening in any conflicts between North and South in the peninsula. To help ensure these promises would be kept,
President Park dispatched over 300,000 South Korean troops to fight with the US forces in Vietnam. Moreover, some of the US troops who had been stationed in South Korea were also fighting in South Vietnam with the best Korean units while South Korea at the same time dealt with the security crisis caused by the North’s importunate provocations. The South Korean military commitment to Vietnam had come after several months of negotiation between President Johnson and President Park, and President Park believed that President Nixon would not really undertake the withdrawal of US forces from his country.

The issue of removing US forces from South Korea arose during the early 1960s, due to the burden of maintaining forces stationed outside of the states. The truce that ended the war between the two Koreas in the early 1950s seemed to be unbreakable unless another serious conflict would occur. As such, the reduction of US forces had become instituted as an agenda in the US Congress and had come on the table even before the South Korean army returned from South Vietnam.

In 1970, the Nixon government forwarded his intention to reduce US forces in South Korea, but to balance this action by granting aid to develop the South Korean military system for 5 years instead. President Park demanded that the US government reconsider a change of policy, believing that such a measure would lead to a complete withdrawal in the end. He asserted that if the US undertook the force reduction a serious national security crisis would occur, but the reduction was nevertheless undertaken a year later.

In 1972, President Nixon, furthermore, visited China and promised that the US would not intervene in conflicts between China and Taiwan, agreeing that “Taiwan would belong to China”. This talk between the US and China marked the beginning of a détente era between the two camps of Liberalist and Communist. Soon President Nixon also undertook the withdrawal of the US forces which had been stationed in Taiwan, which was then one of the
closest allies of South Korea. Catching the US policy shift and the implications of President Nixon’s visiting Beijing, President Park initiated attempts to alleviate the conflicts with the North. He first suggested talks with the North urging the need of reuniting the separated families in the two parts of the peninsula. On July 4, 1972, the first talk between North and South successfully resulted in an agreement on the principles for national unification.

Nevertheless, it was very difficult for the president and citizens in South Korea to become trusting of the North which had persistently attempted to communize the peninsula. The North’s intention of communizing the peninsula was expressed in numerous ambushes and attacks by armed Communist guerrillas (mujiang kongbi) since the two states reached truce after three years of the North-led Korean War. Many South Korean and US soldiers were attacked and wounded while defending the country from the guerrillas’ attacks. Many civilians were killed by the infiltrated guerillas as well. Specifically, the North’s provocations began rising in the 1960s and peaked in 1968 reaching more than 600 armed clashed within the DMZ (Yi, 2011). While the “South-and-North Red Cross talk” was progressing in 1972, the North temporarily halted the guerrilla tactics but this did not last long. The next year

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150The first North Korean provocation was extended to the Korean War in 1950 which resulted in numerous victims in South Korea. But after the war the north renewed its attempt to communize the peninsula. In 1958, the Ch’angnang ho (plane) that departed Pusan to Seoul was hijacked to Pyŏngyang. In 1967, Tangp’o ham (ship) was hit and sunk by a North torpedo while it guided a fishing boat southward. In 1968, the Blue House Raid by 31 armed communist guerrillas (mujiang kongbi); the USS Pueblo was intercepted by North Korean patrols and taken to Wŏnsan; 15 armed communist guerrillas attacked US soldiers at the guard post. Numerous other ambushes were attempted by the guerrillas and resulted in numerous deaths and wounds in 1968; for example, the guerrillas detected at the demilitarized zone (DMZ); two groups of guerrillas’ invasion through the DMZ; South Korean soldiers were shot by the guerrillas; eight South Korean soldiers were ambushed by the guerrillas and four died and three were wounded. On July, 29, 1968, two guerrillas killed a civilian. On October 30, 1968, North Korea infiltrated 126 armed communist guerrillas. See also, the Yi Sŭng-pok incident in 1968; North Korean army’s attack on the US army base in 1969; Kangnŭng guerrilla invasion in 1969; the North soldiers’ attack on the US army base in 1969 (May 15); KAL airplane hijack in 1969 (December 11); North guerrillas infiltration in the Yŏngdŏk shores in 1970; numerous other infiltration in provinces and the DMZ in 1970, 1971, and 1973. On August 15, 1974, Mrs. Yuk Yŏng-su, the first lady, was assassinated by MunSekwang, Choch’ongnyŏn Japanese Korean, contracted by North Korea. She was not the first target but became the victim as Mun failed the first shot at President Park.

151Previous studies on Yusin have consistently supported that security threat did not cause Yusin as clashes and the North provocations decreased in 1972; specifically, these studies argue that the south-and-north talk in 1972
they resumed infiltrating guerrillas, with reinforced methods, and failed in attempting to assassinate President Park in 1974 although the First Lady died in the event.

Moreover, the primary opposition party was challenging President Park, claiming that he should stop his implemented policy initiatives because, as of late 1968, the North Korean economy remained slightly ahead of that of South Korea (Yang, Chŏng, Kim, O, and, Kim, 2011), although South Korea exceeded North Korea in gross national product (GNP) per capita from 1969. North Korea had accomplished economic growth by placing more importance on industry than agriculture by controlling the system where it promoted high efficiency in mobilizing labor and accumulated the state’s capital. However, North Korea’s self-sufficiency based closed economy fell into depression despite its maintenance of political stability in the 1970s (see Table 4-6).

Table 4-6. National Income between North and South (Gross National Product Standard)

<table>
<thead>
<tr>
<th>Year</th>
<th>North Korea</th>
<th>South Korea</th>
<th>Compared to North</th>
<th>Year</th>
<th>North Korea</th>
<th>South Korea</th>
<th>Compared to North</th>
</tr>
</thead>
<tbody>
<tr>
<td>1953</td>
<td>58</td>
<td>67</td>
<td>1.2</td>
<td>1963</td>
<td>140</td>
<td>100</td>
<td>0.7</td>
</tr>
<tr>
<td>1954</td>
<td>57</td>
<td>70</td>
<td>1.2</td>
<td>1964</td>
<td>153</td>
<td>103</td>
<td>0.7</td>
</tr>
<tr>
<td>1955</td>
<td>66</td>
<td>65</td>
<td>1.0</td>
<td>1965</td>
<td>162</td>
<td>105</td>
<td>0.6</td>
</tr>
<tr>
<td>1956</td>
<td>67</td>
<td>66</td>
<td>1.0</td>
<td>1966</td>
<td>164</td>
<td>125</td>
<td>0.8</td>
</tr>
<tr>
<td>1957</td>
<td>85</td>
<td>74</td>
<td>0.9</td>
<td>1967</td>
<td>180</td>
<td>142</td>
<td>0.8</td>
</tr>
<tr>
<td>1958</td>
<td>104</td>
<td>80</td>
<td>0.8</td>
<td>1968</td>
<td>195</td>
<td>169</td>
<td>0.9</td>
</tr>
<tr>
<td>1959</td>
<td>117</td>
<td>81</td>
<td>0.7</td>
<td>1969</td>
<td>194</td>
<td>210</td>
<td>1.1</td>
</tr>
<tr>
<td>1960</td>
<td>117</td>
<td>79</td>
<td>0.7</td>
<td>1970</td>
<td>230</td>
<td>253</td>
<td>1.1</td>
</tr>
<tr>
<td>1961</td>
<td>125</td>
<td>82</td>
<td>0.7</td>
<td>1971</td>
<td>248</td>
<td>289</td>
<td>1.2</td>
</tr>
<tr>
<td>1962</td>
<td>132</td>
<td>87</td>
<td>0.7</td>
<td>1972</td>
<td>288</td>
<td>319</td>
<td>1.1</td>
</tr>
</tbody>
</table>


After the Korean War, South Korea accepted assistance by the United Nations to rehabilitate the devastated state. In 1953, the United Nations set a 5-year plan to rebuild the

defused tensions and decreased conflicts between the two. They also hold that Yusin raised tensions. However, they fail to make strong arguments not focusing on the pattern of the North’s provocation. The temporary hold in provocation does not indicate that the North changed its position toward South Korea as seen in the continuous and enhanced strategies and anti-South propaganda afterward.
nation, in which it attempted to achieve a goal of an increased GNP up to 40% while building houses and extending electric power supplies. However, these efforts were not continuously accomplished. In the 1950s, the Liberal Party led by President Rhee, while struggling with political chaos, failed to achieve the desired economic growth (Ibid). By the end of the second Republic (May 16, 1961), South Korea faced a worsened economy, severe corruption, and rising crime. These were serious problems for a state facing an enemy who was rapidly recovering from the traces of war.

