

Korea Legislation Research Institute
2015 Annual Report



Vol.1 Basic Research Projects
On-Demand Research Projects

Korea Legislation Research Institute
2015 Annual Report



Vol.1 Basic Research Projects
On-Demand Research Projects



Preface to the Publication





The Korea Legislation Research Institute has been presenting legislative alternatives to outstanding national policy issues and has been supporting the legislation of government policies as the one and only government-funded research institute specializing in legislation for the last 25 years since its establishment in 1990. In the last year, the Korea Legislation Research Institute has also published legislative research reports in various fields, such as public administration, economy, welfare, and global issues.

The five administrative goals of the Government in order to become a highly developed country, namely "a creative economy focusing on job creation," "tailored employment and welfare," "creativity-oriented education and cultural enrichment," "a safe and united society" and "establishment of infrastructure for a happy unification era", can be achieved through strategies and tasks that support such goals. The Korea Legislation Research Institute provides legislative support so that the five administrative goals of the Government may be realized effectively.

Especially in 2015, the Korea Legislation Research Institute established "legislative research for the establishment of law and order and the realization of a safe society," "legislative support for the realization of sustainable peace," and "legislative support for the creation of infrastructure for a healthy information and communications ecosystem" as its business goals and conducted a large number of research projects related thereto.

The Korea Legislation Research Institute has published the "Korea Legislation Research Institute (KLRI) Annual Report 2015" in order to contribute to the improvement and revision of related legislation by widely informing and disseminating the results of professional and specialized research in the field of legislation it conducts and for utilizing the results thereof.

In this Annual report, the Korea Legislation Research Institute introduces the main content of research projects and the results of large-scale projects conducted in 2015, and information about its plans for research projects in 2016.

We hope this "KLRI Annual Report 2015" will be useful and helpful to, not only legal experts, but also a large number of people interested in legislative research, and all researchers, executives, and employees of the Korea Legislation Research Institute will endeavor to produce the results of professional research which form the basis of legislative policy. We would appreciate your unreserved support and much attention.

Korea Legislation Research Institute
2015 Annual Report


contents

02 Preface to the Publication

08 2015 Business Overview
- 2015 Missions
- Direction-setting for Research
Projects

06 Mission

09 Organization



10 History

13 2015 Achievements
- Basic Research Projects
- On-Demand Research Projects

86 2016 Missions and Directions
- 2016 Missions
- Direction-setting for Research Projects

89 2016 Basic Research Plans

95 Publications



Mission



As Korea's only government-funded research institute specialized in legislation, KLRI has been established to support the formulation of national legislative policies and to improve legal culture. We create a better future through outstanding research outcomes.

Purpose of Establishment

KLRI provides assistance in the formulation of national legislative policies, promotes dissemination of timely and accurate legislative information, and supports general legislative activities by systematically collecting and managing legislative information and by offering a wealth of expertise in investigating and researching legal systems.

Primary Functions

- Research on foreign and domestic laws and legislative policies
- Systematic collection, management and dissemination of foreign and domestic legislative information and provision of such information via web service
- Publication and supply of explanatory materials that discuss the legislative purposes and backgrounds of individual legislations
- Research on legislation skills, legal terminology, Korea's old legal codes before the introduction of current legal systems, and study on the history of the country's legal systems
- Legal research with overseas or domestic institutions on legal systems and legislative policies, and invitation of legal experts at home and abroad for research
- Entrustment of research projects to other domestic research institutions or individuals as well as performance of research projects entrusted by the Government or private organizations
- Other projects necessary to attain the purposes of KLRI



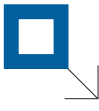
2015 Business Overview

1. 2015 Missions

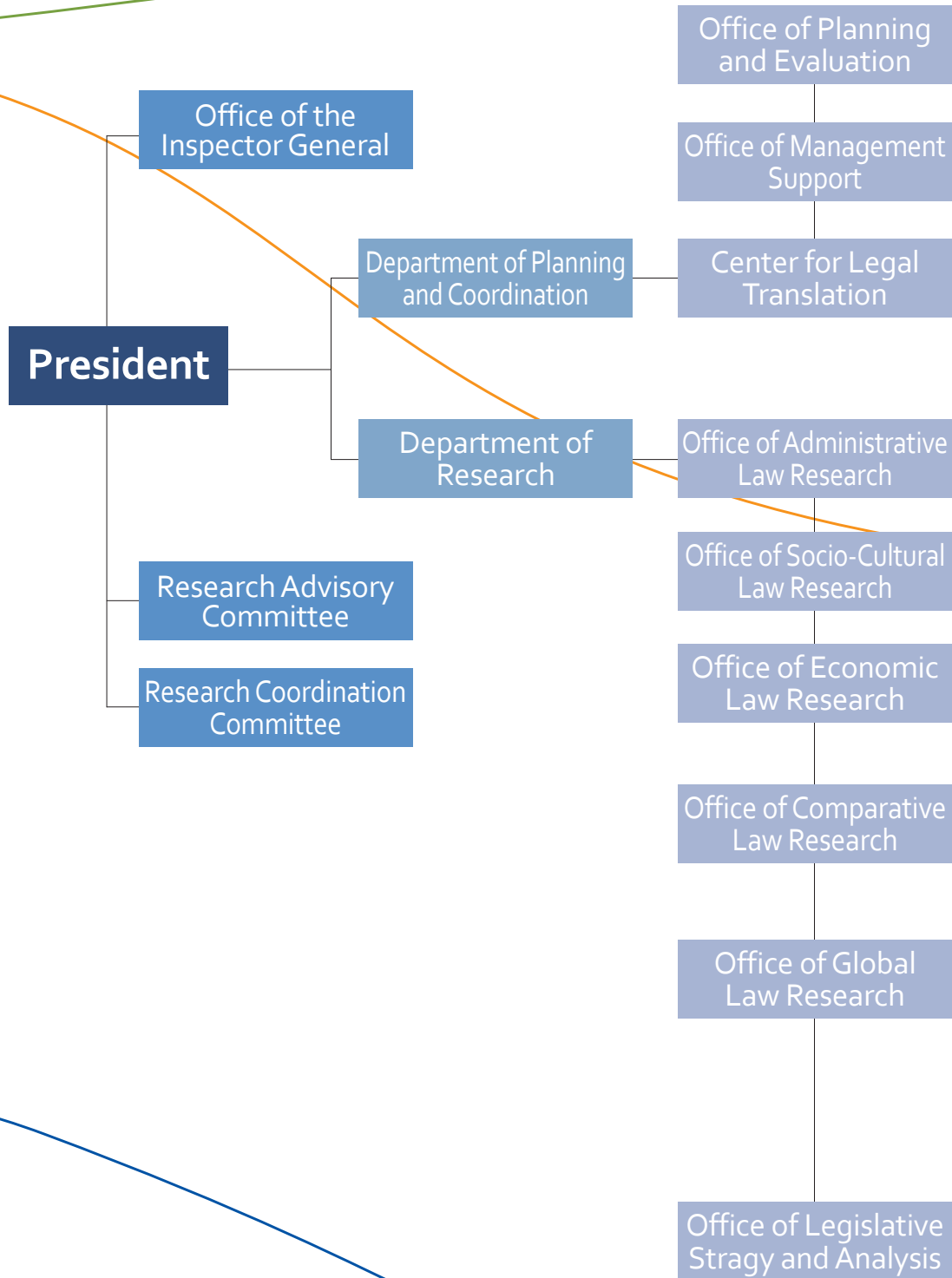
Major National Goals	Management Objectives	2015 Missions
Shape a culture where the law and order are respected	<ul style="list-style-type: none">• Operating a reliable research system.• Strengthen cooperation in research, at home and abroad• Assist responsible legislation through linkage with policies	<ul style="list-style-type: none">• Research on legislation to establish legal order and realize a safe society.• Legislative assistance to realize sustainable peace• Legislative assistance to create a basis for a robust information and communications environment.

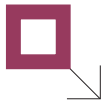
2. Direction-setting for Research Projects

2015 Missions	Direction-setting for Research Projects
Research on legislation to establish legal order and realize a safe society	▶ Research on legislation for strengthening management of urban spaces to prevent disasters.
Legislative assistance to realize sustainable peace	▶ Research on unified legislation to establish a basis for peaceful unification.
Legislative assistance to create a basis for a robust information and communications environment	▶ Research on legislative assistance for realizing Government 3.0 for people-oriented service.



Organization





History

1990~1999

1990. 07. 30

The Korea Legislation Research Institute was established

1991. 12. 30

Published *the Journal of Legislation Research*

1999. 01. 29

The Act on the Establishment, Operation and Fostering of Government Funded Research Institutions (Act No. 5733) was promulgated and came into force

2000~2006

2000. 05. 25

Provided a new edition of English Translation of the Statutes of the Republic of Korea on the website

2001. 05. 19

Won a prize for the best development organization (based on the evaluation by the National Research Council for Humanities Social Sciences)

2002. 11. 01

Won the Prime Minister's prize for the best organization (based on the evaluation by the National Research Council for Humanities and Social Sciences)

2003. 12. 20

Won the Prime Minister's prize for the best organization (based on the evaluation by the National Research Council for Humanities and Social Sciences)

2004. 01. 01

The KLRI knowledge management system was introduced

2005. 05. 31

Became a member of the National Research Council for Economics, Humanities and Social Sciences under the Prime Minister's Office after the promulgation and enforcement of the Act on the Establishment, Operation and Fostering of Government-Funded Research Institutions (Act No. 7573)

2005. 10. 13

Launched the Asia Legal Information Network (ALIN)

2006. 06. 30

Won the Prime Minister's award for the best organization (based on the evaluation by the National Research Council for Economics, Humanities and Social Sciences)

2007~2010

2007.

Published *the Latest Foreign Legislation Information*

2007.

Published *the Journal of Legislation Research*, which was later selected as a journal registered with the National Research Foundation of Korea

2008. 01. 22

Won the Prime Minister's award for the best organization (based on the evaluation by the National Research Council for Economics, Humanities and Social Sciences)

2008. 08. 15

Established Research Contract Partnership with the Global Green Growth Institute (GGGI)

2009. 02. 04

Won the Prime Minister's award for the best organization (based on the evaluation by the National Research Council for Economics, Humanities and Social Sciences)

2009. 05. 08

Won a prize for the best organization (based on the evaluation by the National Research Council for Economics, Humanities and Social Sciences)

2009. 08. 22

Certification in KS Q ISO 9001:2009/ISO 9001:2008 (Certification No. AC-0339) was granted

2010. 01. 01

Published the 1st issue of KLRI's newsletter *Bub Yeon*

2010. 04. 01

Converted the access to the English Translations of the Statutes of the Republic of Korea website into a free-of-charge service

2010. 07. 01

Hosted KLRI's 20th Anniversary International Academic Conference

2010. 07. 30

Won a prize for the best organization (based on the evaluation by the National Research Council for Economics, Humanities and Social Sciences)

2011~2016

2011. 05. 11

Honored in 2010 with a prize in recognition of excellence among research institutes

2011. 09. 30

Received the Prime Minister's Recognition for the Best Institute

2011. 12. 30

Published the English edition of KLRI *Journal of Law and Legislation*

2012. 12. 24

Published *Introduction to Korean Law*

2012. 12. 28

Published *ASEAN Handbook I*

2013. 11. 28

Published *ASEAN Handbook II*

2013. 12. 20

Published *Standard Korean-English Glossary of Legal Terms*

2014. 01. 24

Relocated to the Government Complex in Sejong City

2014. 06. 13

Held the opening ceremony of the new office building in Sejong city

2014. 12. 24

Published *ASEAN Handbook III*

2015. 08. 31

Published "*Twenty-Five Years in Legislative Research for the People's Happiness*," a compendium of research works, in commemoration of the 25th anniversary of KLRI's founding.

2015. 10. 15

Held an international conference in commemoration of the 25th anniversary of KLRI's founding.

2016. 01. 07

Published "*Administrative Adjudication and Administrative Litigation*"



2015 Achievements

Basic Research Projects



A Study on Improvement of Coincidence on Laws, Regulations and Constitutional Law of Municipal Ordinance

Researcher: Yi, Se-Jeong(KLRI)



Background and Purpose

- Article 117 Paragraph (1) of Korean Constitution provides that “Local governments ... may enact provisions relating to local autonomy within the limit of acts and subordinate statutes”, and Article 22 of the Local Autonomy Act based thereon also stipulates that “Local governments may enact municipal ordinances concerning their affairs within the limit of acts and subordinate statutes”. This confirms the principle of precedence of acts in unmistakable terms, but there are quite a few municipal ordinances which have the potential to conflict with laws.
- According to the provisory clause of Article 22 of the Local Autonomy Act, local governments must have authorization by acts when they make provisions on matters concerning restriction of residents’ rights or imposition of obligations on residents or make provisions on punishment. However, such provisions are sometimes made without authorization by acts.
- Some municipal ordinances use every so often unclear terms or phrases in violation of the constitutional principle of clarity or provide for matters contrary to the constitutional principles of proportionality and self-responsibility.
- Some municipal ordinances fall short of formal completeness in usage of terms or composition of sentences, or do not conform with the Easy-to-understand Guideline for Improvement of Laws or the Manual for Drafting Self-governing Legislation published by the Office of Legislation.
- Such municipal ordinances mentioned above could bring about unnecessary friction between residents and local governments, spawn distrust in local governments, hinder smooth performance of local administration and cause disbenefits such as restrictions on the rights of residents and imposition of new obligations on them.
- The purpose of this study is to raise the level of legal stability and predictability of residents, strengthen the rule of law in local administration and seek ways to heighten conformity of ordinances with laws and the constitution, by way of improving those current municipal ordinances which 1) provide matters contrary to higher-level laws, 2) provide for, without proper authorization by acts, matters concerning rights or obligations of residents or punishments against them, 3) violate the constitutional principle of clarity by using unclear terms or phrases, 4) violate the constitutional

principles of proportionality and self-responsibility, or, 5) do not conform with the Easy-to-understand Guideline for Improvement of Laws or the Manual for Drafting Self-governing Legislation published by the Office of Legislation.

II Main Content

- In Chapter 2 of this study, the scope and limits of local government's power to enact municipal ordinances have been looked at as the criteria for judging and strengthening conformity of ordinances with laws and the constitution.
- In Chapter 3 through Chapter 5, cases of subject local governments have been found by research area, and their problems have been pointed out and the ways to improve them have been suggested.
- In Chapter 6, the current status of the cases found has been explained briefly, and the ways for strengthening conformity of ordinances with laws and the constitution have been suggested.

III Expectations

- It is expected that the legal stability and predictability of residents will be ensured and compliance with laws will be enhanced.
- It is expected that arbitrary implementation of ordinances by local governments will be prevented and clarity of local autonomous administration will be ensured.
- It is expected that unnecessary friction, discord and legal conflicts between residents and local governments will be prevented.
- It is expected that conformity of ordinances with laws and the constitution as well as their formal completeness will be enhanced.

