

# Recent Trends of Law & Regulation in Korea

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## *Recent Events*

- **MOJ Appoints Gymnast Yang Hak Seon as Honorary Ambassador**
- **Ministry of Justice Joins "South East Asia Justice Network (SEAJust)"**

## *Interview*

- **Bridging between Korea and the World**



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# Recent Trends of Law & Regulation in Korea

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Emblem



Ministry of Justice

The Republic of Korea government has changed its official “government identity.” The new logo conveys the dynamism and enthusiasm of the country with the three colors of blue, red and white. It echoes off Korea’s national flag Taegeukgi with the taegeuk circular swirl and the blank canvas embodies in white. The typeface

was inspired by the font used in the “Hunminjeongeum” (1446), the original Hangeul text, in consideration of the harmony embodied in the taegeuk circle. Starting March 2016, the new logo is used at all 22 ministries including the Ministry of Justice and 51 central government agencies.

# ACT ON THE EMPLOYMENT IMPROVEMENT OF DOMESTIC WORKERS

Act No.18285, 15. Jun, 2021



## CHAPTER I GENERAL PROVISIONS

### Article 1 (Purpose)

The purpose of this Act is to create high-quality jobs related to domestic services and promote employment stability and improvement of working conditions for domestic workers by stipulating matters regarding the working conditions of domestic workers and certification, etc. of domestic service providers.

### Article 2 (Definitions)

The terms used in this Act are defined as follows: 1. The term “domestic service” means performing tasks necessary for maintenance and management of family life, such as cleaning, laundry, and kitchen work performed in the house and protection and nurturing of household members; 2. The term “domestic service provider” means an institution that is

certified under Article 7 and provides domestic services pursuant to this Act; 3. The term “domestic service user” (hereinafter referred to as “user”) means a person who is provided with domestic services under a contract for use with a domestic service provider; 4. The term “domestic worker” means a person who enters into a labor contract with an employer of a domestic service provider (referring to an employer under Article 2 (1) 2 of the Labor Standards Act; hereinafter the same shall apply) and provides domestic services to users; 5. The term “live-in domestic worker” means a domestic worker who provides domestic services while living in the user's household.

### Article 3 (Support from the State)

(1) The State and local governments shall endeavor to stabilize employment of domestic workers, improve their rights and interests, create jobs for them, etc.

(2) The State and local governments may formulate and implement the following support policies for domestic service providers and domestic workers in order to improve working conditions for domestic workers and to create a healthy domestic service market: 1. Providing advice and information necessary for the operation of domestic service providers, etc.; 2. Providing education and training support to enhance the expertise of domestic workers; 3. Matters necessary to promote the rights and interests of domestic workers, such as handling grievances and counseling for domestic workers.

### Article 4 (Promoting Rights and Interests of Domestic Workers)

(1) Domestic service providers as well as users and their families (hereafter in this Article referred to as “users, etc.”) shall not force domestic workers to work against their free will and shall endeavor to provide appropriate working environments, such as giving such workers break time. (2) Domestic service providers shall endeavor to resolve and mediate complaints or grievances, etc. raised by domestic workers, such as conflicts between domestic workers and users, with regard to providing domestic services and shall not put domestic workers at a disadvantage on the ground that they have raised complaints or grievances, etc. (3) Users, etc. shall not infringe upon the privacy of live-in domestic workers.

### Article 5 (Scope of Application)

This Act applies to the labor relationship between domestic service providers and domestic workers and to the use of domestic services provided by domestic workers to users.

### Article 6 (Relationship to Other Statutes)

(1) Domestic workers subject to this Act shall not be regarded as housekeepers who are excluded from the application of labor-related statutes or regulations, such as the Labor Standards Act, the Equal Employment Opportunity and Work-Family Balance Assistance Act, and the Minimum Wage Act; and the domestic services performed by domestic workers subject to this Act shall not be regarded as employment activities within the household that are excluded from the application of labor-related statutes or regulations, such as the Act on the Guarantee of Employees' Retirement Benefits. (2) Articles 17, 54 (excluding cases of live-in domestic workers), 55, and 60 (1), (2), (4), and (5) of the Labor Standards Act shall not apply to the labor relationship of domestic workers; and Articles 50 and 53 of the Labor Standards Act shall not apply to the labor relationship of live-in domestic workers.