As the elected president, as a civilian, after his two years’ service in the Supreme Council for National Reconstruction, President Park implemented economic development programs to overcome this national crisis. As well as undertaking national reforms, President Park attempted to earn investment funds from developed countries including the USA and Japan. He struggled to overcome the desperate national economic circumstances even by negotiating with Japan for postwar compensation. President Park also obtained the opportunity to receive major funding from the USA in exchange for his military commitment to South Vietnam, the most far-reaching decision he made through his presidency. The military assistance to South Vietnam resulted in a remarkable economic growth. Increased trade and foreign investments led to a significant industrial expansion and the GNP leaped annually.

However, President Park had faced strong resistance by some of the citizens who had opposed his policies and strong leadership. Moreover, Kim Tae-jung, representing the opposing party, came to rise as a rival in the presidential election in 1971. As such President Park was elected president by a narrow margin with Kim (51.2 % vs. 43.6 %). Kim, as a skillful individual in spreading propaganda against the opposition, instigated the concepts of regionalism and “democratic power”. His political ideology was reflected in his presidential
pledges which included the shutdown of the Korean Central Intelligence Agency and the reserve forces system. Kim was suspected by his conduct of following Pak Hyŏn-ch’ae, who had led partisan activity during the Korean War, and of adopting his theory of neocolonial state monopolistic capitalism (Barlow, 2002). For example, he also asserted that heavy and chemical industries, the main policy initiatives of President Park’s Third 5-Year Economic Development Plan, would bring about serious problems in the national economy, based on examples of other underdeveloped countries.

In response to these situations, President Park undertook Yusin as a lesser evil to continue to pursue his philosophy and protect the country (Park, 1962; 1963; 2005). He was well aware that his conduct would cause a strong resistance both domestically and internationally. But it was also true that he was elected by citizens who trusted him to be better leading the country than any other leader. In letters to key leaders in the USA requesting their support, he described his vision and promised that he would resign soon after his goals were achieved.

**The Passage of APEH under the Yusin Regime**

The Constitution of the Republic of Korea of 1972 (Constitution No. 8) held that all citizens shall be equally protected under the law (Chapter II, Article 9, number 1) and receive an education equally (Article 27, number 1). Compulsory education was authorized as free

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152 On President Park’s letter to the ambassador to the US on October 14, 1972, it is written, “as an emergency action … [we choose this] to survive and shape our destiny and shall not tolerate any interference but [we are] obtaining an understanding of a friendly nation which would help us progress our task more successfully. [We] hope that you will do your best in helping the government of the country of residence fully understand the purposes. Especially as the United States is our staunch friend and ahead of presidential election, it will be with regret if any slight misunderstanding will arise for our government’s action” (Kim, 2000, pp. 252-253). The United States government stood with the position that South Korea needed some change in national politics to proceed with the talk with the North within the unforeseeable situations between East Asian countries (The National Security Archive, 2009). Moreover, the US agreed that a war might break out in the Korean peninsula and President Park felt threatened by that. However, the US government clearly drew the line between the maintenance of the relationship with the Park administration and cooperating with it, responding as the government not involved in the politics in President Park’s new regime.
education and all parents’ responsibility in having their children receive compulsory education was also mandated (Article 27, number 2 and number 3). These articles became replaced with more specific language in the special education law in 1977. The APEH was passed in six days after the Munkyo kongbo wiwŏnhoe first proposed it, which showed the efficiency of decision-making by the centralized government.

The bill was first proposed by the government on October 24, 1977 and submitted to the committee next day. On December 7, 1977, the 16th Munkyo kongbo wiwŏnhoe was convened. The Minister of Education enunciated the purposes of the bill and requested passage of it. Kim Ŭn-dal, a member of the Assembly, accentuated the need of enacting the special education law emphasizing that the public had demanded children with disabilities’ right to education. That is, the public’s request motivated the passage of the Act.

The need for special education provision was supported by statistics that 20% of the total population aged between 6 and 8 were estimated as special needs children. About one million of these children required specialized education services due to their low IQ scores of between 61 and 80. These children were “regarded unable to catch up regular school education with normal children” which raised the issue of separating students according to their abilities. However, only about 43,000 children among them were receiving special education due to lack of funding. Kim Ŭn-dal stated that establishing special education schools and increasing the supply of special education teacher should be the first priority and the central government should fund these activities to finally improve the poor condition of education for these children.

In response to a lack of consensus on special education policy initiatives and

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153Parents of children with disabilities continuously appealed an equal right to education by sending out petitions to the government which was recorded in newspapers (the parents’ activity section).
stakeholders’ perception of special education services, the special education committee members began playing active roles in raising awareness of the importance of special education services. Kim Ún-dal expressed his concern that parents of children with disabilities would not conform to the compulsory education requirement even after the bill became effective and costs were inputted. Thus the perceptions of persons with disabilities and the need for special education services became important factors that would influence the successful implementation of the new policies. Moreover, the lack of appropriate resources for special education services was another problem. Special education was a new field to be explored in the country. As such teacher education opportunities and training programs were not sufficiently implemented. Thus they became an urgent task to be initiated immediately.

There was discussion of requirements for special education teachers and it was concluded that they should not only possess an appropriate capacity to educate these special needs children but also have a committed attitude toward educating these previously poorly treated children.

Kim Ún-dal proposed the need to connect special education policies with health and social affairs policies, mentioning that “the world’s developed countries currently institutionalize all the affairs regarding the education of persons with disabilities from early diagnosis, early treatment, and early education to the occupational and social securement.

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154The incentives for special education teachers were proposed as: “Special education teachers need to be well-qualified to educate special needs children. If they lacked the sense of mission, leadership, and the frontier spirit, it will be difficult to see the results of special education. Moreover, if we disdain them as teachers of unfortunate children, we would not expect the development in this field of education. Special education teachers need not only to possess the knowledge in the basic research field of speech therapy, psychotherapy, physical therapy, functional training but also to learn medical science and operate the special facilities. Thus this job requires both therapy and research, as such, is a difficult profession more than regular teachers who receive islands and isolated areas allowances. Therefore, as a social and educational promoting policy it is needed to stipulate the treatments including extra pays and housing so as to special education teachers serve the job with sense of mission and pride.”
after their graduation at the national level.”

He stressed this position by relating that without special education, a child’s disability might lead to a worsening condition over time.

Ch’oe Se-gyŏng agreed that the Act should have been passed much earlier considering the poor condition of education of children with disabilities. But he also felt that it might not be possible to immediately pursue all the desirable policies in the currently proposed bill.

The need of training for elementary special education teachers was discussed as a significant task following the importance of early diagnosis and early education. Increasing higher educational opportunities in the field of special education for more intensive and professional training was also stressed.

On December 8, 1977, the second meeting on the passage of the bill was held at the 16th Munkyo kongbo wiwŏnhoe. The discussion began with the agenda of building up a special committee to play monitoring roles for policy implementation. The government suggested that the committee be set through a presidential decree. The subcommittee members pointed out minor changes in the bill’s language which were reflected in the final product. This committee meeting closed only in four minutes.