Key Words

Municipal Ordinance, Principle of Legal Superiority, Principle of Statutory Reservation, Principle of Clarity, Principle of Proportionality, Principle of Self-responsibility



Legislation Study on Social Finance

Researcher: Lee, Jun-Ho(KLRI)



I Background and Purpose

■ Background of this study

- Social finance is an approach to managing money which delivers a social dividend and an economic return. Social finance is often used to describe the lending and investment into companies who consider themselves social enterprises, charities, co-operatives, and other impact-focused organizations.
- Social finance are noted by starting to discuss the need to strengthen the financial support for solving social problems.
- The types of social finance are “Microfinance”, “Impact Investing”, “Community Finance”, “Cooperation Finance”
- Because Korea needs social finance for local economy, social enterprise and cooperatives active, it is necessary not only to systemize and legislate the social finance, but also to institutionalize the foundations of social finance.

■ Purpose of this study

- The purpose of this study is to propose for building the necessary legislation for social finance, and at the same time leads to the improvement of the legal needs of the current legislation related to social finance.



II Main Contents

■ Definition of social finance

- Social finance is an approach to mobilizing private capital that delivers a social dividend and an economic return to achieve social and environmental goals. Mobilizing private capital for social good creates opportunities for investors to finance projects that benefit society and for community organizations to access new sources of funds.

■ Types of social finance

- Microfinance : Microcredit, or microfinance, is banking the unbankables, bringing credit, savings and other essential financial services within the reach of millions of people who

are too poor to be served by regular banks, in most cases because they are unable to offer sufficient collateral. In general, banks are for people with money, not for people without.

- **Impact Investing** : Investing that aims to generate specific beneficial social or environmental effects in addition to financial gain. Impact investing is a subset of socially responsible investing, but while the definition of socially responsible investing encompasses avoidance of harm, impact investing actively seeks to make a positive impact investing, for example, in non-profits that benefit the community or in clean technology enterprises.
- **Community Finance** : A private sector's financial activity that focuses on personal lending and business development efforts in local communities. CDFIs can receive federal funding through the U.S. Department of the Treasury by completing an application. They can also receive funding from private sector sources such as individuals, corporations and religious institutions.
- **Cooperation Finance** : Cooperation Finance is bank or other type of financial institutions that are fully owned and operated by individuals who hold membership in those institutions. This type of cooperative venture is often established among a group of members who share some type of common bond, such as being involved in a particular industry. The typical financial cooperative will offer a full range of banking services, including checking and savings accounts, as well as loans that carry a rate of interest that is highly competitive with other institutions.

■ U.K. Social Finance Institutionalization

- Support social scaling in capacity building
- Promote a new culture of Government procurement
- Strengthen the social business frontier
- Deliver more blended capital funding
- Require a social investment pension option
- Encourage greater transparency around lending into deprived communities

■ Legislation of Social Finance

- Legislation related to social finance
 - Framework Act on the social economy and Micro-financial assistance Act
- Microfinance
 - Introduction of loan type crowd-funding
 - Capital Market Act amendment

- Impact Investing
 - Legal review for legislation approval related to social impact fund
 - Establishment of investment management professional company and utilization for “Fund Of Fund”
- Community Finance and Cooperation Finance
 - Foster and support community development financial institutions
 - Local funding for the local economy through the Mutual Aid Foundation
 - Investment company utilization
 - Support regional associated organization



Expected Effect

- Policy recommendation for development of the Social Finance
- Legislation supporting for the Social Finance

Key Words

Social Finance, Microfinance, Impact Investing, Community Finance, Cooperation Finance

Legislative research for the improvement of air quality laws to reduce particulate matters

Researcher: Hyon, Jun-Won(KLRI)

I Background and Purpose

- In 2013, the high particle matter(PM) was considered as a social issue, but there is lack of legislative research. Therefore, the legislations related to particle matter which are neighboring nations with Korea or advanced countries such as US, Germany and Japan will be described and the policy implications of those matters will be deducted on this study.

II Main Contents

- In Korea the environmental quality standard of PM and high PM level are PM10 and PM2.5 respectively. It is low level nearly doubled compared with recommendation of WHO, so the environmental quality standard should be strengthened to meet global standard.
- The strengthen of environmental quality standard will be the first step on practically induce environmental improvement because the interest of the public will be focused on exceed the environmental quality standard and its frequency.
- There are many assessment that the volume management system which is effecting on the atmosphere control zone in the metropolitan area, according to the 「Special Act on the Improvement of Air Quality in Seoul Metropolitan Area」, has contributed for the air quality. The PM of metropolitan area was the highest level in Korea but since enforcement of the volume management system, the PM level of metropolitan area in Seoul and Incheon excepting Kyonggi Province has been improved below the environmental quality standard Therefore the expand enforcement of the volume management system of air pollution materials should be considered.
- Currently, the PM level in non-metropolitan areas such as Chungbuk, Kangwon, Jeonbuk, etc, is high, so the introduction of its system should be considered in those areas.
- The current air pollution warning system alerts when a significantly higher than environmental quality standard was continued. However, current air pollution warning system has limitations for preparation, so it should be reformed for public to alert when concerning the excess of environmental quality standard

- The policies should be revised to serious alert if pollution is serious caused by particle matter. The reformed policies should contain that the business places should suspend its operating and limit the traffics when serious alert is alarming.
- The detailed implementation plan should establish in consideration of regional characteristics.
- Finally, it is urgent issue that measuring network to calculate of particle matter pollution should be expanded and inventory to figure out the accurate reasons of pollution problem should be also established.
- The particle matter was designated as category one carcinogens by WHO, but, in Korea, it is low level nearly doubled compared with WHO standard. Therefore the government should establish the aggressive policies to protect national life and health by considering of particle matter.



Expected Effect

- In this research, the suggestions to improve legal system to reduce particle matter will be effected to make and implement national policies to solve problems of particle matter.

Key Words

particle matter, PM10, PM2.5, air pollutant emission-cap management system, automobile pass protection

A Study on the Improvement of Legal System for cooperation between Large Retailers and Small Retailers

Researcher: Kim, Yun-Jeong(KLRI)

I Background and Purpose

■ Research background

- With the opening of the distribution market in the early 1990s, large retail stores have accounted for a greater portion of the distribution industry since the late 1990s.
- The entry of large retail stores into regional markets provides new shopping culture and thereby improves the quality of life and guarantees consumers' right to choose a variety of retail stores. In addition, it has a lot of positive impacts on the advancement of the distribution industry, contributing to distribution service improvement and price stabilization.
- The entry of large retail stores into regional markets provides new shopping culture and thereby improves the quality of life and guarantees consumers' right to choose a variety of retail stores. In addition, it has a lot of positive impacts on the advancement of the distribution industry, contributing to distribution service improvement and price stabilization.

■ Research purpose

- The purpose of this study is to come up with legislation that resolves a conflict and has mutual cooperation.
- The purpose of this study is to suggest the ways to improve legislation that considers regulation improvement of the large-scale stores, support Small and Micro stores, and activate traditional markets.

II Major Content

■ Status and Conflict between Large Retailers and Small Retailers

- Small retail stores get a blow due to the rapid business expansion of large retail stores and the rash penetration into traditional markets, and their increased risk awareness has deepened conflicts between large and small distribution industries.

- As a solution to this problem, a variety of rules such as 『Distribution Industry Development Act』, 『Act on the Promotion of Collaborative Cooperation』, 『Act on Fair Transactions in Large Franchise and Retail Business』

- Large retail stores oppose the regulation, and small retail stores require much stronger regulations while arguing that current rules are largely invalid.
- With a view to seeking true coexistence of large and small retail stores, it needs to come up with institutional measures to reduce infringement of local businesses and effective improvement methods to prevent unfair transactions abusing superior position. Besides, it needs to seek various ways to extend the market of small retail stores and raise independence and competitiveness of traditional markets and local businesses.

■ Content and Problem of Current Legislation on Mutual Cooperation between Large Retailers and Small Retailers

- Content and Problem of Distribution Industry Development Act.
 - According to Distribution Industry Development Act, Article 12-2, a limit on regular business hours and mandatory business holidays of super supermarkets(SSM) shall be designated, and large retail stores argue that the rule treats other distributors and super supermarkets(SSM) differently, thereby violating equal rights, constitutionally fundamental rights, and consumers' own right to decide.
 - Meanwhile, Distribution Industry Development Law Article 8 stipulates that large retail stores shall submit commercial impact assessments and regional cooperation plans to start business, and small retail stores argue that business owners should witness validity and execution of their assessments and plans.
- Content and Problem of Act on the Promotion of Collaborative Cooperation.
 - According to Act on the Promotion of Collaborative Cooperation, Article 32, if the small entrepreneur organization opposes the agreement of suitable businesses, they shall not be able to propose a settlement for the business and shall petition the Korea Commission for Corporate Partnership to do it. Therefore, the subsequent procedural delays prevent them from selecting suitable businesses in a timely manner.
- Content and Problem of large Distribution Act.
 - large Distribution Act protects store tenants only, so subtenants who rent or lease property from tenants operates a large retailer's store can often be a victim of unfair practices. However, they are excluded from the law application so the measures to protect them are needed.
 - In reality, large distributors deal with small and middle-sized suppliers by converting the deal to management system through vendors rather than directly signing a contract, but large Distribution Act doesn't have the measures to protect small and middle-sized enterprises that provide vendors with products.

- Content and Problem of Act on Small and Micro Enterprises and Traditional Market Place Act.
 - Act on Small and Micro Enterprises doesn't have the measures to support social insurance system for small and micro enterprises, and therefore an unemployment insurance rate is very low even though small and micro enterprises have possible risks of insolvency and bankruptcy.
 - Traditional Market Place Act comes up with supporting measures focusing on traditional markets or existing shopping districts created over a certain size. Having a difficulty due to the advent of large retail stores, small retail stores or merchandises of street stores mostly dominate regional markets, but Traditional Market Place Act doesn't have the measures to protect them.
- Overseas Cases of Mutual Cooperation between Large and small Distribution Industries
 - France
 - France is one of the countries that first attempted location regulations of large retail stores over a certain size through business permission in accordance with Commercial Code(Code de commerce), and still maintains the relatively strict location regulations.
 - France is executing location regulations in accordance with Urban Planning Code(Code du l'urbanisme) as well as business permission for the opening of large retail stores, and therefore large retail stores are being formed on the edge of town.
 - Germany
 - Germany carry out location regulations of large buildings based on the city plan in accordance with Construction Law & Construction Utilization Ordinances about large retail stores.
 - If the opening of large retail stores has a negative impact on existing small retail stores, Germany sometimes carries out location regulations based on Retail Business Ordinance depending on states.
 - UK
 - In UK, private development plans such as the establishment of large retail stores shall get approval from each local government in accordance with the Town and Country Act, as part of city plans.
 - In UK, NPPF(National Planning Policy Framework) enacted in 2012 aims at 'Sustainable Development' when judging validity of development plans, and place the development plans in the downtown area first for downtown revitalization.
 - Japan
 - Japan has changed its focus on regulations of large retail stores from protection of small retail stores to location regulations based on city plans, life environment creation, and environment policies.

- Japan is making efforts to revitalize central areas as large retail stores are moving to the outskirts, thereby causing a donut phenomenon.

■ **Improvement Methods of Legislation for Mutual Cooperation between Large Retailers and Small Retailers**

• Improvement method of Distribution Industry Development Act.

- Unlike other countries, Korea allows the opening of large retail stores in downtown areas, thereby significantly affecting regional businesses, so business hours limit and mandatory business holidays are highly reasonable regulations in terms of harmony with regional businesses and mutual cooperation.

- However, it needs to designate mandatory business holidays considering the condition of each region by taking measures to carry out impact assessment of business districts about the entry of large retail stores.

- When large retail stores register for their opening, special municipal mayors, mayors, governors, and heads of districts should examine the impact assessment report of business districts and the regional cooperation plan by listening to opinions of 'the Distribution Industry Mutual Development Council' and ask 'professional agencies' to check it out if necessary, in order to prevent not only the probability of large retail stores from writing the report and the plan by themselves but also superficial and insufficient review on them.

• Improvement methods of Act on the Promotion of Collaborative Cooperation.

- Act on the Promotion of Collaborative Cooperation needs to stipulate independent foundation regulations about how 'Korean Commission for Corporate Partnership' reach an agreement on suitable businesses. By limiting the agreement period, if an agreement is not reached during the period, Small and Micro Enterprise Association should be allowed to directly ask the Small and Micro Enterprise Administrator for business adjustment through the relevant regulation.

• Improvement methods of Act on Fair Transactions in Large Franchise and Retail Business.

- By stipulating a store subtenant as the application target of Act on Fair Transactions in Large Franchise and Retail Business, it needs to prevent unfair transaction about store subtenants of large retail stores.

- Even when vendors trade with suppliers to supply products to large retail stores, it also needs to prevent law evasion resulting from trade with an intermediary trader, vendor in accordance with Act on Fair Transactions in Large Franchise and Retail Business.

• Improvement methods of Act on Small and Micro Enterprises and Traditional Market Place Act.

- Act on Small and Micro Enterprises needs to include foundation regulations for the

government to support part of some employment insurance premium of small and micro enterprises below a certain income.

- It needs to set the foundation for the establishment of the Shopping District Promotion Association in Traditional Market Place Act for local and peripheral businesses like existing shopping districts, and therefore the supporting regulations are also needed.



Expected Benefit

- This study can be used as reference data of distribution industry-related policies and revision of laws such as 『Distribution Industry Development Act』, 『Act on the Promotion of Collaborative Cooperation』, 『Act on Fair Transactions in Large Franchise and Retail Business』, 『Act on Small and Micro Enterprises』, and 『Traditional Market Place Act』

Key Words

distribution industry development, mutual cooperation, large retail store, small and micro enterprises, traditional market, impact assessment of business districts

Legislation Research for New Technology-based secure electronic financial stability

Researcher: Seong, Seoung-Je(KLRI)

I Background and Purpose

■ Background of Study

- Electronic Financial Transaction Act plans to develop electronic financial industry with stability and this is the main principle of legislation pertaining to electronic financial system.
- However, personal information leakage has reached a critical level and stability problem may be an obstacle against development of the electronic financial industry.
- By amendment and improvement, Electronic Financial Transaction Act and other related law can fulfill the main purpose and function well.

■ Purpose of Study

- To grasp the current situation that companies do not hold responsibilities despite the frequent cases of personal information leakage.
- If stability of electronic financial transaction is not secured, it is hard to expect development of electronic financial industry which is the other purpose of Electronic Financial Transaction Act
- It demonstrates Koera, which was once considered as a country with the most developed IT infrastructure, is recently inactive in the field of new electronic financial transactions such as Fintech. The fact that stability of electronic financial transaction is not secured is one of obstacles against adoption of deregulation policies such as deregulation policy for Fintech.
- By reviewing and examining the law system pertaining to electronic financial transaction, we can find the solution to fulfillment of the purpose of Electronic Financial Transaction Act.