At the Assembly plenary session on December 9, 1977, the committee submitted a judging report of the bill. On December 13, 1977, the Legislative and Judiciary Committee finally reviewed the bill and then declared it. On December 16, 1977, the Assembly plenary session was held again. Kim Myŏng-hoe, chairperson of Munkyo kongbo wiwŏnhoe, reported the bill as follows:

This bill has been proposed to promote special education of persons with physical and mental disabilities so that they receive education on the knowledge and skills necessary for their life and contribute to society. Munkyo kongbo wiwŏnhoe set up

155The 98th National Assembly of Republic of Korea, Educational and Public Affairs Committee records (the 16th) on December 7, 1977, 11: 57am.
the subcommittee and judged the bill and, as a result, the standing committee declared some of the edited Articles on December 8, 1977.\(^{156}\)

The senators voted and eventually declared the passage of the Act on the Promotion of Education for the Handicapped, the first special education law in Korean history.

**The USA’s Impact on the Passage of APEH in South Korea**

While this special education law was passed in less than a week, its success would require securing financing. Policy implementation can hardly be discussed separate from financial matters. Compulsory education systems are essential to progress in any part of the underdeveloped world is the evidence. However, without reaching some higher level of economic development, it is difficult to finance policies like building schools and increasing numbers of teachers and other resources. The success of compulsory education requires the provision of at least elementary education, for which many underdeveloped states are still struggling and receiving assistance by world organizations such as UNICEF.

South Korea, as one of developing states, was able to secure funding for compulsory education with UN assistance and also received guidance from the US provisionary military administration. As a result, the country was able to reach school attendance rates up to 96% by the end of 1959. For special education, however, the country needed to secure more finance.

The four things required to be implemented were “first, the need of special education provision and establishment of special education schools and special education teacher training institutions across the country, second, the establishment of a deliberation committee

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\(^{156}\)The 98th National Assembly of Republic of Korea, plenary session records (the 22nd) on the bill on the Promotion of Education for the Handicapped, December 16, 1977, 10: 53am. This bill was revised, Article 4, the first clause, number 5, from “the training of special education teachers” to “the training of special education teachers and the incentives”.

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which consisted of professionals and elites who implemented the doable and effective policy, third, the plan to offer incentives to special education teachers, and fourth, connecting special education policy with the health and social affairs”.

The government needed to secure funding for these four major activities, with the goal of establishing a comprehensive special education system providing training and incentives to create a corps of high quality special education teachers. The policymakers, some of whom had once been in the teaching profession including the president and the first lady (who had also spent her life as a committed social worker until being assassinated), and were aware of the importance of a teacher’s sense of profession for quality educational services in the public education system. Because of the negative stereotypes of persons with disabilities that prevailed then, it was felt that special education teachers’ authority and their commitment to their mission were significant factors for successful policy implementation. Securing financing for teacher incentives and other needs was essential.

Surprisingly, discussion of passing the APEH was initiated only two years after P.L. 94-142 was legislated in the USA. This was possible not only because the South Korean government included a strong commitment to education in its economic development plans but also because the government was able to obtain the necessary financing, mainly through economic assistance by the USA and through compensation for its military commitment in South Vietnam. That is, the USA, particularly the Johnson administration, significantly helped the country’s economic growth which indirectly impacted upon securing educational financing to implementing the new policies in APEH. Thus my discussion section below will include a focus on how South Korean participation in the Vietnam War and its economic consequences was a key event impacting the passage of the Korean special education law linked to the differences in the FAPE approaches in the laws and policies of the two countries.
**Collapse of South Vietnam.** South Korea, as one of the most impoverished countries in the world following the devastation of the Korean War from 1950 to 1953, sought every possible chance to escape from the chaos and poverty caused by the war (Ch’ae, 2006). A significant opportunity came in its military participation in South Vietnam, which had sent out a desperate message for rescue from the crisis of North Vietnam’s aggression. The USA responded through its second major post-World War II involvement in a foreign internal conflict after the Korean War.

The USA’s military intervention failed to rescue the liberalist South Vietnam (Kissinger, 2003). Domestic anti-war sentiment weakened the united voice for the anti-Communist crusade but this was not the direct cause of the defeat (DeBenedetti, 1983; 1990; Harrison, 1993). It was neither because South Vietnam lacked military power, because it was superior to the North because it obtained much aid from the US and allied nations. Rather South Vietnam was defeated because it was infiltrated by internal enemies disguised as nationalists and religious leaders. These internal enemies instigated anti-American sentiments asserting that the USA caused the war between the same Vietnamese people. While the US and South Korean armed forces fought in the war, high officials of the South Vietnamese government were involved in espionage and overtly expressed antipathy to the allied forces and spread anti-war propaganda.

Exhausted by hopelessness and facing rising anti-war voices both internally and internationally, the US forces finally withdrew along with the South Korean army in 1973. Not surprisingly, two years later, South Vietnam surrendered to the North’s reinvasion, having already defeated internally in the war of ideology with the Northern communists.

**South Korean military commitment in the Vietnam War.** Despite the defeat in South Vietnam, the military participation in the war led to a jump start for the South Korean
economy (Cho, 2011). This was possible due to a South Korean leader’s visionary decision and his dedicated relationship with the Johnson administration. Before discussing the benefits the South Korean government obtained from South Vietnam, it should be recalled that South Korea’s decision to join the allied forces resulted from talks between the presidents of the USA and South Korea. There are two common explanations for South Korean military involvement in South Vietnam, the mercenary view that it was for the money and a little more complicated position as the South Korean government’s strategy to both support national economic growth and increase military collaboration with the USA (Blackburn, 1994; Cho’e, 2003).

The first position has been supported by the fact that South Korean soldiers were paid for their military involvement by the US government, receiving much more than their regular salaries in their homeland. However, this leads to several other questions about the political and economic state of the country before and during the war, President Park’s tactics in making the decision to participate in the war, and the actual effects on the country’s economy after the war.

The first refutation to the mercenary view is that the South Korean government wanted to be involved in defending democracy in South Vietnam and outspokenly expressed such intention prior to the US government’s request. South Korean military involvement in the war first came on the table when President Park became the president of the third Republic in 1961. He sought ways to clear up the immense national debt generated by foreign aid through the previous Republics and retrieve the declining national prestige. Right after the military revolution, President Park visited President Kennedy and offered South Korea’s assistance for the US forces in South Vietnam. But President Kennedy declined President Park’s suggestion, concerned that China and the Soviet Union might enter the war.
South Korean military involvement in the Vietnam War came true in 1964 when President Johnson announced “More Flags” (Blackburn, 1994) that requested the free world’s nations’ active participation in the war. President Johnson promoted the goal of the war as stopping the further extension of Communism to Southeast Asian countries, including the liberalist countries of South Korea, Taiwan, and Japan which might fall if the allied nations failed to defend the South Vietnam government. President Johnson first attempted to obtain reinforcements through the South Asia Treaty Organization (SEATO) which had been formed by the Eisenhower leadership to bar the expansion of Communism to the Southeast Asia and Pacific regions.

Encountering opposition by France and other members of SEATO, the USA further requested the assistance of other allied nations including South Korea. The South Korean government responded to the request by immediately sending troops to the war state. Thus President Park first expressed his will to join the military action in South Vietnam and carried it into effect when actually requested.

The second refutation to the mercenary view is that the dispatched South Korean soldiers had enlisted in the army as part of their service to their nation, not to become paid mercenaries of the USA. That is, their participation in the war was driven by devotion to their country, rather than for personal purposes like other mercenaries. I do not deny that South Korean soldiers were in some way motivated by much greater salaries given by the US government compared with their regular salaries. However, the higher US pay was still less than one sixth of what US soldiers received (Ch’oe, 2003).

Many South Korean soldiers participated in the war because they felt a moral obligation to repay the US commitment in protecting the liberalist South Korean government during the internal war. Moreover, South Korean soldiers served under half control by the US.
commanders during the Vietnam War (Westmoreland, 1976). Therefore, the US-South Korean military alliance in South Vietnam served more than economic purposes, as South Korean soldiers fought against the Communist North as they had earlier fought the Communist North in alliance with the US in their own homeland.

President Park’s decision to send out troops to South Vietnam did not come easily. Like many visionary leaders, President Park also expressed hesitation to reach the final decision. The lengthy negotiations between President Johnson and President Park demonstrated that President Park had struggled with two main national matters: national security and the poor economic conditions within the state. These two issues were the directly related causes that led to President Park’s final decision to offer military assistance forces in South Vietnam.

Specifically, President Park undertook to reach the goals of two most urgent national tasks: reinforcing national security and undertaking economic development programs. Both became very critical as the country was still facing the northern enemy and previous Republics including that of the Liberal Party led by President Rhee had proven unable to manage the nation.

President Rhee expressed his resolute opposition to Communism which obtained US military aid but was unable to develop his patriotism into a decisive leadership to improve the national economy and prestige. Once colonized by imperialist Japan, the country was barred from retrieving a completely independent sovereignty as it was deprived of a right to speak in the global society. For one thing, despite direct victimization as a Japanese colony for 36 years, Korea was excluded as a signatory on the San Francisco Peace Treaty in 1951.

Within the accelerated Cold War competition between the US and the Soviet Union beginning in the 1950s, South Korea served as a faithful liberal ally of the US protecting
liberty against the Communists. After the Korean War, South Korea remained an impoverished unstable state, unable to survive without the UN’s economic aid. Moreover, following the East Asian economic bloc initiatives led by the US, South Korea had only very limited opportunities to pursue economic growth, lacking production for exports and only serving as a market for the US-led Japanese industrialization programs. Japan, as an imperialist power through the 1900s, had been able to develop its industries exploiting resources from its colonies. Although Japan lost its colonies and suffered much damage to its industries in World War II, it still had a good foundation for industrialization that the US supported as a way to ensure Japan was part of its sphere of influence.

While struggling to overcome economic problems to escape from an impoverished state, President Rhee failed to control his party and root out corruption, and finally had to resign the presidency.

Based on lessons learned from such previous failures, President Park maintained focus on the two tasks to be achieved through his presidency, which Johnson as a skillful politician perceived. As such, President Johnson sought to obtain President Park’s agreement to contribute troops to South Vietnam by, on the one hand, threatening that he would withdraw the US forces from South Korea and, on the other hand, promising that he would expand economic aid.

President Park understood that US troop withdrawal would certainly cause serious security problems and increase the likelihood of future military conflicts with the North. President Park also grasped the US’s desperate situation in seeking assistance forces for South Vietnam. He also perceived that, as long as US military forces were stationed in the country, South Korea would never become free from US military strategies. That is, the security of South Korea seemed to be directly related to US security issues and policy.
In all these senses of alliance with the US, President Park responded to President Johnson’s requests by sending out the best units that had been serving on the front line in South Korea. Such drastic measure was undertaken as President Park trusted that the Johnson administration would not turn away from any immediate security crisis in the Korean Peninsula while South Korean assistance forces served in Vietnam. He also trusted that President Johnson would fulfill the promise to grant aid to help relieve the desperate economic circumstances of South Korea. President Johnson in turn trusted President Park that he would respond to the US requests. This mutual trust between the two countries was already created while numerous US soldiers sacrificed their lives Korea and when President Rhee had adhered to pro-US diplomacy while struggling to accomplish national independence and establish his liberal government.

As the Vietnam War proceeded, President Park steadily reinforced the troops, responding to President Johnson’s requests even though other allied nations started to decrease their assistance forces. For example, Marcos, president of the Philippines, began decreasing the number of forces from a wartime peak in 1968 after taking as much economic advantage as he could of the US.

Table 4-7. Vietnam Military Assistance Forces by Country and Year

<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>Total</td>
<td>17,670</td>
<td>183,425</td>
<td>441,194</td>
<td>557,958</td>
<td>614,051</td>
<td>545,453</td>
<td>412,088</td>
<td>210,898</td>
<td>67,392</td>
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<td>17,200</td>
<td>161,100</td>
<td>388,568</td>
<td>497,498</td>
<td>548,383</td>
<td>475,678</td>
<td>344,674</td>
<td>156,975</td>
<td>29,655</td>
</tr>
<tr>
<td>Korea</td>
<td>140</td>
<td>20,541</td>
<td>45,605</td>
<td>48,839</td>
<td>49,869</td>
<td>49,755</td>
<td>48,512</td>
<td>45,694</td>
<td>37,438</td>
</tr>
<tr>
<td>Thailand</td>
<td>0</td>
<td>16</td>
<td>244</td>
<td>2,205</td>
<td>6,005</td>
<td>11,568</td>
<td>11,586</td>
<td>6,265</td>
<td>38</td>
</tr>
<tr>
<td>Philippines</td>
<td>17</td>
<td>72</td>
<td>2,065</td>
<td>2,020</td>
<td>1,576</td>
<td>189</td>
<td>74</td>
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<td>200</td>
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<td>4,525</td>
<td>6,818</td>
<td>7,661</td>
<td>7,672</td>
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<td>534</td>
<td>516</td>
<td>552</td>
<td>441</td>
<td>60</td>
<td>53</td>
</tr>
<tr>
<td>Taiwan</td>
<td>20</td>
<td>20</td>
<td>23</td>
<td>31</td>
<td>29</td>
<td>31</td>
<td>31</td>
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</tr>
<tr>
<td>Spain</td>
<td>0</td>
<td>0</td>
<td>13</td>
<td>13</td>
<td>12</td>
<td>7</td>
<td>7</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>


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By contrast, the South Korean government maintained assistance forces that far exceeded those of any ally besides the US (see Table 4-7). The numbers began with 140 in 1964 and reached between 45,000-50,000 annually from 1966 through 1971, and even exceeded the US forces in 1972 when the Vietnam War ended. During this period South Korea also had to deal with many attacks by North Korean guerrillas, including an attempt to assassinate President Park in the Blue House Raid.

On sending troops to South Vietnam, the South Korean government requested some assistance from the US in return. This included, first, help in improving the South Korean military equipment and system; second, its commitment to immediately send its troops to defend South Korea in case of invasion by the North; third, covering all expenses for the dispatch of South Korean assistance forces to South Vietnam; and, lastly, access for South Korea to South Vietnamese markets (Cho, 2011; Ch’oe, 2003). The Johnson administration accepted these requests and, furthermore, agreed to grant a loan to the South Korean government, which provided the essential capital used in the first and second economic development programs in the country.

**Economic growth before the Vietnam War.** Following its liberation from Japan, the Korean Peninsula was divided by the United States and the Soviet Union along the 38th parallel in 1945.

The United States established a provisionary government in the South to help it stand on its own. This provisionary administration began with disease prevention and food aid. When the first independent South Korean government was established, the US began considering to change its aid policy from only adhering to the United Nation’s goods supply toward actively assisting the economy toward developing industries, because at the time of the division the North was much more industrially advanced while the South was more
agricultural. Thus South Korea initially faced power shortages after electricity supplies were cut off by the North.

During the Japanese colonial period, many of the southern provinces had been utilized as agricultural sources. In contrast, the northern parts possessed abundant mineral resources and, placed at the strategic point of connection between the peninsula and the continent, had served as the center of the munitions industry for the Imperialist armies until the end of World War II.

The divided states remained chaotic and engaged in ideological conflict. The South sought to implement economic development plans but aggression by the Communist North resulted in all the plans ending in nothing. Facing the immense destruction and damage generated by the North-led war, the United Nations revised previous aid plan targets to only focus on rehabilitating the war damage. Therefore, South Korea was not able to make progressing economic growth during the early chaotic period of 1950s.