II Main Summary

- Analysis and review of Electronic Financial Transaction Act
- Legislative review on electronic finance, methods for personal certification and new methods for certification

- Introduction and analysis of Fintech's policy against the trend of electronic financial transactions and personal information protection
- Analysis of influence of frequent cross-border transactions on Electronic Financial Transaction Act
- Analysis of issues of Electronic Financial Transaction Act such as scope of users' gross negligence



Expected Outcomes

- Provision of basic data proving personal information protection by legislation is important for industry promotion
- Provision of basic data for further amendment of Electronic Financial Transaction Act
- Provision of basic legal data for fundamental development of the electronic financial industry

Key Words

electronic finance, electronic financial transaction, Electronic Financial Transaction Act, financial security, Fintech



The Legal Study on Strengthening Disaster-preventive Management of Urban Space

Researcher: Son, Hyun(KLRI)



Background and Purpose

- Recently, massive natural disasters such as floods, drought, heavy snow, etc. have been increased by climate change, the scale of disasters has been enlarged. In particular, in urban areas, the damage has been extended to bring the second and the third damage based on the advancement of urban functions and the high density of land use.
- Prevention measures against these urban disasters are related the organizations and legislations based on the type of disasters and the characteristics of the region. Because the various policies have been established on procedures, such matters should be established from planning phase to become organically one of the city's disaster prevention system.
- In other words, in order to increase the effectiveness of safe urban development and disaster prevention system, it is important to build urban space management systems for prevention of disasters considering the regional characteristics, and it is necessary to establish the fundamental urban measures including the deployment of land-use and infrastructure of the city beyond the traditional prevention measures.
- This study aims to examine the ways that the proper preventive measures focusing on the disaster prevention of the city are established and operated, and to analyze the limitations. In addition, it suggests the legislative improvements for the future of our urban situation.



Main Contents

- It examines the definition and necessity of disaster prevention planning based on the National Land and Utilization Act, the Countermeasures against Natural Disasters Act, and the Framework Act on the Management of Disasters and Safety.
- This study finds the implications and suggests a specified proposal of revision focused on the National Land Planning and Utilization Act. As for urban disaster prevention planning, a large amount of efforts has been taken, partial concepts and matters are added to the proposal.

- Therefore, based on the recognition that more fundamental level of legislations are needed to operate a comprehensive system for urban disaster prevention, it suggests an enactment of the 「Act on Prevention of Urban Disasters」.



Expected Effect

- By establishing legal principles and planning on urban disaster prevention, it can improve and extend the scope of researches on the urban disaster prevention.
- It reviews the legislations and suggests the directions for urban disaster prevention to ensure the effectiveness of policies, and it will contribute to improve the efficiency of urban disaster prevention measures by building a comprehensive systems.

Key Words

Urban Disasters, Urban Disaster Prevention Planning, the National Planning and Utilization Act, Act on Prevention of Urban Disasters.



A Research on Korean People's Legal Consciousness in 2015

Researchers: Hyeon, Dae-Ho(KLRI)

Kim, Myoung-Ah(KLRI)



I Background and Purpose

■ Background of this study

- Recently, the amendment of legislation and the achievement of Rechtsstaat(Rule of Law) to the social, cultural, and economic levels have been becoming an issue in Korea. Thus, the validity of legal systems in accordance with the level of legal awareness among the public needs to be strengthened more than ever before.
- Also, at the moment when Korea moves to an advanced or developed nation from an emerging or developing one, the need for the realization of an advanced Rechtsstaat(Rule of Law) through the mutual harmony between the national legal systems and the legal awareness of the public is highlighted more than ever before.

■ Purpose of this study

- This study, as in the one previously conducted by Korea Legislation Research Institute, aims to consider the change of the legal awareness among the public by means of the chronological analysis of the public's legal awareness and the analysis of previous studies regarding the major issues in the national legal systems in order to figure out the change of the legal awareness among the public.
- Especially, the study on the legal awareness among the public conducted in 2015 creates a foundation to improve the national legal system and to establish an advanced Rechtsstaat(Rule of Law). in accordance with social, cultural, and economic levels in Korea, based on the scientific understanding of the legal awareness among the public and its change by applying the new indices of the public's legal awareness.



II Main Contents

■ Survey Results about the Change in the Society and the Public's Sense of Values

- The ratio of the responses in which both the parents or husbands and wives alike are involved in family decision making is steadily increasing. Furthermore, many people respond that women are not discriminated in decision-making at the household level. Most of the respondents think that gender discrimination against women in family decision making results from male chauvinism in a patriarchal culture.

- Regarding the Incentive System for Military Service, the ratio of the advocates for the system is overwhelmingly high. Many of the respondents think that the underprivileged are mistreated in society, which is triggered by the lack of the social support or the government's attention.
 - Many of the respondents consider legal systems to be authoritative.
 - The number of people aged 60 and older, who consider legal system to be positive, is more higher than any other age group.
 - Many respondents are shown to get information on legal systems by the media; from the chronological perspective, however, the ratio of the respondents who get information via the Internet is steadily increasing.
 - Regarding the degree to which they are informed about the content of the contract, the number of people who read the contracts are higher than those who do not read it, but the ratio of people who read the contract carefully tends to decrease.
 - As for a question regarding the degree to which they abide by laws, the degree of law-abidingness on an individual level is shown to be substantially higher than that on a social level. With regard to the reason why people do not stick to the law, the respondents feel that they are at a disadvantage when abiding by laws.
 - Concerning the way in which people deal with them when purchasing defective products, the ratio of the responses in which they exchange the defective items to their satisfaction is equal to that of the responses in which they do nothing with them once purchasing the items.
- **Survey Results about the current legal systems and the change of the public's legal awareness**
- Many respondents think that law school system is not successful, whereas public participation trial system is relatively successful.
 - Many respondents are against death penalty, but support euthanasia; from the chronological perspective, the ratio of the supporters are not substantially different.
 - Many respondents think that Labor Management Relations Laws are not realized, which is attributed to owners or employers. For corporations which trigger environmental pollution, many thinks, more strict regulations must be made than the current ones.
 - Many thinks Irregular Worker Protection Laws are not successful. Among the groups of the respondents are the student and the unemployed and other groups.
 - Regarding the abolishment of the adultery law, many object to the abolishment, and women are against the abolishment more than men.
 - Many support the law punishing those engaged in prostitution, and women are for it more than men.
 - Regarding the introduction of Kim Young Ran Law, many think the law is successful.

- To fully quantify and understand the public's legal awareness, the public's legal awareness indices (30 survey questions in 6 sections) are developed and the results are as follows:
 - The indices for the public's legal awareness in 2015 are shown to be above average. Among six sections of the indices for the public's legal awareness, the index for the preservation of human rights is the highest, followed by the index for the interest in law, the index for the validity of law, and the index for the awareness and affectiveness of law in order. The indices for the observation of law and for the enactment and execution of law are relatively lower than any other index.
 - For the indices for the public's legal awareness in 2015, people aged 50 and older have 10 points higher than those aged 40 and younger. The indices are relatively higher in the groups of the lower level of education, the relatively larger size of community, the married rather than the unmarried, respectively.
- The present research about the public's legal awareness leads to the consideration of the change in the public's legal awareness in accordance with the change of legislation through the previous chronological approaches and the analysis of issues related to the current legal systems. Developing and utilizing the indices for the public's legal awareness helps to provide the strategies for improving the national legal systems in terms of the levels and the items through the scientific and systematic analysis of the public's legal awareness.
 - The question items related to the chronological analysis and the legislation issues have still limitations to consider the public's legal awareness only with the relevant question items, and can be affected by the accidents both inside and outside the nation.
 - The indices for the public's legal awareness have some limitations:
 - As the public's legal awareness is represented quantitatively, the problems related to the degree of accuracy and reliability about the quantified value of the public's legal awareness can occur.
 - There are no objects to be compared with the indices for the public's legal awareness.



Expected Effect

- These results can be used as the basic data to amend the national legislation and regulation, and to realize an advanced Rechtsstaat(Rule of Law).
- These results help the government to utilize the data for the government policy-making to realistically execute the national legal systems and to strengthen the validity of the legal systems to the level of the public's legal awareness.

Key Words

Constitutional State, Rule of Law, Citizen Participatory Trial(Jury Trial), Law School, Adultery, The Underprivileged

A Legislative Research for Promoting the Tourism Economy

Researcher: Kang, Mun soo(KLRI)

I Background and Objective

- A Basis of current cultural policy in the South Korea pursues “the values of culture spread out all over the community regardless of the fields and have positive influence on the every department of society including economics, politics.”
- To meet these political goals, prosperity of tourism industry is expected as the power of sustainable economic growth in the changed paradigm of tourism policy and international tourism environments.
- However, the study of legalization and legislative system for these political goals is not enough to be satisfied with the practical demand of community even though some professional organizations that is related to the tourism implement several studies for building macroscopic legal system and political needs.
- Especially, current legal system, including ‘Framework Act on Tourism’, is recognized that it has not been played a enough roles in the prosperity of the tourism industry and as basic legal system since it has a lot of regulation content.
- Therefore, this report will focus on the reforming existing legal system to the new system by basing on problems mentioned above in the first. After that, legal plan for reaction of major issues that is relevant to the tourism industry (travel business, tourist accommodation business and casino business) and an assessment of legislative alternative will be presented. Ultimately, a contribution for vitalization of national economy is the main purpose.

II Research Scope and Methodology

- To meet the purpose of study, this report implemented various methods such as ① researching and studying legislation and literature ② comparing South Korea’s law with other counties law in similar areas ③ studying legislation and policies ④ holding experts’ conference.
- Especially, this report tried to reinforce policy utilization for study’s results by holding experts’ conference and seeking advice on the related topic in order to getting the objectivity and expertise of study.

- In chapter 2, this report will check the level of contribution for national economy out through statistics data. Also, characteristics of tourism industry will be analyzed as main study objective by examining the classification system of tourism business in the “Tourism Promotion Act” and operation condition. Not only that, policy conclusion will be drawn out by referring to major countries like Germany, Japan, China that dealing with tourism policy important in order to encouraging tourism industry.
- In chapter 3, present condition of tourism industry, especially travel business, tourist accommodation business and casino business will be introduced through collection and analysis of preceding research and study.
- In chapter 4, the problems of current tourism legal system will be evaluated in the legislative perspective. Finally, policy suggestion will be proposed to build-up basic of prosperity with tourism industry by assessing the validity of regulation and the plan for reaction in legislative manner against controversy.



Main Contents

- A reinforcement of national competitiveness in the world by boosting tourism industry.
 - A scope of tourism industry in the “Tourism Promotion Act”.
 - Investigation for level of contribution about national economy by analyzing statistic data.
- Problems and trend in each sector of tourism industry.
 - Investigation for problems and trend of the travel business, tourist accommodation business and casino business that has a big influence on tourism industry.
 - In the case of the travel business, this report will focus on an infringement on interests of customers and an exaggerative advertisement. When coping with the tourist accommodation business, legislative confusion derived from the complicated responsibility relation between ministries of governments will be pointed out. Lastly, this report describes needs of strengthening national monitoring system in the casino business.
- An Improvement plan in legal manners to boost the tourism industry.
 - An Improvement of inefficiency about “Framework Act on Tourism” and a specialization in regard to legal classification for tourism industry in “Tourism Promotion Act” is needed.
 - The main factors which is considered as the important issues when making a laws that is relevant to the travel business, tourist accommodation business and casino business will be reviewed and a draft of a proposed law in National Assembly also will be introduced in order to contributing to build-up the regulation system for the prosperity of tourism industry.



Expected Results

- This report's results are expected to realize vitalizing national economy through the establishment of each regulation system for the main tourism industry and the modification of legal system related to flourishing tourism industry as the power of sustainable economic growth.
- This report's results are expected to be used as the basic legal resource in the future.

Key Words

Tourism promotion act, Tourism industry, Tourist accommodation business, Travel business, Casino business



A Study on Improvement of Administrative Penalties

Researcher: Choi, Hwan-Yong(KLRI)



Background and Purpose

- To achieve administrative purposes, most administrative regulations impose duties on people and, to ensure compliance, have penalty provisions for violation of duties. Such penalty provisions impose administrative penalties the names of which are found in the Criminal Act.
- In some cases, however, the elements of an offence are too vague to ensure compliance, to prevent administrative arbitrariness, and to rule out any arbitrary interpretation by the judiciary as to whether an offence is constituted. Some administrative penalty provisions even delegate elements of an offence to subordinate decrees or rules, possibly violating the principle of legality.
- The degree of administrative penalties should be adequate and reasonable in light of the culpability of a violation. However, some provisions impose inadequate, unreasonable, or excessive penalties, while others punish negligible acts for which penalties are not necessary at all. In still other cases, penalties are out of balance compared to other Acts and decrees where similar violations are punished. Imbalance also exists between imprisonment and fines where the former is replaceable with the latter.
- Cases above undermine stability and predictability in the legal system and, if left unchecked, are bound to discourage people from observing the law. Such regulations will result in too many criminals, administrative expediency, unnecessary court costs, and conflict between the people and the administrative branch. It is therefore necessary to examine the status quo and make improvements.
- This study inspects administrative penalty provisions and discovers cases where: elements constituting an offence are ambiguous; the elements of an offence is delegated to subordinate statutes or rules to determine, contrary to the principle of legality; the degree of punishment is inadequate, unreasonable, or excessive, penalties are out of balance with the punishment imposed for similar acts; and where penalties are not suitable, considering the sentiment of people toward the law and changes of the society.

II Overview

- Chapter 2 explains that administrative penalties are both administrative sanctions and criminal punishment subject to the Criminal Act, and are different from the administrative order penalties. This chapter compares administrative penalties with administrative order penalties and calls for balanced rearrangement. It also points out imbalances between administrative imprisonment and fines, and imbalances between administrative provisions and statutory provisions.
- In Chapter 3, different penalties for similar acts are compared. Through examples and analyses, this chapter presents the need to choose between administrative penalties and administrative order penalties according to the degree of the benefit protected by the law. It also calls for the balance with the Criminal Act when administrative provisions contain offences similar to those prescribed in the Criminal Act.
- Chapter 4 presents the need to choose means of sanctions corresponding to the cause or result of the offence, to prepare criteria for changing administrative penalties into administrative order penalties, and to bring balance in statutory penalties.
- Chapter 5 presents conclusions demanding that excessive administrative penalty should be removed and balance should be brought between administrative penalties and administrative order penalties.

III Anticipated Effects

- This study will contribute to strengthening the effectiveness of administrative penalties by preventing excessive administrative penalties and ensuring balance with administrative order penalties.
- This study will help to clarify the elements constituting administrative offences, bring balance of statutory penalties, and rearrange administrative penalty provisions.