Instead, Rhee’s postwar South Korean government sought to maintain the liberal state by adhering to the close relationship with the United States and maximizing receipts of foreign aid (Yu, 1987). The government was able to obtain some benefits through the foreign exchange controls, as when the government recompensed the UN army for its service with Korean dollars which were later paid back to the domestic markets generating gains in the foreign exchanges. The Korean money soon became devaluated, but this did not cause a serious problem or disadvantages to the domestic economy because the country’s export dependency was negligible then. US dollars became the biggest part of imports to maintain economic stability, for which the government continued to depend on controlling the exchange rates.

On the other hand, recent research suggests that the South Korean government played
a more active economic role through interaction with the US government than just the passive exchange rate policy. According to Ch’oe (2003), previous studies on the 1950s economy of South Korea lacked analysis of the interplay between diverse factors related to the government led policy.

These previous studies fell into three groups. The first group proposed that the government had deformed the price system while controlling exchange rates, which retarded growth and aggravated corruption in private enterprise (Cho, 1997; Kim, 1999; Sa & Johns, 1981). The second group of researchers attempted to figure out how the Rhee government had intervened in the economy but stayed with defining limited roles for the government as only following the US lead as the main aid provider (Kim, 1994; Chŏng, 2003). The third group of researchers (Chŏng, 2000) was able to collect new information from US official documents, but Ch’oe (2003) claims their studies were limited to providing the justification of the US economic policy while not leading to useful information about the Rhee government’s policies.

In analyzing both internal and external barriers to economic growth, Ch’oe (2003) suggested that President Rhee sought a consistent policy for growth rather than just focusing on expedient measures in response to crises. However, the government was unable to achieve much economic growth while being highly dependent on foreign aid and being impacted by the US direction. The greatest concern of the US and South Korean governments was reinforcing military forces to defend against another invasion by the North. This need for military strength enabled the US to play the critical part in the South Korean economy as corresponding to the nation-rebuilding policy of the Rhee government. Thus the government’s economic policy was directed to the aim of “increased military forces that will rebuild the national economy and stabilize finance” (Wŏn, 1956, p. 179). US government
granted aid was directed mainly to this aim.

However, the two governments had some disagreement regarding this policy, especially in the amount of aid funds and their use. The South Korean government wanted to promote growth through increasing aid funds and lowering exchange rates, while the US government stood for a stabilized economic structure and promoted higher exchange rates. Thus it was an important but also very hard task to appropriate the necessary funds to rebuild the national economy and also restrict damage by inflation.

The Rhee administration envisioned promoting the country’s economic growth as the long-term goal and, as such, wished to use granted funds to increase production of goods for export (Chosón ilbo, 1953). However, the US government placed more value on resolving livelihood issues than expanding export industries, leading to a focus at that time on producing goods for local consumption rather than export.

This stabilization first policy for the South Korean economy was in fact initiated by the US as part of its tuning of economic connections between South Korea and Japan (Allen, 1965; Cohen, 1958). The US’s aim was to help Japan’s industrial recovery so they could become a democratic ally while simultaneously inducing South Korea to serve as a market in such way that US aid funds flowed back into Japan. In this way the US was able to aid both countries.

Japan seems to be a very lucky country in view of its conduct as a war criminal that had exploited many Asian countries, including Korea. The majority of studies on Korea as a Japanese colony agreed that although the colonization may have been a natural consequence of the declining dynasty’s incompetence, it is widely accepted as truth that Japan took great advantage of the Korean territory and people for a painful period of 36 years of oppression.

Korea was particularly aggrieved about colonization by Japan because that brought an
end to a long history of independent sovereignty. It might be said that the people of Korea felt even more oppressed than other Asian colonies of Japan, including Taiwan, which already had experienced being colonized. Unfortunately, Koreans who had escaped overseas failed to channel their feelings of intense resistance into establishment of an independent united government outside of the peninsula to coordinate an independence movement of resistance against Japanese occupation. Although a number of provisionary governments were established, there were many fractures between them as they promoted different liberalist and socialist ideologies which resulted in dispersed energy for national independence. After Korea’s liberation, conflicts between the two sides resulted in division of the country.

Initially the United States and Soviet Union oversaw establishment of a left-right coalition government. This raised concerns that the peninsula might come to be ruled by the socialist party loyal to the Soviet Union, as had happened to many East European countries. Thus President Rhee struggled against the left-right coalition proposal. In the end the country became divided with the northern half of the peninsula under the influences of the Soviet Union.

Japan’s defeat in World War II led to ruin of its economy. It had built up its industries by taking advantage of labor and natural resources from its colonies including Korea and China, but these were no longer available. More seriously, the defeat in the war resulted in its struggling with an immense war debt that precipitated inflation.

The US government stepped in to resolve Japan’s economic crisis by reducing the war reparations and helping to stabilize the economy by implementing the Dodge Line, which aimed both to promote exports and control demand (Tsuru, 1993). In addition, it induced pricing according to the free market. The US government also granted aid funds to promote production and private investments. The Dodge Line led to some positive effects such as
stabilized prices but it also led to rising unemployment and a severely depressed economy, the so-called the Dodge deflation.

However, the Korean War helped the Japanese economy recover as the immense demand for military procurement was met in large part by Japanese factories. Moreover, the US, shocked by the Soviet Union’s success in atomic bomb experiments, led the expansion of armament production among the Western allies which heralded the real beginning of the Cold War. As a result, Japan came to almost recover from its economic damages within a short period after the start of the Korean War.

Korea also suffered an unfavorable outcome of the San Francisco Peace Treaty signed in September 1951. The Korean government had requested its participation in the treaty to prosecute a claim for damages as part of the rights of a victor nation following World War II. This would provide a good opportunity for the Korean government to demand compensation for material and mental damages the country and people suffered over 36 years as a Japanese colony. Chang Myŏn, the ambassador to the United States, delivered this desperate message to the US government, but this request was declined and Korea was excluded as a signatory. The US claimed that Korea had not been a combatant nation during World War II and therefore was ineligible to be considered one of the allied nations.

The exclusion of Korea as a signatory not only frustrated the people of Korea who had suffered under imperialist Japan but also left grounds for future diplomatic disputes between Korea and Japan including conflicts over the ownership of Tokto, a group of small islets in the Sea of Korea. Moreover, this treaty led most participating countries to give up claims for damage compensation from Japan. Japan, protected as a strategic point in the US led liberalist line, was able to recover both economically and in terms of national prestige on the international stage regardless of its past relationships with East Asian countries.
Confronted by the US policy aimed at protecting Japan’s economy first, the Rhee government was unable to successfully implement an economic growth policy. Instead, the government manipulated the exchange rates to lessen the impacts of increased domestic money supply and controlled import industries which caused inflation. But these efforts also soon faced challenges by US controls.

In 1957, President Eisenhower announced that the US would replace the granting of aid funds with development loans. This tightened economic policy by the US was not only aimed at deterring the South Korean government’s exchange rate policy but also to address US domestic needs related to the changes in international politics. The Soviet Union, once an ally with the US and European countries to deter Nazi Germany’s ambitions, struggled to catch up to the US by competing in the arm race and developing the atomic bomb. Its launching of Sputnik 1 into space in October 1957 further came as a shock that heated up the competition between the two countries. Moreover, socialist revolutions had been launched in Cuba and Vietnam. Facing these rapid challenges from the socialist camp, the United States had to switch the domestic politics over to be able to respond to the Cold War tensions. As an immediate step into responding such requirements, the US sought to stabilize its own economy and therefore reduced appropriations to South Korea.