Key Words

Administrative penalties, Administrative order penalties, Administrative sanctions, Proportionality



A Study on the improvement of the legislation regarding Welfare for Older Persons in the Aging Society

Researchers: Kim, Jeong-Soon(KLRI)

Park, Jong-Joon(KLRI)



I Background and Purpose

■ Background of this study

- In Korea, thanks to the economic growth of the 1980s, the average life of the people greatly increased. Accordingly, the focus of policy should be established to identify the elderly as the subject of independence, not the object that should be supported. Especially, the institutional support for older people's health and the economic stability should be made.
- 「WELFARE OF OLDER PERSONS ACT」 has been amended several times since its enactment in 1981, there is no significant change in the system. Due to the reason that this law mainly targets the most vulnerable low-income seniors, it has failed to resolve the existing problems related to the aging.
- The legal and institutional response should take place in order to reflect the new needs for the social welfare for the order persons effectively in consideration of the environmental changes brought up by the elderly society.
- Therefore, a study on the legislative improvement is necessary in relation to securing the income, offering the economic activity, providing the health and medical service, offering the housing, etc. for the order person to lead the minimum life as a human being.

■ Purpose of this study

- This study mainly focuses on drawing the legislative improvements which reflects the new demands for the social welfare for the older persons by analyzing the relevant legal system and the future task in order to reasonably solve the existing problems related to the aging society and the elderly welfare.
- Additionally, this study also aims to draw the legislative improvement by examining the current legislative status in relation to the elderly income, the minimum life, the convenient migration, etc.



II Main Contents

- Current Status and Policy Analysis for the Welfare of Older Persons in Aging Society

- This study examines the meaning and current status of the aging society emerged as a serious issue in our society, and reviews the scope of the aging society. It also looks at the main contents of the master plan on the low birth rate in an aging society in order to catch the main flow of government policy on the aging society.

- In addition, this study reviews the general characteristics of the older persons and their current status on household type, economic activity, health, etc. on the basis of statistics.

■ Review on the Laws regarding the Welfare of Older Persons

- This study overviews the laws related to the welfare of older persons on the constitutional basis, and it shows the concept of older persons in the laws related to the welfare of older persons and reviews the current status on the domestic laws.

- Additionally, this study focuses on the laws related to the welfare of older persons such as 「Welfare of Older Persons Act」, 「Framework Act on Low Birth Rate in an Aging Society」, 「Framework Act on Social Security」, 「Act on Long-Term Care Insurance for the Aged」, 「Basic Pension Act」, 「National Pension Act」, 「National Basic Living Security Act」, 「Act on Prohibition of Age Discrimination in Employment and Elderly Employment Promotion」, 「Act on Assistant Services for Persons with Disabilities, the Aged, Etc.」, 「Act on Guarantee of Promotion of Convenience of Persons with Disabilities, the Aged, Pregnant Women, Etc.」, 「Social Welfare Services Act」, 「Senior-Friendly Industry Promotion Act」, 「Dementia Management Act」 and reviews the contents thereof.

■ Overview of the Laws regarding the Welfare of Older Persons in other Major Countries

- In the U.S., various programs have been operated and prepared under the two main laws, 「The Older Americans Act」 and 「The Social Security Act」.
- In Germany, the social insurance system under the Social Code (“Sozialgesetzbuch” in German) containing the employment promotion, the legal pension insurance, the long-term care insurance, and the social assistance forms the main axis of the welfare of older persons system.
- The welfare of older persons system in Japan has been run on the Framework Act on Aging Society involving the laws in various fields such as employment, pension, health, social participation, etc.

■ Current Issues on the Laws related to the Welfare of Older Persons and Suggestions for the Improvement thereof

- This study reviews on the current status and legal issue in relation to the welfare of older persons on the basis of 「Welfare of Older Persons Act」 and 「Framework Act on Low Birth Rate in an Aging Society」, and suggests the improvement thereof.
- This study also reviews the current legal issue and status on the laws related to the income security, the employment security, the housing security, the health service for the older persons, and it draws the improvement.



Expected Effect

- This study may contribute to provide the basic legislative materials for a legislation or a revision of the law related to the welfare of older persons by presenting the legislative improvement in consideration of the new demands brought up in the aging society.
- This study may also contribute to make the theoretical development and establishment by drawing the characteristics and implications of the future welfare of older persons act based on examining the relevant legislations in the countries such as the U.S., Germany, and Japan in order to respond to the current problems in the aging society actively.

Key Words

Aging Society, Welfare of Older Persons, Welfare of Older Persons Act, Committee System, Framework Act on Low Birth Rate in an Aging Society, Act on Long-Term Care Insurance for the Aged, Basic Pension Act, Act on Prohibition of Age Discrimination in Employment and Elderly Employment Promotion

A Study on Applying Age Standards on Legislation

Researcher: Jang, Min-Sun(KLRI)

I Background and Purpose

■ Background of this study

- As an objective and uniform standard, “Age” is often used in choosing subjects of application of law on legislation, without considering individual characteristics and circumstances.
- Absence of guidelines in setting age standards on legislation causes confusion to people and legal executors and violation of fundamental rights by differences and redundancies of ages in some legislations.
- For this reason, it needs to consider three principles-adequate abilities contributable to legislative purpose, guarantee of fundamental rights, systematic consistency- in setting age standard and analyse applications of age standard according to them.

■ Purpose of this study

- This study is aimed to proposing useful considerations in age standards and effective alternatives of the existing Act through examining the provisions classified by age concepts and legal characters, analysing their validity and efficiency and contemplating related legal issues.

II Main Contents

■ Meaning and Principles in Establishing Age Standard

- Age is a belonged characteristics to each individual by nature and causes legal effects like rights and duties on every points from birth to death.
- If someone is corresponding to specific age, he or she is applied to the Act regardless of his or her individual circumstances according to age standard.
- In establishing legislative standards regarding to age, we have to consider various abilities, such as mental capacity, capacity for action, learning ability, economic capacity, job performance, and balance public and private interests with conforming to systematic consistency.

■ Review of Age Standards by Type on Existing Legislations

- In Chapter 3, I examine to study and existing legislation using infant, early childhood, child, juvenile, minor, youth, elders or seniors and analyse relations to legislative purpose and systematic consistency.
- In next part, I find the common considerations in age standards divided into ones like guarantee of rights, performance of duties, qualifications and disqualifications, rating system, and setting of beneficiaries.

■ Examination of Legal Issues related to Age

- In Chapter 4, I review differences and redundancies among various age standards.
 - comparative analysis of similar concepts such as infant, child, juvenile, minor
 - case study of different age scope to the same concept like juvenile age
- Besides, I introduce and analyse legal issues regarding to age, such as voting age cut, age lowering of criminal minors, age raising of elders

■ Considerations in Setting Age Standards and Directions of Improving Existing Legislations

- As a result of examining the existing Act according to the aforementioned three principles, I suggest capacities and factors to consider in setting age standards and emphasize not to violate constitutional principles like prohibition on discrimination and systematic consistency
- Finally, I propose directions to improve existing legislations related to child and kid age, and age adjustments in juvenile age Acts like Framework Act on Juvenile, Promotion of the Motion Pictures and Video Products Act, and so on.



Expected Effect

- It is expected to contribute to provide guidelines for considerations in establishing effective age standard on legislations.
- This report is expected to provide basic research materials in order to improve and revise the current legislations regarding to child and juvenile age.

Key Words

Age Standard, Child Age, Juvenile Age, Minor, Voting Age, Framework Act on Juvenile Act

A Study on Improvement of Legislation Related to National Information for Realization of Government 3.0

Researcher: Choi, Hwan-Yong

I Background and Purpose

- Current government advocates as its most important task since the inauguration of the new government that “opening, sharing, communication and cooperation should be the core values of the government operation” and set the “realization of the Government 3.0 era which aims at providing ‘customized happiness’ to each individual person” on the basis of the achievements of Government 2.0 which has focused on mutual communication by getting over the one-way communication prevailed in the Government 1.0.
- This means that there would be new shift of paradigm in the government operation and that, in administrating the state affairs, emphasis would be laid on the communication and cooperation with citizens on the basis of the opening and sharing of national information which were adopted as means of the operation of the Government 3.0. the gist of which is the opening of national information and customized services.
- Although this paradigm shift in government operation has been carried forward by the Park Geun-hye administration as a key policy, current legal system related thereto has lots of problems yet, such as (1) regulation on disclosure of national information, (2) scope of disclosure of national information, (3) construction of infrastructure for sharing national information, (4) Utilization of national information through convergence thereof, and (5) establishment of legal system related to national information.
- The purposes of this study are, at first to probe from normative point of view the philosophy and values of the Government 3.0 the key word of which is the paradigm shift of government operation, and to search the methods of improvement of legal system suited to such philosophy and values.

II Main Content

- In Chapter II, the meanings and objectives of the Government 3.0 are examined, a legal system related to the philosophy and values of the Government 3.0 is drawn, and further, an overview of plans for the implementation of policies of the Government 3.0 and the tasks, etc. thereof is provided.
- In Chapter III, the author reviews the current legislation status concerning national information which relates to the policies of the Government 3.0, such as the Official

Information Disclosure Act, the Act on Promotion of the Provision and Use of Public Data, and the Electronic Government Act, and examined the limits and problems of the relevant Acts and subordinate statutes in realizing policies of the Government 3.0.

- In Chapter IV, the author proposes the necessity to definitize the concept of the information subject to disclosure upon request and to clarify the scope of information which should not be disclosed, to improve the Acts and subordinate statutes related to information disclosure; and further
 - Proposes the necessity of enacting new provisions on the scope of public data and of prescribing special provisions on copyright, and proposes to prescribe conditions for the use of public data which conform to the principle of the provision thereof, to improve the Acts related to public data;
 - Proposes the necessity of unifying and prescribing the scope of 'public institutions' among the information-related legislation;
 - And lastly, as means to improve individual laws related to information, factors that impede the use of public data under the Copyright Act, the State Property Act, and the Public Property and Commodity Management Act are examined, methods to improve them are proposed, and the methods to improve restrictive factors on the provision of information under the Spatial Data Industry Promotion Act and various types of Acts related to the promotion of industries are proposed as examples;
 - And as tasks for customized services through linkage and integrated management of informatization system, methods to improve systems related to the supply and demand of social security, methods to introduce a reporting system based on reports from hospitals, and methods to improve systems for realization of customized services are proposed.



Expectations

- The author expects this study to contribute to the improvement of systems for the effective promotion of policies of the Government 3.0.
- By clarifying the normative meanings of the policies of the Government 3.0, it is expected to be used for finding future issues for institutional improvement, etc.

Key Words

Government 3.0, Information disclosure, Provision of public data, Copyright, Customized services

Research on the Legislation concerning the Management and Use of Natural Resources

Researcher: Yi, Sun-Tae(KLRI)



Background to research

■ Background to research

- Natural resources are essential elements for the national economy and everyday life, as well as elements that constitute the natural environment. As such, it is the government's duty to effectively protect, maintain and use natural resources. However, the government is failing to maintain and use natural resources effectively due to conflicting interests regarding their use and development, unbalanced regional distribution of resources, old-fashioned methods of administration of resources, and a failure to manage newly emerging resources.
- Article 120 of the Constitution of the Republic of Korea reads, "The State shall protect minerals and other important underground resources, marine resources, water power and other natural power resources that are available for economic use, and shall also develop plans necessary for their balanced development and use." The methods or details of their management are provided under discrete statutes such as the Mining Act, the Hot Spring Act, the Marine Resources Maintenance Act, the River Act, the Underground Water Act, and the Act on the Development and Maintenance of Forest Resources. As the details concerning the entities responsible for managing natural resources are widely scattered across various relevant statutes, the government apparently lacks the administrative means of interconnecting the policies concerned in accordance with the characteristics of the natural resources.
- Further, discrete statutes are being enacted or amended to reflect the newly emerging management paradigms in various different fields. The legal system should also be streamlined to ensure such changes in the legal system are harmonized with the legal systems in other fields.

■ Purpose of research

- It is necessary to conduct legislative research on a means of improving the legal system so as to ensure the efficient management and wise use of natural resources, by securing managerial means that satisfy the characteristics of the respective natural resources and securing their interconnectivity, while developing or establishing basic principles or directions of legislation concerning the management of natural resources.



Main Contents

- **Current statutes concerning the management of natural resources**
 - Classification of statutes concerning natural resources
 - Classification of statutes concerning natural resources - The current statutes concerning the management of natural resources consist of Article 120 of the Constitution, and statutes concerning the maintenance and use of resources, the protection and conservation of resources, and those concerning the entities founded for the development and management of resources.
 - Changes in the constitutional provisions on the management of natural resources
 - Article 120, Chapter 9 of the current Constitution sets forth the details concerning the management of resources. This provision has survived without any significant changes being made to it from the first to the current Constitution. A similar provision exists in the Platform declared by the interim government for the founding of the Republic of Korea.
 - The first Constitution provided for the nationalization of resources. The provision was deleted in the 2nd amendment, but the 7th amendment newly provided for the development of plans for the use of land resources.
- **Concept or classification of resources under the current statutes**
 - The current statutes provide definitions of the concepts of resources, and categorize them into natural resources, environmental resources, life and bio resources, human resources, information resources, and information and communication resources.
- **Configuration of current statutes concerning the management of resources**
 - This research examines the configuration of the current statutes concerning the management of resources and explores methods of management that can be crosschecked from the legal system concerning the management of various resources.
 - The overall configuration of the legal system may be divided into basic ideals, resource survey, development of basic management plans, development and operation of information management systems, conventions on the protection and management of resources, exclusive rights to the use of resources, management organs, designation of protected and preserved zones, research, development and promotion of international cooperation, development of resources, committees, etc.
- **Management and use of natural resources**
 - It is stated that natural resources include non-owned resources and publicly-owned resources.
 - Natural resources are managed and used by such means or methods of management as are controlled by market organs, government organs, and communities, or by compound methods.

- ‘Commons’ under the commons theory covers two meanings: First, it means the commonly owned resources of all people (including land); second, it means the system of ownership defining the relations among people surrounding commonly or publicly owned resources.
- There is a prevalent view that the scope of commons should include non-owned resources in order to apply certain managerial actions treating them as resources commonly owned by all mankind, rather than interpreting the scope of commons in a narrow sense. In other words, non-owned resources should be treated as commons in order to consider them as commonly-owned global resources.
- **Plans for improving legislation concerning the management and use of natural resources**
- Management by community or enhanced openness
 - For the governance of natural resources that are or have been commonly owned regionally, attention is drawn to the customary owner of rights, including the non-corporate conventional associations or collective ownership groups that have maintained regional natural resources in a reasonable manner. However, it should be noted that commonly owned resources can be maintained in a stable manner only when the farming or fishing populace residing in a given region can maintain steady production activities. Fisheries cooperatives that maintain fishing grounds with government-vested fishing rights have managed natural resources, called “fishing grounds,” for sustainable use. However, it has become a legislative task to actively address such issues as the decreasing population in fishing villages because of the low birthrate and aging, and the acceptance of persons who have returned from urban areas to fishing villages as new members of the fishing cooperatives.
- Interconnectivity should be enhanced among administrative organs for traverse management, and connectivity should be secured among plans for managing resources.
 - It is necessary to enact a framework act that defines the ideals for the integrated management of natural resources and to enact new acts or organs to regulate or coordinate natural resources traversely.
 - It is also necessary to introduce a system for coordinating resource management plans with each other and the opinions of diverse stakeholders, while enhancing connectivity among administrative organs.
- Development and monitoring of indicators
 - So-called traverse soft resources, such as knowledge, information or personnel, have not been sufficiently considered as systems from the perspective of natural resource management. Thus it is critical to develop indicators using them as parameters.
 - Technologies should be developed for integrating or implementing short- and long-term and local and wide-area scale forecasts and responses to natural disasters that require urgent responses. In so doing, monitoring systems could be deployed for the development of integrated indicators and the collection of data.