The US government’s shift in its aid policy toward South Korea seriously raised the need to create a self-supporting economic system. However, the South Korean government failed to create effective measures and the country continued to struggle with a lack of capital and growth rates remained low. As a way to resolve these matters, the government requested US aid in granting a one-shot long-term fund to develop some sustainable industries escape its status as a begging economy. In 1958, the government set a 3-year economic development project to step out for growth economy inviting the US team but this was not stepped into
The government had pursued political stability as a prerequisite to implementing economic development policies, but instead the situation worsened as President Rhee failed to root out corruption in his Liberal Party. Party leaders undertook fraudulent elections and many youths rose against the corruption across the country. President Rhee was surrounded by walls of ambitious politicians who barred him from reaching the public and finding out what was happening outside of the walls. In 1960, President Rhee, at the age of 85, finally stepped down in response to the citizens’ demand.

**Economic growth through South Korean military commitment in South Vietnam.** The particularity of the Vietnam War lay in the small number of participating nations besides the US. Except for Australia and New Zealand, they were marginal states that could not afford the expenses of participation which the US had to cover. The estimated cost burden for the US in the Vietnam War was more than $110 billion, which was nearly four times costs in the Korean War (Table 4-8). In addition, the US provided funds for South Korea to increase its number of soldiers in order to compensate for those sent to Vietnam and maintain its internal defenses against North Korea.

<table>
<thead>
<tr>
<th>War</th>
<th>Vietnam War</th>
<th>Korean War</th>
<th>World War II</th>
<th>World War I</th>
<th>World War Civil War (union)</th>
<th>Mexican War</th>
<th>American Revolution</th>
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</thead>
<tbody>
<tr>
<td>Expenses (billion $)</td>
<td>111</td>
<td>30</td>
<td>296</td>
<td>20</td>
<td>3.18</td>
<td>0.071</td>
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</table>


President Park sought to promote economic growth by directly linking the Johnson government’s aid to implementing economic development programs. From the early 1960s,
the Korean government had sought to promote growth rates through accelerating exports. President Park first initiated this policy through his first 5-Year economic development program, from 1962 through 1966, in the second year he became president. President Park set a goal of a growth rate up to 7% annually. To accomplish this goal, President Park not only increased the investment amount but also undertook currency reform in 1962 to secure usable capital. However, these measures brought about inflation that could only be curbed by increasing foreign currency in the domestic currency market. However, the government failed to obtain a loan from the US which meant the failure of the development program. In 1964, the government adjusted the export priority program by increasing the incentives for export companies including lowering loan interest rates and income taxes.

In this export priority system, the Vietnam War participation provided a remarkable boost to national economic growth. Exports increased greatly from the beginning of 1965, increasing by 47% for the year, with 73% of the increase coming from exports to the US. Japan was the second largest export market and Vietnam was the third as a result of South Korea’s participation in the war there. Exports to Vietnam markets (military supplies, technicians’ remittances, insurance services, etc.) reached $17 million in 1965 and increased to $70 million towards the end of war.

This was the first time Korean companies entered foreign markets, and by the late 1960s they included Samsung, Hyundai, and SK.

Infrastructure development also boosted the economy. For example, President Park initiated building highways between Seoul and Pusan, the first constructed in the country. Before undertaking this project, Hyundai was able to master useful skills necessary for constructing roads and highways by participating in the investment projects in South Vietnam led by the US. As these companies began to expand abroad, a number of employment
opportunities were created. By 1972, more than 50,000 Koreans were hired in Vietnam.

Exports led to a steady increase in foreign exchange reserves in the domestic market, reaching $700 million in 1972. Moreover, foreign loans were increasingly acquired, rising slightly over $100 million in 1965 to $800 million in 1972. Many of the loans were granted by the Johnson government. As a result, from the late 1960s, economic growth rates leaped (Chart 4-1). The GDP per capita remained at similar levels as North Korea and countries in Africa through the 1950s, but South Korea began to pull away during the 1970s.

Chart 4-1. Economic Growth by Country and Year

The rapid economic growth rates led to increased funds available for education. Table 4-9 shows government expenditures on education by year. In 1970, of the total government budget, nearly $80 million were spent on education, and this increased nearly three times to about $228 million in 1975. The percent of the total government budget spent on education ranged from a low of 14.4% in 1975 to 22.8% in 1995.

The central government first initiated a policy to fund special education as part of the second 5-year economic development program, from 1967 through 1971, in the middle of the state’s military participation in South Vietnam. South Korea’s first educational initiative, a 6-
year compulsory education completion plan, was conducted as part of the nation rebuilding project with the assistance of the US government and the UN in the early 1950s. The war had caused a huge increase in the number of people with disability, but economic depression meant the central government was only able to focus on restoring the compulsory education system. As such, children with disabilities became marginalized in the mainstream education system. As a result of participating in the Vietnam War, the government finally secured more funds to invest in special education.

Table 4-9. Government Expenditure on Education, Total (% of Government Expenditure)

<table>
<thead>
<tr>
<th>Year</th>
<th>Government’s budget</th>
<th>Ministry of Education’s budget</th>
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<tbody>
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<td>1970</td>
<td>446,273,301</td>
<td>78,478,212</td>
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<tr>
<td>1975</td>
<td>1,586,931,050</td>
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</tr>
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<td>1990</td>
<td>22,689,432,968</td>
<td>5,062,431,258</td>
<td>22.3</td>
</tr>
<tr>
<td>1995</td>
<td>54,845,022,310</td>
<td>12,495,810,267</td>
<td>22.8</td>
</tr>
<tr>
<td>2000</td>
<td>118,919,976,000</td>
<td>19,172,027,920</td>
<td>16.1</td>
</tr>
<tr>
<td>2001</td>
<td>124,461,641,000</td>
<td>20,034,364,710</td>
<td>16.1</td>
</tr>
<tr>
<td>2002</td>
<td>136,618,129,000</td>
<td>22,278,357,817</td>
<td>16.3</td>
</tr>
<tr>
<td>2003</td>
<td>142,939,927,000</td>
<td>24,404,401,310</td>
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<td>2004</td>
<td>146,872,596,000</td>
<td>26,399,680,082</td>
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</tr>
<tr>
<td>2005</td>
<td>160,145,363,000</td>
<td>27,982,002,000</td>
<td>17.5</td>
</tr>
</tbody>
</table>

*Unit: Korean won

*Note. Adapted from Han’guk kyoyuk üi kukchejök chwap’yo wa hyanghu kyoyuk kaehyök panghyang yön’gu, p. 35, by C. H. Kim, 2005, Seoul, South Korea: Ministry of Education & Human Resources. Copyright 2005 by Seoul, Korea: Ministry of Education & Human Resources.
CHAPTER 5

CONCLUSION & IMPLICATIONS

Conclusion

Special education legislation in the United States and South Korea represented unique trails of policy development. In both countries, compulsory education laws were passed where children with disabilities were widely marginalized from the public educational system. While US special education law evolved over about a century after widespread adoption of compulsory education laws, in South Korea this evolution occurred over about two decades after the compulsory education system had been established in the country.

In the meantime, children with disabilities and their parents struggled to obtain equal educational opportunities. The similarity running through the language in the main civil and disability rights cases of Brown, PARC, and Mills demonstrates that the disability rights movement shared some similar processes with civil rights movement. Even after President Lincoln passed the amendment to the US Constitution focused on equal protection under the law in the 19th Century, Blacks were still often subject to unequal treatments. The actual movement against racism and for equal civil rights began in the mid-1950s with support from several US presidents, culminating in the signing of the Civil Rights Act.

Brown was the landmark case where persistent systemic discrimination against Blacks became cracked. The separate but equal doctrine was finally broken down heralding a new era for Blacks and other previously excluded groups. A couple of decades later, PARC and Mills reversed previously accepted discriminatory measures against children with disabilities, where they were institutionalized in segregated places and/or excluded from education. Due process hearings were the main requirement resulted in these two cases and became written policy in the first US special education law, P.L. 94-142. This law mandated FAPE for a child
with disability, paralleling civil rights legislation banning racial discrimination based on the sense that all citizens have equal rights regardless of color. The lengthy latter part of P.L. 94-142 provided procedural safeguards to protect everyone’s right to FAPE.