- Sustainable Science
 - The management of natural resources is closely related with the issue of sustainable development. A new area should be explored for pursuing the exploration of phenomena and the resolution of problems simultaneously, beyond merely basic or applied research.
 - Comprehensive research should be promoted for the deployment of a legal system for the management of natural resources from diverse points of view not considered in previous research, including those on institutions and culture (so-called guidelines or silent customs for participating in (the management and use of resources), rather than the simple development of technologies (namely, a means for operating nature).
- Sharing of common management expenses
 - Considering the structure of community-based management of common goods from the perspective of the integrated management of natural resources, funds should be created and raised by imposing environmental taxes. A systematic structure should be developed through a fund operation or management committee to reflect the opinions of residents concerning the implementation of projects, while disclosing the uses of the funds via a separate accounting. This may be called a 'participatory sharing of expenses'. It is evaluated that such schemes will contribute to the development of a participatory mindset among the residents with regard to the management of resources.



Expected Effects

- This research will be utilized as basic research on a means of improved the legislation concerning the management of natural resources. It will also contribute to improving the systems for the management of natural resources.
- This research will also contribute to the development of the national economy while enhancing the quality of life of local residents through the efficient administration and use of natural resources.

Key Words

Natural Resource Management, Commons, Integrated Management, Wise Use, Common-Pool Resources

A Study on the Legislation of One-Person Household Society(II)

Researcher: Lee, Jun-Woo(KLRI)

I Background and Purpose

- One-person households society occurs when family community dismantles into an individual or a part of social community.
- One-person households society is a departure from traditional composition in which each member forms legal relationship as individual, family, society and state.
- Legal relationship which individual or family community governs in accordance to the principle of self-determination or community principle experiences confusion in its range of application.
- One-person households society is unique in that individual or social community bears responsibility which family community has traditionally beared.
- This study aims to seek measures to supplement defective legislation and to contribute for the preparation of reasonable legislation of one-person households

II Main Contents

- Key issues concerns personal autonomy including supplement or support for legal capacity of one-person households, supplement of legal relation concerning death of one-person household, supplement of guardian system operational in daily housework or legal relation, supplement of concept and relevant legislation of related persons to replace a relative.
- This study has sought to measure to solve issues concerning death of one-person household such as identifying the dead, death report, disposal of the body, reversion of properties without heirs, liquidation of legal relation having one-person household as party.
- A key issue in this context being the concept and roles of related persons
- After analyzing individual laws with definitional article or with no definitional article, sought to systemize legal relation to which the range of standard concept and identical concept of related persons apply

- Since the reversion of rental deposit and lease(chonse) deposit is important real estate right and it is incorrect to decide reversion based on the legal premise of preoccupancy of ownerless things related to personal properties, this study has remedied such defect.
- Sought a way having exceptional provisions concerning liquidation of vested right in lease(chonse) and housing rental as well as lease(Chonse) and rental deposit with no heirs attached
- Proposed a measure to permit an exceptional sole register application when unlike lapse of usage relation of a general thing, one party halt to cease to exist and such cessation is clearly stated as the reason of lapse of legal relation
- Needed to amend laws in the field of personal autonomy of one-person household and to expand personal autonomy so that legal relation is regulated by decision of one-person household
- Since no spouse and relatives exist, in case that adult guardianship applies to one-person household, effectiveness of a guardian applicant is meager.
- It is needed to prepare through standard contract and legal education, for legal issues for which principal agency cannot able to represent in that legal relation should be expanded by deposition inter vivos or will and receivers or guardian does not practically operate.
- This study has excluded from research coverage objective or usage relation such as co-housing which has newly emerged with the expansion of one-person household since they are viewed not as unique issue to one-person household but as sharing economy.
- With the coming of one-person household society, new social community legislation should be applied to supplement family community or new system should be prepared to supplement personal autonomy.
- Needed to expand the role of new social community regarding the death and guardianship
- Needed to supplement reasonably manage body and properties by expanding the role of guardians and protectors



Expected Effect

- Suggested defect in laws caused by legislative limit centered individual or family community and proposed a plan for legislative improvement
- Contributed to the establishment of reasonable legislative policy and legislation in accordance to the expansion of one-person household society

Key Words

One-person household, someone without family or relative, adult guardianship, the elderly who lives alone, Adoption system, Family Law

2015 Achievements

Basic Research Projects
On-Demand Research Projects

On-Demand Research Projects



An Analysis Study about legal institution for National competitiveness

Researcher: Seong, Seoung Je(KLRI)



I Background and Purpose

■ Background of this study

- To enhance national competitiveness by improvement of legislative system
- To offer a far-sighted policy of national competitiveness and improvement of national legislative system by confirming the concept of 'true national competitiveness'

■ Purpose of this study

- This paper will support national competitiveness by legislative system and seek ways to improve true national competitiveness by confirming its concept



II Main Summary

■ Introduction of GNP and GDP as the elements of the early national competitiveness

■ Confirmation of the concept of 'true national competitiveness'

- Past studies of national competitiveness mostly have been misconceived as ranking of good condition of doing business
 - For developed countries, solid infrastructure has become an unshakable 'deep-rooted tree' and it was worth focusing on superficial ranking of good condition of doing business
 - For true national competitiveness, every developed East Asian country ironically has shown vulnerability opposed to its splendid economic development
 - A small incident can cause serious crises, since food supply depended on major grain companies under the low food self-sufficiency, resource supply depended on a transport route along the Strait of Malacca in the face of scare resources and the rate of dependence on imports was too high
 - Korea has a overly high level of dependence on exports and is not necessary for its trading partners to handle their items unlike other developed countries

- Michael Porter - a scholar, founder of the concept of national competitiveness
 - In the chapter of 『Agenda on Korea』 of his famous book, he suggests relaxation of economic concentration, protection for small and medium companies, depreciation of the dollar and strict anti-trust policy for plutocracy control
 - His So-called 'Diamond Theory' is beyond common sense that he is an enterprise-oriented scholar
- **Presentation of plans for improving legislative system**
 - Among author's underlined particulars, for the low food self-sufficiency, food fundamental law has to be legislated to improve food supply stabilization
 - Among author's underlined particulars, for supply and demand of energy resources, at least basic subjects of supply and demand and energy security should be added by the fundamental law
 - A description of improvement direction of competition law and financial law (focusing on Michael Porter's 『Agenda on Korea』)



Expected Outcome

- **The spread of the term 'true national competitiveness' and suggestions for it may support the improvement of legislative system**
 - This paper may offer legislative data for fundamental law of supply and demand of food resources and energy resources
 - This paper may be used as legislative data by other Government departments for policy establishment and law institution improvement

Key Words

national competitiveness, true national competitiveness, food security, energy security, relaxation of economic concentration

The Legal Study on the Corporate Reorganization

Researcher: Lee, Joon Ho(KLRI)

I Background and Purpose

■ Background of this study

- One of the important themes of corporate competitiveness and industrial economic policy of the government is the effective corporate restructuring.
- Currently, Korea's business reorganization scheme is not the system that leads the marketplace, and is the system that is in progress ex post. Additionally, since applicable laws are sporadic, the system has the difficulty in the flexible operation of corporate restructuring scheme.
- In this background, to remove the barriers to the procedural provisions by applying for an exemption for commercial law and competition law, the bill of 『Corporate Vitality Enhancement Act』 is submitted to the National Assembly

■ Purpose of this study

- The purpose of this study, by performing analysis for the bill that is currently pending in Congress, is to research and review the legal aspects for the business supporting system restructured as an effective operating system.

II Main Contents

■ General theory of business reorganization support

- Concept of business reorganization
 - Change the whole or part of the structure of the business as a business activity aimed at a great extent to enhance the productivity of the whole or part of the business, or business to take advantage of the resources of the system to change the whole or part of the business activity
- Laws in relation to business reorganization
 - Commercial Act, Debtors Rehabilitation and Bankruptcy Act, Special Act on the Promotion of Business conversion in small and medium enterprises, Corporate Restructuring Promotion Act, Industrial Development Act

■ Governance and Support of business reorganization

- Subjects
 - Companies seeking to reorganize the business to try to eliminate the excess supply from domestic companies
- Application and Approval for Business Reorganization Plan
 - Application to the Ministry → Review of the Ministry → Review of Business Reorganization Committee → Approval of the Ministry

■ Special support by the business reorganization bill

- Special application of Commercial Act
 - Introduction of small-scale division of company
 - Easing the requirement of small-scale merger
 - Easing the requirement of simplified merger
 - Introduction of reverse triangular merger
- Special application of Enforcement Decree of the Monopoly Regulation and Fair Trade Act
 - During business reorganization period, Postpone application of regulations of Debt ratio limitation, Shareholding ratio, Prohibition of shares of non-affiliated companies and other affiliates except for the subsidiary companies.



Expected Effect

- Material and Information used as support for the implementation and supporting laws in relation to business reorganization.
- Reference used as legal data for the change in laws on the supporting legal system for corporate restructuring.

Key Words

Business Reorganization, Corporate Restructuring, Merger, Share Exchange, Holding Company



A study on the legislation of the Integrated Committee for efficient land use permission

Researcher: Park, Jong-Joon(KLRI)



I Background and Purpose

■ Background of this study

- 「SPECIAL ACT ON THE SIMPLIFICATION OF AUTHORIZATION AND PERMISSION PROCEDURES FOR LAND USE」 established in January. 20, 2015 and will be enforced from January. 21, 2016.
- In particular, the Act is aims to solve the problems caused by the individual consideration by the various committees associated with the existing license. In addition, the law is to promote the rapid land use permitting decisions.
- Accordingly, the government should enact legislation to establish the necessary and specific configuration and operation of the Integrated Committee. Through this administrative legislation must ensure the effectiveness of the integrated consideration. Therefore, the study of administrative legislation on the Integrated Committee is urgent.

■ Purpose of this study

- Purpose of this study is to carry out legislative work to legislation, to provide a legal basis in policy implementation for “The Integrated Committee for a land use permission.”



II Main Contents

■ Introduction Background and Significance of The Integrated Committee

- There are a number of committees with respect to land use license. The long delays due to consideration of a number of board need be solved. The Integrated Committee for a land use permission will be a good measure for solving this problem.
 - The Integrated Committee for a land use permission will simplify procedures, increase the efficiency of administration, it will contribute to ensuring public convenience.
- ### ■ Establish the direction of an integrated system for the review of the land use permit
- In the detailed system design for the configuration and operation of the Integrated Committee, in particular the correct identification and analysis of high-level law should be followed.

- In addition, Substantial review of the relevant provisions of the separate committee which includes the target of integrating Committee should be the premise.
- Finally, research should be done on a similar case regarding the Integrated Committee.
- **Specifically alternatives on administrative legislation of an integrated system for the review of the land use permit.**
- Details regarding the structure and operation of the Integrated Committee shall be determined by Presidential Decree.
- Through active support for participation of civilian, objectivity and professionalism of the Integrated Committee should be ensured.
- The objectives and significance of the individual committees should be reflected in the Integrated Committee.



Expected Effect

- This study has a significance as a basic research to propose legal and institutional improvement methods by analyzing current policies and legislations on 'The Integrated Committee'.
- This report is expected to provide basic research materials in order to enact administrative legislation on the Integrated Committee for a land use permission.

Key Words

The Integrated Committee, Committee, Integrated deliberation, land use permission, Simplification of procedures



A Study on Improving Mother and Child Health Act for Healthy Pregnancy and Delivery

Researcher: Jang, Min-Sun(KLRI)



I Background and Purpose

■ Background of this study

- For recovering the seriously low birth rate, we have to promote better environment to nurture children, support lives of the pregnant women and help their safe delivery.
- As the purpose of mother and child health care, healthy and safe pregnancy and childbirth requires quantitative and qualitative improvement of health care including sufficient prenatal and postnatal health care of the pregnant women, health care of premature babies and continuous care of the fertile women.
- The current Mother and Child Health Act(hereinafter “MCHA”) was established as the legal basis for the family planning services and has some limits on the measure of low-fertility because of not reflecting changing needs of the fertile women and infants.

■ Purpose of this study

- This study is aimed to proposing effective alternatives of the existing Act to strengthen the related policies as the means of supporting healthy and safe pregnancy and delivery.



II Main Contents

■ Analyses of the past and present contents of MCHA

- The establishment of the Act and the next revisions
 - 1973 Act was enacted for the family planning services and therefore had low standards of mother and child health care services. Since 1980s', the importance of the mother and infant health for national growth was recognized and the government pushed forward the enhancement of the mother and child health.

■ Legal Issues surrounding Mother and Child Health

- Environmental change related to pregnancy and delivery
 - seriously low-birthrate, reduction of infant mortality, growth of maternal mortality, high probability of high risk pregnancy, growing rate of youth' conception

- Legal issues related pregnancy and delivery in mother and child health care
 - maintenance of family planning services, effective pregnancy reporting system, functions of Mother and Child Health Care Organization, health care of high risk pregnancy, support of conceived youth
- **Legal analyses of countermeasures and legislations to low birthrate in Japan**
 - Japan government implemented work and life balance, enhancement of raising environment and support of pregnancy and delivery to overcome low birthrate since 1980s'.
 - Main legislations regarding to mother and child health care are Mother and Child Health Act, Child Welfare Act and Protection of Maternity Act.
 - Mother and Child Health Act in Japan is almost same as our Act, but articles about abortion and family planning was regulated in the other Act. Also, public services regarding maternal and infant health care are divided into metropolitan and primary local governments.
- **Review of relevant domestic laws**
 - Aside from the Act, some legislations prescribe the promotion of maternal and infant health care such as Promotion of National Health Act, Infant Care Act, Framework Act on Low Birth Rate in an Aging Society, School Health Act, Child Welfare Act, and so on.
- **Directions to revise Mother and Child Health Care Act**
 - deleting of the term of “Family Planning Services”
 - enlarging the range of application into youth, spouse and a menopausal woman
 - finding legal grounds to strengthen health care of high risk pregnancy
 - producing the precise statistics regarding maternal and infant health



Expected Effect

- It is expected to contribute to make resources for legal alternatives with regard to effective maternal and infant health care polices.
- This report is expected to provide basic research materials in order to improve and revise the current MCHA into one suited for serious low birthrate era.

Key Words

Mother and Child Health Care, Promotion of Health, Maternity, Infant, Pregnancy Report System, Mother and Child Health Care Note



A Study on the Legal Support Measures for Korea-China Industrial Parks and Complexes

Researcher: Kim, Myoung-Ah(KLRI)



Background and Purpose of Research

- Both Korea and China verified that the Korea-China FTA, signed at June 1st, 2015, will be the link between the Eurasian initiative and One Belt and One Road, drawing a attention to specific economic cooperation between the two nations in the future.
- Korea-China FTA can be evaluated as future-oriented one because of the scheduled follow-up negotiations on the services and investment sectors.
- It is expected to determine direction of the subsequent negotiations on the basis of the result through which various cooperations projects such as the operation of provincial economic cooperation demonstration area and the composition scheme of Korea-China Industrial Complexes.
- The details on specifying the Korean-Chinese economic cooperation and operation in the Industrial Complexes are stipulated in article 17.26 of chapter 17 in Korea-China FTA Agreement and government of Korea designated Saemangeum as the Industrial Complexes between two countries.
- Korea-China FTA Industrial Complexes planned to be installed in the area of Saemangeum Industrial Complexes are expected to be built as a special regulation Area on the basis of Korea-China Industrial Complexes stipulated in Chapter 17.
- The same mechanism with Saemangeum Global Industrial Complexes such as minimal regulation, simplifying customs procedures, installment of consultation mechanism between both nations, will be applied to the Saemangeum Korea-China Industrial Complexes.
- Thus, studies on the establishment of institutional support measures for the effective operation of the Korea-China Industrial Complexes are needed.
- In this background, this study is aim to suggest basic orientation for the future institutional policy support measures, analyzing legal status of the Korea-China Industrial Complexes in terms of domestic law and comparing it with the domestic and foreign policies.



Main Contents

- June 22 2015, Korea-China Saemangeum Industrial Complexes are determined solely as a promoted area of the Korea-China FTA Industrial Complexes.
- It is stipulated at Article 26, Korea-China FTA Chapter 17, that both nations agree to enhance cooperation in establishment, operation and development of industrial parks designated between the two countries.
- Saemangeum Korea-China Industrial Complexes are the only designated industrial parks currently and are subject to the provisions of 『Special Act on Promotion of the Saemangeum Project』.
- It is required to clarify the legal status, implementation and the legal rights in terms of establishment / operating / development of Saemangeum Korea-China Industrial Complexes through the Special Law's amendment and a separate legislation.
- The clarification of legal status and basis for the name and scope of Korea-China Industrial Complexes, defined in Article 17.26, will be needed through specific domestic legislation and legal policy implementation.
- Further studies should be continued to promote activation measures through the comparison and analysis of similar policies and acts such as free economic zones and foreign investment zones.
- Each special economic zone and industrial parks in domestic area are lack in comprehensive and systematic management, thus, lots of efforts should be made to organize inter-linked regional characterization on the scale of national strategy.
- Since the experience of China regarding industrial park development and its operations is rich, it is necessary to find out China's relevant policies in the process, making the drive being carried out based on mutually beneficial cooperation.
- For the effective composition and implementation of Korea-China Industrial Complexes, it is desirable to embrace China's foreign economic policy and Korea-China FTA actively, through which management and operating system should be built and institutional support measures be established.
- It is recommended for the Korea-China Industrial Complexes' operating system to be run separately; a consultation channels, Union Co-operation Council, Bilateral Affairs Committee, which contributes to drive the process and development actively by dividing the entities into the management and development actors.
- In addition, it is necessary to accelerate the establishment of Korea-China Industrial Complexes by establishing a Development Fund for the financing necessary for development of the Korea-China Industrial Complexes and installing a variety of public-private partnership fund in addition to operating funds with a public character.
- According to Article 17.3, Korea-China FTA, with respect to economic cooperation, dispute settlement system in Article 20 will not be applied, so that it is an alternative way

to introduce a specialized dispute resolution related with dispute in development and management of the Saemangeum Korea-China Industrial Complexes.

- It is meaningful to derive the success model by providing an innovative regulatory exemption to promote the development of Korea-China Industrial Complexes and performing a pilot project for such as logistics, distribution, value-added food industry tourism and leisure to maximize the advantageous position of Saemangeum.



Expectation

- Based on an understanding of the legal status and relevant policies of Saemangeum Industrial Complexes, its experience will be used as a basis to support policy and institutional provision for the composition and development of the next Korea-China industrial complexes.

Key Words

Korea-China FTA, the Korea-China Industrial Complexes/Parks, Minimal Regulation, the Korea-China Industrial Complexes' Operating System, Dispute Settlement System, Pilot Projects

A Study on the revision of legislation related to National Assembly Security

Researcher: Park, Chung-Hui(KLRI)

I Background and Purpose

■ Background

- In accordance with the United Defense Act, the National Assembly of the Republic of Korea, a “Ga” national major facility to be always be protected safely from domestic and international threats.
- A study of a new and unified security system to be considered in order to be eventually enacted which is an alternative to the present National Assembly Security guards system.

■ Purpose

- Specific legislative measures to be recommended in order to ensure parliamentary order and security improvements.
- Consider to enact Security of National Assembly Act to ensure the 3 branches of government and order autonomy of the legislative branch with regard to security matters.
- To establish a legal basis to ensure the enactment and implementation of such legislation and ensure the effectiveness of maintaining order at the National Assembly.

II Content

■ The state and problems of the security and security system at the National Assembly

- The organization of the security system.
- Maintenance of order
- The problem of security system.

■ Security system in relation to domestic and foreign institutions

- Examples of domestic institutions
 - Presidential Security Service, courts, government

- Examples of foreign national assemblies
 - Germany, France, Japan, United States, United Kingdom
- **Reorganization of the legislation pertaining to the National Assembly security system**
- Reorganization of the legislation pertaining to the National Assembly security guards
- Reorganization of the legislation pertaining to the National Assembly security and maintenance of order
 - Enact the tentatively called [Security Act of the National Assembly of the Republic of Korea] and [Regulation on Security of National Assembly]



Expected results

- To establish a legal basis to ensure the enactment and implementation of such legislation and ensure the effectiveness of maintaining order at the National Assembly.
- If regulations related to the National Assembly security and maintenance of order is revised, policy and materials of legislation will be provided.

Key Words

National Assembly law, National Assembly of the Republic of Korea, Security of National Assembly, Maintenance of Order, Security Act of the National Assembly of the Republic of Korea, National Assembly Security Guards, National Assembly Police, Security of the National Assembly of the Republic of Korea, Security law, Private Police Guards law

A Study on the Promotion Act for Operation and Mutual Utilization of National Research Facilities·Equipment

Researcher: Yi, Se-Jeong(KLRI)

I Background and Purpose

- To improve the effectiveness of investments in national R&D and to maximize productivity, advanced management systems are required, not to speak of increasing supports for research tasks or of excellent researchers. It's because the system is designed to manage research facilities · equipment for their life cycle from the installation to scrapping. However, in Korea research cultures are rampant to build equipment competitively and to force researchers to own the necessary equipment, 2) systematic management are less established, and 3) professional technicians and researchers are in shortage, leading to ineffective set-up of national research facilities · equipment, mismanagement, and insufficient Mutual Utilization of them.
- In addition, there is no trust on domestic products, and researchers prefer to foreign equipment, increasing the dependency on exported ones which in turn worsen capital outflow. However, Korean companies to produce equipment for research are generally small-scale business and also source technologies are lack in Korea. On this context, competencies of such companies alone can't nurture the domestic industry to develop and produce equipment for research.
- That's why we need to enact 「The Promotion Act for Operation and Mutual Utilization of National Research Facilities · Equipment」(tentative name) to effectively operate and manage national research equipment · facilities and to nurture the relevant domestic industry.
- Equipped with the awareness on such issues, this study aims to propose the 'the Promotion Act for Operation and Mutual Utilization of National Research Facilities · Equipment'(a draft) and to collect the ideas on how to enact it.

II Main Content

- In the Chapter II, the current operation and management systems of national research facilities · equipment are analyzed.
- In the Chapter III, the laws related to national research facilities · equipment like 「the Framework Act On Science and Technology」 and the draft bills submitted to the 19th National Assembly of Korea are analyzed.

- In the The Chapter IV, the desirable directions of legislation and the strategy to enact 'the Promotion Act for Operation and Mutual Utilization of National Research Facilities · Equipment' are proposed.



Expectations

- This study is expected to contribute to more effective operation and management of national research facilities · equipment, and to enhanced competitiveness of domestic industry by nurturing the research equipment-related industries.
- This study is predicted to contribute to the enactment of 'the Promotion Act for Operation and Mutual Utilization of National Research Facilities · Equipment'.

Key Words

National Research Facilities, National Research Equipment, National Research & Development, Mutual Utilization of National Research Facilities·Equipment, FRAMEWORK ACT ON SCIENCE AND TECHNOLOGY

Regulations for Promotion of Fintech Industry

Researcher: Kim, Myoung-Ah(KLRI)

I Background and Purpose

- A current Fintech-related legal system has taken a rigorous approach to financial regulation as it used to be, not reflecting the specificities of Fintech Industry and its Companies with cutting-edge technologies.
- The domestic P2P lending companies, as an example, are regarded as lender, subject to 「Act on Registration of Credit Business, ETC. and Protection of Finance Users」 and 「Act on the Regulation of Conducting Fund-Raising Business without Permission」.
- With the development of IT technology, Fintech industries are expected to grow at an unprecedented rate. However, contrary to rapid development, existing financial regulatory and legislative framework are likely to be a factor preventing the growth of Fintech Industry.
- It is necessary to come up with a wise solution to pursue a harmony between a variety of high-tech technologies related with Fin-tech and their supportive financial regulations instead of being in conflict.
- This study aims to examine the relevant legal status by analyzing various forms of Fintech as well as to find out appropriate policy for regulatory improvements and legislative implications for the development of national Fintech Industry by comparing other nations' regulatory cases with domestic ones.

II Main Contents

- Fintechs in large part acts as a new form entities by combining financial services and IT technology, and range of regulations applied depends on how Fintech is defined.
- Fintech industry is rapidly evolving from the early days of the online banking to Internet specialized bank, crowdfunding company, P2P money lending firms, microfinance companies, big data-based financial services company.
- Several solutions for Regulatory improvements required for the activation of domestic Fintech industry are mentioned by studying global Fintechs and their related regulations.

- Fintechs investments in the United States are focused mainly on Silicon Valley and New York financial center is leading innovation and investment.
- In the United Kingdom, while supporting a policy to create a Tech City in east London, it is trying to promote fintech industry mainly focusing on the development of large central banks.
- In Japan, since the Internet specialized bank has been introduced, it performs financial innovation policy at a faster pace and Fintech industry based on IT technology is growing rapidly.
- **Korean government has made an effort to foster Fintech industry through the establishment of various policies. As a big step toward Fintech activation, it suggested deregulatory measures to effectively manage Fintech industry while keeping their existing banking-related legislation through 'IT · Financial Fusion support measures' January 27, 2015.**
- FSC has a plan to introduce various methods of security, authentication, and verification in the form of non-face-to-face based on the principle of technology neutrality, thus contributing to the future development of Fintech related technology.
- In 18 June 2015, FSC agreed to introduce Internet specialized bank who can work with the same operating range of traditional banks to help ease the statutory minimum capital standards and stake limit held by banks on a trial basis.
- **To activate the domestic Fintech industry, it is needed to maintenance Fintech-related institutions as a whole and continue to improve the regulatory barriers.**
- Continuous monitoring on the matter such as operating range and the licensing criteria by various entities including business, government, academy, as well as discussion on the adequacy of regulations is required through the demonstration and pilot operation of the Internet specialized bank.
- In the case of equity-type crowdfunding, legislation has been made relating to 'online small brokerage's party' and the 'Online retail investors', but ongoing regulatory improvement is needed. Meanwhile, in case of loan type crowdfunding or P2P lending and microfinance intermediaries, it will be needed to replace the control system by providing a separate related laws.
- It is necessary for the user protection to set the regulatory scope of liquidating virtual money clearly and provide protective measures for investor and the Internet specialized bank's depositors. Also, Fintech-related financial dispute resolution system should be made as soon as possible.



Expected Effect

- Activation of the Fintech industry is expected to contribute to promotion of economic development and investment increasing effect through the E-Commerce and financial investment facilitation. This study is also expected to contribute to the composition of the legislative environment regarding future Fintech industry development and activation.

Key Words

Fintech, Improving the Regulatory, Internet only Bank, Technology Neutrality, Security Certification Technology, Financial Consumer Protection



Study on Legislative Improvement for Non-Profit Organization

- focused on non-profit organizations within the remit of the Department of Culture, Sports, and Tourism -

Researcher: Hyeon, Dae-Ho(KLRI)

I Background and Purpose

■ Background

- Recently, with social demand increasing, non-profit organizations have been assuming greater roles, and increasing their participation in social activities through incorporation
- Especially, religious foundations intend to act as if they are public organizations permitted by the government or local authorities rather than non-corporate institutions
- With non-profit organizations' social activities growing, it is needed to arrange a related legal scheme and increase public interests of non-profit organizations

■ Purpose

- This study intends to increase public interests and social participation of non-profit organization by amending standing civil codes and related regulations, which govern registration of non-profit organizations etc.
- Additionally, this study intends to arrange related legislation, prepare a plan for legislation concerning incorporation of religious foundations, and improve legislation in order to resolve complaints against non-profit organizations within the remit of the Ministry of Culture, Sports and Tourism.

II Main Contents

■ Analysis of policies and legislation as to foreign non-profit organizations

- To analyse related legislation on the incorporation of foreign(especially Japanese) non-profit organizations and religious foundations so as to draw implications for our legislation

■ Analysis civil non-profit organizations, relevant issues and the supreme court's cases

- To suggest improvements concerning permits required under the article 32 of Civil Codes
- To suggest the Religious Foundations Act(tentative) regulating the incorporation of religious foundations which separate from non-profit organizations

- To propose an improvement plan for the regulations concerning non-profit organizations within the remit of the Department of Culture, Sports and Tourism in accordance to the introduction of permits for non-profit organizations under the article 32 of Civil Codes



Expected Effect

- To be utilized as basic materials for improvement of laws and regulations commensurate with the activities of non-profit organizations in Korea
- To be offered as policy materials for policy making and implementation related to registration and regulation of non-profit organization(especially religious foundations)

Key Words

non-profit organization, religious foundation, Civil Codes, corporation, foundation



Legal Analysis and Implications of the leave system for Work-Life Balance in Japan

Researcher: Hong, Songmin(KLRI)



I Background and Purpose of Research

■ Background of Research

- Korea has set the establishment of the “Work-Life Balance” as one of its main policy tasks to resolve the issues of the low birth-rate, to promote women’s economic activities, and to increase employment rate.
 - It is necessary to eradicate the system forced to choose only one between “work” and “marriage, birth, child-rearing or family care-giving” to establish a sustainable society by realizing the “work-life balance.”
- Basic leave systems (including shortened work hours) such as maternity leave before/ after birth, child-care leave, and family-care leave are implemented already for the balance of the work and life; however, various other forms of leave systems are requested to be introduced at the Congress and through media in furtherance of the establishment of the work-life balance.