By contrast, the South Korean law evolved from successive efforts of plans by government officials and petitioning by parents of children with disabilities. In this dissertation, I shed light on the roles of two key leaders, President Rhee and President Park, especially their efforts in securing funds for policy implementation. President Rhee established the compulsory educational system and President Park further expanded the compulsory educational opportunity to include children with disabilities by passing the first special education law.

Through the policy development process, both leaders undertook policies strongly impacted by the US. In particular, President Rhee actively protected the state from the danger of invasion by North and maintained the liberal democratic system, which enabled more people educational opportunities. President Park further developed the system by actively involving himself in skillful diplomacy to gain support from the US government to better the national economy, which he saw as a priority for address in all other needs in the country.

President Park’s efforts led to the South Korean military commitment in South Vietnam, which helped gain investment funds from foreign developed countries. The increased funds enabled the government to continue the first and second economic development programs and to finally initiate special education policy. Special education policy first began being discussed in the beginning of the second economic development term and the first law was passed through the fourth economic development period as the government steadily increased the educational budget. Thus the South Korean special education law needs to be understood within these backgrounds of economy and diplomacy.
Increased investment funding by the US was directly linked to the South Korean government’s securement of educational expenditures.

The South Korean special education law’s needs-based tone, as such, should be interpreted within an understanding of the country’s struggles to secure educational financing. For example, while language in P.L. 94-142 seemed to be focused on ensuring the rights of a child with disability, the APEH was more focused on “promoting” special education services for the special needs students. See the comparison of FAPE language section. The purposes of US law was given as to “assure” FAPE for all children with disabilities while the South Korean law, for which there was only a limited budget, aimed to “promote” special education services for special needs children.

The development of special education policy in the US and South Korea and the different approaches presented in the laws provide some implications for current and future policy and research activities. In both countries, children with disabilities gained the right to FAPE. In the US, children and parents actively participated in legal discussions and legislative proposals to obtain the right, while in South Korea students and parents directly petitioned the government, which accepted their request and implemented policies based on those of model developed countries, particularly the US.

The US law, P.L. 94-142, reflected the lengthy history of struggle for the educational rights of children with disabilities, and employed much of the language used in previous legislation and court cases. The law required due process for families to contest denial of education for their children by a school or board of education. In contrast, the South Korean law did not specify procedural steps for children and parents to contest decisions by schools, even though this first special education law was modeled after those of some developed foreign countries, including Japan, Germany, and the US. Thus children with disabilities were
The country did its best to prevent wasting of limited funds for the budget. President Park gathered the best expert groups and investigated examples of foreign success in implementing measures when government funds are limited. Moreover, caution in expenditures was taken because funds been secured by desperate actions like sending troops to the war in Vietnam. The government did not want the budget spent in vain. As such, implementing government programs based on the successful examples of other countries would save money and time through greater efficiency in policy decision-making and implementation. This efficiency priority policy was also driven by the circumstances the state faced including conflicts with North. The state did not want to lag behind the North because being in a difficult situation and looking weak might invite restarting the war. Therefore the passage of the first special education law came as a landmark even the limited circumstances prevented a full process of policy development.

In contrast, the US law came as the outcome of conflicts between races that also came to benefit all marginalized groups of people. The US policy, as such, was eventually developed and implemented through the process of accepting and respond to diverse individuals’ voices. Thus the policy changes did not come suddenly as in South Korea, accumulated over time as the consequence of individuals with disabilities and their advocates steadily seeking their equal rights.

Here, I also find that the United States individualism is not a separate thing from the overall social change; the changes have been closely related to and transformed by the seeking of individual rights. This individualism has emerged from the individualistic values the early Protestant immigrants pursued while exploring the new land and their sense of being a religious and moral. This individualism reflects the respect for an individual as enshrined in
the Bill of Rights in the 18th century which evolved into respect for diverse races and values. As such, P.L. 94-142 was an outcome of a long historical trail that was laid over time in a number of pioneering states, rather than being implemented based on examples from other countries.

The example of how P.L. 94-142 evolved leads to the suggestion of increasing the discussion channels where individuals and groups of people can collaborate to take useful steps to gain acceptance their needs. In doing so, policy makers will become able to set the policy agenda to better reflect the needs and preferences of individuals with disabilities rather than directly adopting other models of other nations.

**Limitation of the Study & A Model for the Future**

From my analysis of the evolution of the two different laws in the US and South Korea, I developed a philosophy which would lead to discussions for an expanded right to education for persons with disabilities in both countries. A typical way to improve a public policy is to base it on research findings. But as I discovered in my review of how political history and culture impacted the evolution of policy in the two countries, improving a policy is much more complicated rather than simply implementing a policy from another system. That is, the descriptive approach of this study intended to show the complex process of policy formation affected by politics, the citizens’ interaction with the system, and belief in the system.

This study bears the limitation in that I have not directly suggest the way of policy change to the most recent amendment to the law, but only providing some implication which might lead to better policy. For example, South Korea already implemented the law that modeled after the US law in 2004. Thus I propose an open philosophy, in which current legislators and researchers would look back at what has so far been implemented.
In fact, there have been attempts to implement the US approach of including people with disabilities themselves in the development of legislation and policy in South Korea (Kim & Han, 2007). The APEH was revised several times beginning in the 1990’s, leading to the passage in 2007 by the national assembly of “a bill on special education of persons with disabilities”. This law was actually modeled after the US law (P.L. 94-142) and the process of passage was similar to the US process.

However, during development of the law there were some conflicts between the professional groups and the disability activist groups. The professional groups formed around those who had participated in the first special education law passed in 1977. The professional groups and academics stated that the 1977 special education law was based on professionals’ advice within the understanding of disability. For example, the professional group around the Korea Institute for Special Education (first built in the early 20th century and based on the US missionaries’ philosophy for education who developed this professional group) had continuously participated in the process that led to the first law, APEH, in 1977. Moreover, the professional groups-centered enactment was inevitable then considering that parents and their children with disabilities were not active and lacked the sense of having rights at that time.

In contrast, the 1994 amendment of APEH was a representation of that period when politics were strongly influenced by movements toward democracy. As had happened earlier in the US, numerous groups of people rose to achieve their rights, among them both special education academics and disability advocacy groups. Thus the two groups, of professionals and persons with disabilities, had their opinions reflected in the amended law. In subsequent revisions, in 1998 and 2002, the practice of the principle of “nothing about us without us” was further accelerated as numerous organizations and interest groups were created and
advocated for their rights.

The problem was that some of the disability organizations were closely allied with some politicians who passed the bill in 2007 without discussions with professionals and other groups, who came to criticize the bill as not fitting reality. In a sense, this can be viewed positively because it was a disability-centered law and those with disabilities took a leading role in its enactment.

On the other hand, it cannot escape from the criticism that it divided the special education personnel (teachers and professionals) and those with disabilities. So the professionals and educators have been skeptical about how effectively the law would lead to an advanced outcome for special education assistance. Thus the implementation of rights-based model has been already achieved but conflicts over how to assure these rights remain. A process to reach a more advanced special education system may need the close monitoring of previous policy implementation within South Korea’s historical and cultural context.

Inclusion should not become a goal but a process leading to a better result. That is, legislators need to focus on the possible outcome when they intend to implement a policy, which requires an understanding of previous efforts in their cultural context. If discrimination is embedded in the system through culture, legislation and language, then simply passing a new law to guarantee a person’s right is unlikely to have the desired result because people usually know how to evade a boundary of responsibility under the law.

When legislators in South Korea first passed the APEH, their first concern was about the society’s perceptions of disability. They discussed even if the law was passed people may not conform to it. For example, principals could persist in rejecting those with disabilities. Some parents of children with polio or some physical disabilities took to the street and protested with teachers and professionals associated with the Korea Institute for Special
Education, but most others hid their children, especially those with intellectual or other severe disabilities. They did not welcome the law, and some even committed suicide with their disabled children because of poverty and feelings of hopelessness. In this situation, the law needed to focus on promoting appropriate educational services and incentives for special education teachers as a measure to begin changing perceptions.