■ Purpose of Research

- This research aims to produce implications for Korea for establishment of the work-life balance by analyzing current issues centering the leave system (including shortened work hours) for balancing between work and life in Japan.



II Main Contents

■ Status of Child-Care/Family-Care Leave Laws in Japan

- Long-term leave (child-care leave, family-care leave) and short-term leave (nursing for child leave, family-care leave)
- 67% of monthly wages (up to 6 months) are paid during child-care leave, 40% if family-care leave
- *Daddy-Mommy Child-care Leave Plus Exception*, restrictions on work hours (beyond standard work hours, extended hours, late hours), and shortened work hours system

■ Legal Trend and Policy Analysis of Japan

- Importance of the leave system regarding work and family-care is increasing
- Structuring and re-organizing the application standards for short-term and/or subcontracted workers
- Encouragement of utilization of child-care/family-care leave for male employees



Expected Effect

- By providing suggestions for improvements for child-care/ family-care leave law for the work-life balance, this report may be used as the base legislation resources for enactment/ amendment of related laws.
- By reviewing child-care/family-care laws of Japan that proactively responded to establish work and life balance and through analyzing traits of the laws and producing implications from the laws, this report is expected to contribute to laying out the foundation and to establishing the legal theory of child-care/family-care leave laws in the low birth-rate and aging society.

Key Words

work-life balance, child-care leave, family-care leave, shortened work hour system, wage during leave



A Study on the Legislative Improvement of Electronic Records Management

Researcher: Son, Hyun(KLRI)

I Background and Objectives

- As e-government has been introduced, revolutionary information technologies effects on the management of public records. Since the 「Act on the Management of Public Archives」 was enacted to safely keep and efficiently utilize public archives in 1999, the paradigm which transfers from paper to electronic medium was reflected.
- However, the current provisions on electronic records seem to have limitations such as being provided based on the paper records system and a few provisions of the Act delegating to the sub legislations.
- The study examines the status and issues of the current legislations on electronic records management, and conducts comparative research with other countries to find directions for the comprehensive legislation embracing the producing, transferring, keeping, evaluating, disposal, and so on.

II Main Contents

- The status and issues of the current the 「Act on the Management of Public Archives」and related legislations are examined comparing to the legislations of the United States, the United Kingdom, and Australia.
- The revision of the Act was not reflected the characteristics of electronic records because it was not conducted focusing electronic records. In addition, the structure of the legislation has an issue that there are just a few provisions in the Act with many provisions in the sub legislations by delegating.
- The strategy for the comprehensive legislation, ① the rearrangement of the current public records legislations(Act and Decrees. Etc.), ② the enactment of a new Act for electronic records, or ③ the establishment of sub legislation for electronic records management are discussed.



Expected Effects

- Providing a legislative basis for promoting information sharing among public agencies and prompt access to the records by the improvement of electronic records management
- Rearranging for the comprehensive legislative structure of electronic records management including producing, transferring, evaluating, disposal, and so on.

Key Words

Public Records, Electronic Records, the Act on the Management of Public Archives

Study on legislation for Sharing Economy in the Accommodation Industry Fields

Researcher: Kang, Mun soo(KLRI)

I Background and Objective

- While people in the world are undergoing an ordeal owing to the global recession, 'Sharing Economy', which refers to peer-to-peer-based sharing of access to goods and services rather than owning them, is emerging as new paradigm of the global economy system.
- In conjunction with Sharing Economy, the topic for discussion in global society is so-called 'E-Brokerage Service of Private Accommodation Business' that is to mediate between those who want to rent vacancy rooms and lodgers.
- An adequate legislative provision on the type of business such as E-Brokerage Service of Private Accommodation Business in Korea is not been prepared; therefore a variety of social problems are occurring.
- The problems occurring may be summarized as follows :

Regulative issues on people who interlope home-stay business for foreign tourists, Whether to tax or not on dealing between the individuals without registering corporation, and Vague criteria for applicability to whether to consider the action utilizing unused facilities, which lends a private room and then charges for the rent, as an object of taxation or not.

- Therefore, this research will propose legislative policy alternatives on the legal improvements and the problems arising by managing 'E-Brokerage Service of Private Accommodation Business', thereby contributing to more accord with the original meaning of Sharing Economy and to enhance the practical public rights and interests.

II Research Scope and Methodology

- To meet the purpose of the study, this report implemented various methods such as ① researching and studying legislation and literature ② comparing South Korea's law with other counties law in similar areas ③ studying legislation and policies ④ holding experts' conference.
- Especially, this report tried to reinforce policy utilization for study's results by holding experts' conference and seeking advice on the related topic in order to get the objectivity and expertise of study.

- In chapter 2, this report will take a general view of conceptual discourses on Sharing Economy and appearance background of it, and will search the economy effect of application of Sharing Economy.
- In chapter 3, the current use state of Sharing Economy in the tourist accommodation business industry will be introduced and the underlying issues posed by utilizing Sharing Economy in the tourist accommodation business industry will be reviewed.
- In chapter 4. after analyzing the classification system of tourist accommodation business under current Tourism Promotion Act, this study will propose a legislative policy proposition for betterment of urban private accommodation business for foreign tourists.

III Main Contents

- Overview of Sharing Economy.
 - Concept and occurrence background of Sharing Economy.
 - Types of Sharing Economy.
 - Economic and social effects of Sharing Economy.
- Current status and underlying problems of Sharing Economy in accommodations business.
- Legislative improvement measures for revitalization of Sharing Economy in accommodations business.
 - Improvement direction of Legislation on Sharing Economy.
 - Current condition and underlying problems of laws related to urban private accommodation for foreign tourists under Tourism Promotion Act.
 - Legislative policy proposal for consolidation of legislation.

IV Expected Results

- This study proposes legislative policy propose for the improvements of underlying problems on urban private accommodation for foreign tourists as sightseeing accommodations business which the concept of Sharing Economy is directly applied to, henceforth, will be possibly made good use of basic standards for legislation of Sharing Economy related law and research.

Key Words

Sharing Economy, Tourism Promotion Act, Tourism Industry, Tourist accommodaion business, Urban tourist private accommoaion business.



A Research on the Legislation of Conciliation of Fisheries Disputes

Researcher: Yi, Sun-Tae(KLRI)



Background and purpose

■ Background to research

- Fisheries have different attributes to other industries since it is difficult to define or identify the spatial boundary of zones where fishing is carried out, and fishery resources, the target of fishing activities, naturally move around. In addition to such attributes, diverse disputes arise in different fields or areas of fisheries as the volume of fishery resources has decreased due to changes in the environment, the use of sea waters for new types of fishery, and the fluctuating supply and demand for marine products.
- These disputes can of course be settled through judicial proceedings. However, certain proactive or alternative procedures can also be used to settle them while reducing the time consumed and costs incurred by formal court proceedings.
- These alternative systems for the settlement of disputes related to fisheries include the following: mediation by the Fishery Mediation Committee under the Fisheries Act; a new dispute mediation procedure by the Fishing Dispute Mediation Committee that is being newly organized based on an amendment to the Fisheries Act; Fishing Mediation Committees for the East Sea and West Sea based on a directive of the Ministry of Oceans and Fisheries; and a non-institutional device consisting of autonomously controlled fishing councils.
- In fact, the Fishery Mediation Committee has not yet been operated because of incomplete provisions concerning its procedures, functions, and effects for the mediation of fishing disputes. Meanwhile, the Fishing Mediation Committees for the East Sea and West Sea actually mediate fishing disputes. However, their scope for dispute settlement is limited as they are based on a directive of the Ministry of Oceans and Fisheries, an administrative rule lacking in statutory legality. Fishing disputes concerning problems with fishing zones involve restrictions on the exercise of rights, for which there must be grounds under an act or a subordinate statute based on delegation or entrustment by an act. In other words, the current systems for the settlement of fishing disputes have weak legal grounds and lack provisions defining the related procedures and effects.

■ Purposes of research

- The purpose of this report is to propose ways of improving legislation to provide a more

effective procedure for the mediation of disputes related to fishing in littoral seas. In particular, it intends to examine how to define such provisions as those concerning the formation and composition of the Fishing Mediation Committee, which is under the control of the Central Fisheries Mediation Committee pursuant to an amendment to the Fisheries Act.

Key details

■ Current status and problems surrounding fishing dispute mediation

- Current status of fishing dispute mediation
 - Disputes are not being mediated by the Central Fisheries Mediation Committee under the Fisheries Act. Instead, fishing disputes are actively mediated by the Fishing Dispute Medication Committee for the East Sea and West Sea, based on a directive issued by the Ministry of Oceans and Fisheries. In addition, fishing disputes are mediated by autonomously controlled fishing councils.

■ Legislation for and limitations of fishing dispute mediation and settlement

- Legislation for the settlement of fishing disputes
 - Chapter 10 of the Fisheries Act provides for the formation of Fisheries Mediation Committees in order to review matters related to mediation of or compensation in fishing disputes. The Committees are broken down into the Central Fisheries Mediation Committee, which is under the control of the Ministry of Oceans and Fisheries, Si or Do (City or Provincial) Fisheries Mediation Committees, and Si, Gun, or Gu Fisheries Mediation Committees, which are under the control of various municipalities.
 - The Fishing Mediation Committee for the East Sea and West Sea has been formed to efficiently perform the function of fishing dispute mediation pursuant to the Regulations on the Organization and Operation of the Fishing Mediation Committee for the East Sea and West Sea, a directive issued by the Ministry of Oceans and Fisheries.
 - Communities engaged in “autonomously controlled fishing” pursuant to the Regulations on the Administration of Autonomously Controlled Fishing, a statute concerning the administration of fishery resources, autonomously mediate disputes between regions, fisheries, or communities.
- Limitations of legislation for fishing dispute mediation or settlement
 - Various fisheries mediation committees are vested with the authority to mediate disputes associated with different types of fishing under the statutes concerning fisheries. They have certain institutional limitations, however, in that they have incomplete procedures for settling fishing disputes, and the types of fishing disputes are categorized by sea area rather than by city, province or other municipality. Further, the members of the mediation committee are not specialized in the settlement of disputes.

- The legal nature of the Regulations on the Organization and Operation of the Fishing Mediation Committee for the East and West Sea is an administrative rule, and cannot deal with issues concerning the substantive contents of fishing disputes; therefore, it can hardly secure effective mediation or settlement.

■ Organization of Fishing Dispute Committees

- An amendment bill was proposed to the Fisheries Act in order to supplement the limited dispute settlement functions of the Fisheries Mediation Committees under the Fisheries Act. The Act was amended to provide for the organization of the Fishing Mediation Committees under the Central Fisheries Mediation Committee in order to efficiently review disputes associated with different types of fishing.
- The Fishing Mediation Committees were organized pursuant to Article 90 paragraph 6 of the Fisheries Act, partially amended under Law Bill No. 13384, to perform certain parts of the functions of the Central Fisheries Mediation Committee (dispute mediation pursuant to Article 89 paragraph 1 subparagraphs 1 and 2). However, their precise legal nature remains unclear.

■ Draft proposals of the Enforcement Decree of the Fisheries Act and Detailed Operating Rules of the Fishing Mediation Committees

- Draft proposal of the Enforcement Decree
 - The Fisheries Act has been amended to organize fishing mediation committees under the Central Fisheries Mediation Committee. Therefore, a new provision has been added to its Enforcement Decree to define their types, configuration and secretariat. The committees are also empowered to enact detailed operational rules to cover other operational matters.
- Draft proposal for detail the operating rules of the fishing mediation committees
 - It is proposed that the detailed operating rules be named “Regulations (draft) for the organization and operation of fishing mediation committees”. Its Chapter 2 segments their functions concerning the mediation of fishing disputes, and defines the jurisdiction and details concerning the configuration of the Fishing Mediation Committees for the East and West Sea. It is further proposed that Chapter 3 define the provisions concerning the procedures for the mediation or settlement of disputes.



Expected effects

- The proposal will contribute to the development of fisheries by facilitating the efficient control of fishery resources, as it will ensure the effective mediation of fishing disputes.

Key Words

Mediation of fishing disputes, Fisheries Mediation Committee, fishing mediation committees, autonomously controlled fishing councils, Fisheries Act

The Legal Study for Marine Spatial Planning System

Researcher: Choi, Hwan-Yong(KLRI)

I Background and Purpose

- A great deal of efforts have been made in order to promote harmony between the conservation of the marine ecosystem and the use and development of oceans in response to the increasing use and development of oceans in view of the importance of the marine ecosystem.
- In particular, the United Kingdom, the United States, and other advanced countries have established a Marine Spatial Planning system as a means for the policy to ensure the balance between the conservation of the marine ecosystem and the use and development of oceans by considering oceans as tridimensional spaces and have introduced, or promote to introduce, a zoning system.
- Under the current legal system in the Republic of Korea, although the coastal zoning system and the suitability assessment system mainly for coastal waters have been implemented to manage marine areas from a spatial perspective, the marine ecosystem has not been taken into consideration in such systems. Moreover, the system for authorization and permission for the use of marine spaces lacks a comprehensive spatial management system, and the objective of the system is merely to regulate specific development activities.
- Therefore, this study aims at establishing a direction for establishing a system for the management of marine spaces in a systematic manner, while ensuring the organic connectivity among systems for the management of marine spaces in response to the necessity for establishing a new integrated system for the management of marine spaces, focused on ecosystem for sustainable use of marine areas.

II Main Contents

- “Marine Spatial Planning” is defined as a means implemented for comprehensive management of marine areas for the purposes of the use and development implemented in various forms in marine areas and the protection of the marine ecosystem by considering the land adjacent to the sea and the air above the sea, as well as the sea floor, as a tridimensional space.

- The UNESCO Intergovernmental Oceanographic Commission defines Marine Spatial Planning as “a public process of analyzing and allocating the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic, and social objectives that usually have been specified through a political process.”