The question is whether a law can change perceptions. I think the law, in a sense, is a representation of perceptions. For the US case, it is true. Individuals advocated for their equal rights. Although it took almost 200 years since the US Constitution first specified equal protection before the law, finally minority groups, including Blacks, females, and individuals with disabilities, gained widespread support for their equal rights. And it came from these individuals’ struggles and sense of equality. Perceptions changed through the movements.

So the US special education law, as my dissertation continuously states, evolved from these struggles and the perceptual changes they created. As shown in the table of perceptions of disability in the two countries in Chapter 1 (Table 1-1), the South Korean side remained with the medical model and needs based approach even when APEH was first passed. This law, as I discovered, did not resulted from perceptual changes, which are more likely to result from sacrifices of time and efforts in struggles against discrimination. Individuals tend to become motivated to take action and seek rights when they experience discriminatory incidents.

In this regard, it appears that the country needs to become developed in economy to protect every citizen’s rights, including those with disabilities. The president envisioned that the development of human capital through education would achieve economic growth and finally reach a stage where a safety net could be provided when needed and everybody would benefit from the system. The special education law, APEH, was part of this plan. It might be a
first step to move forward to a welfare state. Thus it is different from the US model. US had already established an advanced level of economic development by the time the movements for equality rose. In South Korea, by contrast, before individuals’ struggles reached a peak level, the policy had been implemented as part of economic growth programs. The disability rights movement did not become strong until the 1990’s when the military governments gave way to a civilian government. Thus, in South Korea, policy came first and movements came later.

These movements have changed perceptions and greatly expanded opportunities for people with disabilities. But this also casts questions about our current democracy. Although the South Korean economy has reached a high level of development and the country is a world leader in educational performance, I doubt whether the level of democracy has caught up to this performance. People still depend on protests and anti-government movements rather than going through the political and legal systems. If they really believe in democracy, they should trust and use the democratic system. However, even though it has been decades since the civilian government was established, they still want to take the fastest track and refuse spending time for the system to resolve the problem. This may be a cultural thing. Therefore what I can suggest, with the US model implemented yet problems remaining, is to promote research to identify more effective models and policies. This future research needs to focus on how our historical and cultural traces need to be taken into account.

For the future possibilities of the US, I recommend that policy changes would engage an even broader range of disability advocacy groups and professionals who would guide new perspectives. From my review of the history, it was discovered that the law had been regarded as a final option (see Gilhool’s interview). Claiming one’s equal rights and eventually reversing preexisting perceptions and systemic barriers by litigation were an achievement in
US history. On the other hand, the need for litigation reflects deeply rooted discrimination against minorities and negative perceptions of disability. If the society could reach a consensus for both conflicting sides, for example, boards of education and individuals and/or groups of people with disabilities, those with disabilities would not need to consume their energy to change the system. Moreover, these individuals would not need to miss critical time for education by struggling with litigation.

With laws in place focused on advancing special education assistance as a real educational opportunity, it is important for educators and professionals to continue discovering measures to promote attitudinal changes of acceptance, which would guide surpassing the language in the law. The rights of individuals actually surpass the language in the law and perceptions embedded in society. That is why some legislators have undertaken amendments to the laws that have brought incomparable achievements in the US educational system (see, for example, the Individuals with Disabilities Education Act [IDEA] Amendments of 1997). This philosophy would help lead to continuous discussions and future research about truly actuating the right to FAPE in both countries.

Figure 5-1. A Philosophy for the Future Model
For the US, it is time to think about the real value and effects of FAPE for a child with disability. Like I discussed earlier, inclusion is not a goal but a process leading to better educational outcome. In this sense, we need to seriously discuss about what comes next when after some level of inclusion has been achieved. In the end, inclusion is not a result but provision of the least restrictive environment where a child with disability’s educational and social needs are most effectively met. Thus, we should reconsider the FAPE language if it is focused too much on achieving inclusion as a goal. Policy needs to be focused on pursuing excellence and maximizing the effects of inputs.

For South Korea, it is the same. As analyzed, the ideals of policy when the first special education law was passed were how to include children with disabilities in free public education. Since then special education policy has been advanced by focusing on inclusion following the US model. But as educators have expressed, inclusion is not all that we need to reach in the end. The legislators need to think about how the first special education policy was implemented within the historical moment that the bill was passed during a desperate situation when educational financing was secured through war participation. That was the representation of egalitarianism.

Now we have become more enriched but at the same time are divided into parties and often taking populist positions without thinking of the likely results. We should reconsider current policy by looking back into the minds of children and parents, professionals, and legislators in the 1970’s. We should understand how the bill was passed even within the Yusin administration and what the leadership envisioned as the future of special education. Certainly it was not to be a regression but a much more broadened and higher quality education for children with disabilities.

For special needs children, quality education means something that meets their needs
at the maximum level possible, reflecting the philosophy of “the maximum extent possible” introduced in the IDEA of 1997. The South Korean legislators and disability advocacy groups should have inquired into what principles were running through the amended US law and how the FAPE language was inserted before modeling South Korean legislation after it. Thus future research needs to be focused on the progress resulting from US special education law and how the FAPE language changed as a result of continuous litigation by those with disabilities in seeking actual benefits from inclusion.
REFERENCES


*Chosŏn ilbo.* (August 26, 1953). Wŏnjo mulcha sisŏlchae toip [Having aid goods mainly on facilities].


Chŏng, H. D. (2002). Woori nara t’ŭksu kyoyuk ūi chŏngch’aek panghyang [The policy direction of special education in South Korea]. In *Changae haksaeng ūi ihae wa*


Cooley, T. M. (1871). A treatise on the constitutional limitations which rest upon the legislative power of the states of the American union (2nd ed.). Boston, MA: Little Brown & Co.


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Im, A. S. (2002). Uri nara wa miguk IEP ŭi pŏpchŏk pigyo yŏn’gu [The legal comparison of IEPs between South Korea and the United States]. The Journal of Special Education: Theory and Practice, 3(4), 27-44.


Im, H. P. (2012). Park Chung Hee e taehan chŏngch’ihakkchŏk p’yŏngka. Lidŏsip, kŭndaeahwa, yusin, kŭrió mollak [A political analysis on Park Chung Hee leadership, modernization, Yushin and Park’s demise]. Pyŏngwha yŏn’gu, 51-84.


Kang, P. D. (1993). Han’guk t’ăksu kyoyuk haengjŏng ŭi palchŏn pangan [A study on the
development of Korean special education administration](Unpublished master’s thesis), Koryo taehakkyo, Seoul, South Korea.


*Kyŏnghyang sinmun*. (February 1, 1972). Piga t’onghan sinjanga kuje choch’ŏ [A blood


Education and Disability, 23(1) 5-18.


Pak, Y. B. (1997). *Han’guk t’ŏksu kyoyuk haengjŏng pyŏnhch’ŏn kwa palchŏn e kwanhan yŏn’gu* [A study on changes of special education administration and development]. (Unpublished master’s thesis), Kyŏngwŏn taehakkyo, Sŏngnam, South Korea.


Korea: Hyangmunsa.


Plessy v. Ferguson. 163 U.S. 537 (1896).


Waddington, L., & Diller, M. (2000). Tensions and coherence in disability policy: The uneasy relationship between social welfare and civil rights models of disability in American,


Yi, M. S. (2011). Kunsa hyŏpsang kwa kunsa tobal pyŏnhang haengt’ai rŭl t’onghac pon pukhan ŭi taenam chŏllyak [North Korea strategy toward South Korea viewed in the parallel type of military negotiation and provocation]. Tongil chŏngchaek yŏn’gu, 20(2), 125-158.