- The United Kingdom and the United States have formulated marine spatial plans based on an established legal authority and guarantee stakeholder’s participation in the process of formulating such marine spatial plans.
- It can be said that the Marine Spatial Planning system in the United Kingdom and the United States is not a planning system merely for consolidating information about oceans and providing information to stakeholders who intend to use marine areas but has a purpose as a policy to adjust conflicting interests between the use of oceans, including the development of marine resources, and the conservation of oceans through the Marine Spatial Planning system.
- The systems for the management of marine areas in Japan are dispersed over many statutes, similar to those in the Republic of Korea, and Japan has difficulties in introducing a system for comprehensive management of marine areas, such as Marine Spatial Planning, because it is difficult to legislate statutes for comprehensive management.
- Marine Spatial Plans are formulated with objectives to determine numerical geographic divisions (boundaries of jurisdiction) in regard to legal, geographic, and cultural interests (competent authorities, ownership), specify the current situation of use, such as pipelines, fish farms, artificial fish-reefs, main sea routes, and underwater artifacts, and clarify authorities for the management of marine areas and the legal basis therefor, and thus it is expected to achieve the purpose of efficient conservation of oceans through Marine Spatial Plans, while meeting the demands for the use of oceans in the future.
- In Korea, there are many problems to be resolved in order to converge the “Marine Spatial Planning” system into the system of statutes regarding coasts, marine environment, marine ecosystem, etc. and the system of statutes regarding the use of oceans, such as acts on ports and harbors, acts on fisheries, and legal systems for marine transportation.
- In order to resolve such problems, it is desirable to enact a new Act, such as the Act on the Management and Planning of Marine Space (tentatively titled), but it is difficult to secure integration and connection of statutes and planning systems for ports, harbors, fisheries, etc. in the Ministry of Oceans and Fisheries and it is impracticable to ensure interconnection with statutes regarding marine affairs within the jurisdiction of other agencies.
- Considering practical problems, it is recommendable to institutionalize key elements, such as the legal authority and procedure for the formulation of Marine Spatial Planning and the guarantee of stakeholder’s participation, by amending the Framework Act on Marine Fishery Development and build up national consensus and make preparations

for the enactment of a new act by proving benefits of the management of marine areas through Marine Spatial Planning.



Expected Effect

- Marine Spatial Planning will contribute to the establishment of a system for systematic and comprehensive management through sustainable use of marine spaces.
- Marine Spatial Planning will contribute to the formation of an institutional basis for a system for comprehensive and systematic management of marine spaces, which have been managed individually and dispersively.
- Marine Spatial Planning will provide a theological basis for sustainable use of oceans by supplementing the management of homeland mainly focused on land and considering marine areas from a spatial perspective.

Key Words

Marine spatial management, coastal zoning system, Marine ecosystem, Suitability assessment of the coastal zoning system, Consultation on the use of coastal zones



study on measures to resolve social conflict factors with operating a compensation system for loss

Researcher: Kang, Mun soo(KLRI)



Background and Objective

- Starting with 1960's, in Korea, a grand-scale land development project has been practiced such as the construction of public facilities and infrastructure(1960's~), the development of a industrial complex and a housing site(1980's~1990's), and development promotion of a new town, etc. With the land development project, a expropriation for public use system has been utilized, and therefore required for its institutional improvement as well.
- Besides, the compensation legislative system which had been dualised was integrated into 'Act on Acquisition of And Compensation For Land, ETC, For Public Works', hence, the effectiveness of compensation for loss was enhanced, particularly, for people concerned who was demanding accommodative compensation due to application to 'Sonderopfer' in the land development business.
- The change of the law on compensation for loss, however, has been progressed, based on development-centric values, especially in oder to simplify the administrative procedures for exercise of a right of eminent domain and to extend scope of the subject of rights of expropriation. For these reasons, several problems as below have occurred.
 - The legal system of compensation for loss does not entirely coincide with the shift paradigm of land utilization represented by the change to point development from past area development and the secure of landowner's right extension, and with market economic order.
 - In addition, landowners are very negative to operating the legal system therefore their adverse attitude to the system are being amplified in judicial proceedings as from conference step to administrative appeal.
 - These conflicts arouse a variety of problems between main agents of expropriation and rewarded people, by divisional character, rewarded people and local residents. The problems come up by intergroup disputes caused by different opinions on social values as environmental issues.
- Above-mentioned problems hinder social unification, and above all, decrease trust between administration of state and people concerned. On this account, The recognition that they are main causes to weaken national competitiveness has extended the need for prompt improvements on them.

- The purpose of this study, therefore, is to meet the needs and to propose legislative policy for the legal betterment of the compensation system for loss with expropriation for public use.

II Research Scope and Methodology

- To meet the purpose of study, this report implemented various methods such as ① researching and studying legislation and literature ② comparing South Korea's law with other countries law in similar areas ③ studying legislation and policies ④ holding experts' conference.
- Especially, this report tried to reinforce policy utilization for study's results by holding experts' conference and seeking advice on the related topic in order to get the objectivity and expertise of study.
- In chapter 2, this report will review conceptual discourses on compensation for loss and main contents in terms of the its legal and practical operation, and in chapter 3, will examine the expansion tendency of the scope of subject for compensation for loss, and in chapter 4, will produce legislative policy proposition to solve the social conflicts by the operation of the compensation system for loss.

III Main Contents

- Conceptual discourses on compensation system for loss and current condition of the system.
- Expansion tendency of the scope of compensation system for loss
- Legislation Improvement Measures to improve the law on compensation system for loss and its system.
 - when expropriating, insufficiency of requirements of public needs.
 - impractical standards of computing the amount of land compensation for loss.
 - waste of finances caused by inefficiency of the compensation system for living loss
 - etc major consideration

IV Expected Results

- This study proposes legislative policy proposition, based on legislative and practical review, for the improvements in a variety of underlying problems on the compensation system for loss by expropriation for public use, henceforth, will be possibly made good use of basic standards for legislation for compensation system for loss and research.

Key Words

Act on Acquisition of Land and Compensation For Land, ETC, For Public Works, land utilization, social conflict, expropriation for public use, compensation for loss

2016 Missions and Directions

2016 Missions
Direction-setting for Research Projects

1. 2016 Missions

Major National Goals	Management Objectives	2016 Missions
Create a culture of respect for law and order	<ul style="list-style-type: none"> • Operating a reliable research system. • Strengthen cooperation in research, at home and abroad • Assist responsible legislation through linkage with policies 	<ul style="list-style-type: none"> • Legislative research to establish law and order and the rule of law • Legislative research to make society safer • Legislative research to invigorate the economy and to enhance competitiveness

2. Direction-setting for Research Projects

2016 Missions	Direction-setting for Research Projects
Legislative research to establish law and order and the rule of law	▶ Research for a greater consistency of municipal ordinances with statutes and the Constitution
Legislative research to make society safer	▶ Research to amend legislation to formulate disaster-preparedness plans for local governments
Legislative research to invigorate the economy and to enhance competitiveness	▶ Research to improve legislation for the creation of, and support for, industrial clusters



2016 Basic Research Plans

01. A Study on Improvement of Coincidence on Laws, Regulations and Constitutional Law of Municipal Ordinance (II)

It has been recognized that some of municipal ordinances are likely to cause unnecessary legal disputes between residents and a local government, restrict the rights of residents or give disadvantages to residents, for instance by imposing a new obligation on them. Against this backdrop, this project intends to promote legal stability and predictability for residents and to seek a scheme to improve the consistency of municipal ordinances with statutes and the Constitution by amending municipal ordinances that contravene any superior law, among those currently enforced by local governments.

02. Survey and Research on Legal Awareness of Legal Experts

This project will contribute to securing the predictability of future legislation, law enforcement, and legal interpretation, raising the level of perfection of a survey on legal awareness, and establishing the rule of law in our society by conducting a qualitative survey on legal experts, along with the time-series analysis of existing surveys and studies on legal awareness of legal experts, comparatively analyzing it with the “2015 survey and research on legal awareness of ordinary citizens” and that of legal experts.

03. Research on Legislative Model of Laws for Advancement

Recently, legislative forms of statutes regarding advancement, such as promotion, creation, fostering, or facilitation of, or support for, industries, technology, culture, etc., have significantly increased as one of our legislative trends. Therefore, this project aims to establish models and specific standards for drafting statutes, which will be useful for drafting various legislative bills related to promotion in the future, by analyzing the meaning, nature, and substance that various styles and forms of promotional statutes have in the legislative system and finding common legislative elements therein.

04. Research to Amend Legislation on Citizen-Oriented Administrative Investigations

To alleviate the burdens unnecessarily imposed upon enterprises and citizens in connection with administrative investigation procedures, promote rational management of administrative investigations, and improve the effectiveness and practicality of the current Framework Act on Administrative Investigations, this project aims to propose a scheme to amend the Framework Act and individual statutes regarding administrative investigations, and to ensure a rational management and the effectiveness of administrative investigations through research and analysis thereon.

05. Research on Restructuring of Fisheries-Related Statutes

Since the current Fisheries Act regulating most of businesses involved in fisheries is unable to accommodate contemporary changes in various fisheries and current systems of statutes might mutually conflict, as the current Fisheries Act contains provisions applicable to fisheries and agriculture, this project aims to modify the current system of the Fishers Act to comprehensively cover fisheries and fishing communities and to propose schemes to divide the current Fisheries Act and to rationalize the regulatory system in fisheries.

06. Research to Amend Legislation to Establish Disaster-Preparedness Plans of Local Governments

Although legislation on national disaster preparedness has been amended since the Sewol Ferry disaster in 2014, local governments have not amended their municipal ordinances systematically. Therefore, this research aims to rearrange local governments' systems for disaster preparedness and to amend related legal systems in order to guarantee the effectiveness of safety-management policies, incorporating the Government's policy directives for the management of citizens' safety in consideration of the importance of citizens' safety.

07. Research to Amend Legislation Related to Safety and Protection of Children

As weakened functions, dissolution, etc. of families have gaps in child care within families and accidents threatening the safety of children are actually frequently occurring, this research aims to review the current statutes for the safety and protection of children to seek a scheme to improve legislation thereon, provide reference materials for the enactment and amendment of relevant statutes related to the safety and protection of children, and establish a legislative basis for promoting children's ability for self-supporting as healthy members of the society.

08. Research to Amend Legislation for Development of, and Support for, Industrial Clusters

The current legislation, which should support policies on industrial clusters that create a synergy effect through interactions among enterprises, research institutes, universities, and business support facilities related to particular major industries by clustering them in specific areas, fails to reflect relevant policies adequately, and statutory provisions are insufficient. Thus, this research aims to comprehensively review all relevant statutes and propose a scheme to improve legislation for effective implementation of policies.

09. Research on Incentives for Environmental Regulations

Lately, environmental regulations are being strengthened quantitatively and diversified qualitatively. The current legislation provides for various administrative sanctions against pollution-causing economic activities, such as suspension of operation, shutdown of business, and imposition of charges. However, there is a growing need to enhance incentive systems so that environmental regulations can encourage a voluntary reduction of pollution-causing practices while easing burdens on economic activities. Against this backdrop, this research aims to examine and analyze incentive systems for each type of regulatory legislation in connection with overall incentive systems, and to propose a scheme to effectively strengthen or introduce incentive systems that are in sync with regulatory realities.

10. Research to Amend Legislation for Utilization and Protection of Biometric Information

Although it is necessary to legally regulate the process of collecting, managing, and discarding the biometric information of an individual to protect that individual, the regulatory system under the current legislation is generally inadequate. Therefore, this research aims to establish a legislative basis for the general management and protection of biometric information and to propose implications for maintaining a balance between the development of technologies utilizing biometric information and the protection and management of biometric information.

11. Research on Legislation for Establishing and Utilizing Advanced Infrastructure for National Land Information

In order to consistently and rationally implement the policy for enhancing national land management through the establishment and utilization of advanced infrastructure for national land information as one of six main implementation strategies of the 4th revision to the Government's master national land plan, this project aims to propose a scheme to amend and improve relevant legislation systematically so that advanced infrastructure for national land information can be built and detailed policies thereon can be consistently and rationally implemented.

12. Research on Legislation on Fair Electronic Commerce

There has been an increase in the market share of electronic commerce, as a major means of trade by which business operators sell commodities or services to consumers. However, the relevant legal system fails to appropriately regulate the reality of electronic commerce. Moreover, unfair practices in electronic commerce has hindered the sound development of related industries and disturbed order in the markets. Therefore, this research aims to propose a scheme to amend relevant legislation for improvement.

13. Research to Amend Legislation on Systems for Environmental Assessment of Administrative Plans

This research aims to review the means to improve the environmental impact analyses, that were introduced and have been implemented to pre-assess the environmental impact of various plans formulated by administrative authorities — particularly, for implementing development plans, reasonably and practically in compliance with global standards and to propose a scheme to amend relevant legislation in the future.

14. Research to Improve Legislation on Co-Housing

In line with the Government's long-term housing policy, which is to formulate measures for stabilizing future housing, this project aims to comprehensively and systematically review legislation on public housing and propose a scheme to effectively improve legislation in order to promote the construction of co-housing, and to increase the supply of co-housing.



Publications

1. Research Reports

To assist the Government in formulating legislative policies, KLRI publishes over 300 types of research reports such as basic and ad hoc research reports, including measures to improve current legislation, every year. Also, it has published over 2,800 research project reports, sourcebooks since its establishment.

2. Legislative Evaluation Research

As an annual academic journal, *Legislative Evaluation Research* promotes professional academic research in legislative evaluation by presenting general legislative evaluation theories, development of advanced legislative evaluation methodologies, comparison of foreign legislative evaluation cases, and latest legislative evaluation cases.

3. Issue Paper

The *Issue Paper* is released from time to time to disseminate knowledge and experience in legislation. To that end, it presents an interpretation of major issues relating to latest legislations directly connected to the lives of citizens and explains key points, characteristics, implications, etc. of statutes from the point of view of legislative practices.

4. Journal of Legislation Research

The *Journal of Legislation Research* is an academic journal registered with the National Research Foundation of Korea in the field of law. As a biannual journal, it aims at finding the theoretical basis for desirable legislation and providing legislative support for the formulation of national legislative policies by analyzing the actual state of legislation in Korea. After setting a special theme for each issue, it identifies problems of current legislation and presents legislative opinions and improvement methods.

5. KLRI Journal of Law and Legislation

KLRI Journal of Law and Legislation is an English-language journal of legal studies, providing analysis on legislative issues and trends of various countries as well as comparative studies. Its purpose is to contribute to formulating policies and legislations at home and abroad.

6. The Latest Foreign Legislation Information

To meet the demand from the Government and public agencies for information on foreign legislation, the Latest Foreign Legislation Information provides accurate and timely information on the latest foreign legislation based on the information provided by its foreign legislation research commissioners based in foreign countries.

7. BubYeon

KLRI's newsletter titled "*Bub Yeon*" includes the following headings: Special Issues dealing with suggestions and proposed improvements concerning policies related to the featured special theme; Culture and Law which approaches legislation from the perspective of humanities; Expert Column which discusses legislation from a macroscopic point of view; and KLRI Research Report which informs readers of KLRI's research products. It also introduces other major publications and current events and affairs of KLRI.

8. Legislative Issue Brief

It is published in three to five pages, to identify legislative issues timely and propose schemes to improve legislation thereon for the purpose of facilitating citizens understanding of legislation.

Printed on August 26, 2016

Publisher Lee Won

Published by Korea Legislation Research Institute

15, Gukchaegyewon-ro, Sejong-si

Tel: +82 44 861 0300 www.klri.re.kr

Korea Legislation
Research Institute
2015 Annual Report



15, Gukchaegyewon-ro, Sejong-si, Korea
T. +82 44-861-0300 www.klri.re.kr