## CHAPTER II DOMESTIC SERVICE PROVIDERS

### Article 7 (Certification of Domestic Service Providers)

(1) A person who intends to operate a domestic service provider shall meet all of the following requirements and be certified by the Minister of Employment and Labor: 1. It shall be a juristic person established under the Civil Act, the Commercial Act, or other statutes; 2. It shall hire domestic workers as paid workers (including cases where it intends to hire them) and conduct business activities to provide domestic services in accordance with the standards prescribed by Presidential Decree, such as the number of workers hired; 3. It shall have a means for compensating for personal or material damage that may occur in the process of domestic workers providing domestic services due to safety-related accidents, etc.; 4. It shall have a means by which domestic workers can request complaints or grievances, etc. to be handled, including appointing grievance handling committee members under Article 26 of the Act on the Promotion of Employees' Participation and Cooperation; 5. It shall meet other requirements prescribed by Presidential Decree with respect to the standards for operation, etc. (2) A person who intends to be certified under paragraph (1) shall apply to the Minister of Employment and Labor as prescribed by Ordinance of the Ministry of Employment and Labor. (3) Upon receipt of an application for certification under paragraph (2), the Minister of Employment and Labor shall examine whether to grant certification and shall notify the applicant of the result; and where certifying the applicant as a domestic service provider under this Act, the Minister shall publicly announce such certification in a manner prescribed by Ordinance of the Ministry of Employment and Labor. (4) In order to change certified matters that are determined as important by Ordinance of the Ministry of Employment and Labor, a domestic service provider shall obtain certification for change; and to change other matters, it shall file a report on change. (5) An institution that has not been certified as a domestic service provider under this Act shall not pretend to be a domestic service provider certified under this Act. (6) Matters necessary for the standards and methods for, the certification examination, the notification of the results, and the procedures for certifying and reporting changes, etc. under paragraphs (3) and (4) shall be prescribed by Ordinance of the Ministry of Employment and Labor.

### Article 8 (Grounds for Disqualification)

None of the following persons shall serve as a representative or an executive officer of a domestic service provider: 1. A minor, a person under adult guardianship, or a person under limited guardianship;

2. A person declared bankrupt and not yet reinstated;

3. A person for whom two years have not passed since his or her imprisonment without labor or heavier punishment declared by a court was completely executed (including where it is deemed to have been completely executed) or since the person was exempted therefrom;

4. A person who is under suspension of the execution of his or her imprisonment without labor or heavier punishment declared by a court;

5. A person who was sentenced to a fine for violating this Act and for whom one year has not passed since the sentence became final and conclusive;

6. A person who was a representative or an executive officer of a domestic service provider whose certification was revoked under Article 23 (2) and for whom two years have not passed since such revocation.

Article 9 (Matters to Be Observed by Domestic Service Providers)

- (1) Domestic service providers shall disclose the fact that they have been certified under Article 7, the types and details of the domestic services they provide, the standards for calculating domestic service fees, the procedures for use, and other matters prescribed by Ordinance of the Ministry of Employment and Labor regarding use of domestic services, in a manner prescribed by Ordinance of the Ministry of Employment and Labor, such as posting on their websites.

(2) When domestic service providers enter into a contract for use under Article 11 (1) and (2), they shall ensure that the contents of the contract do not contravene the Labor Standards Act and the working conditions, etc. stipulated in this Act.

(3) Domestic service providers and domestic workers shall neither divulge to others the user's secrets learned in the course of performing their work nor use them for purposes other than business purposes.

Article 10 (Suspension or Closure of Business of Domestic Service Providers)

Where a domestic service provider intends to suspend or close business or resume business that has been suspended, it shall report it to the Minister of Employment and Labor as prescribed by Ordinance of the Ministry of Employment and Labor.

CHAPTER III PROVISION OF DOMESTIC SERVICES

Article 11 (Domestic Service Use Contract)

- (1) A domestic service provider shall enter into a written contract for use (including electronic documents under subparagraph 1 of Article 2 of the Framework Act on Electronic Documents and Transactions; hereafter in Article 14, the same shall apply) that contains the

following matters, with a person who intends to use domestic services under this Act:

1. The type of the domestic services;

2. The date and time to provide the domestic services;

3. Break time for the domestic worker;

4. Matters regarding the safety of the domestic worker;

5. The domestic service fees and payment methods;

6. Matters regarding compensation for damage that may occur due to safety-related accidents, etc. while the domestic services are provided;

7. Other matters prescribed by Ordinance of the Ministry of Employment and Labor with regard to the provision of domestic services and the protection of domestic workers.

- (2) When a domestic service provider enters into a contract for use whereby domestic services are provided with moving-in, it shall ensure that the following matters are included in the contract for use in addition to the matters specified in the subparagraphs of paragraph (1):

1. A bedroom for the live-in domestic worker;

2. Providing meals to the live-in domestic worker;

3. Guaranteeing continuous break time.

(3) A domestic service provider shall notify in advance the domestic worker who is to provide domestic services under the contract for use prescribed in paragraphs (1) and (2), of the details of such contract so that the domestic worker can provide domestic services in accordance with the contract.

(4) A user shall comply with the contract for use concluded under paragraphs (1) and (2) and shall not ask domestic workers to perform tasks other than those stipulated in the contract for use.

(5) In order to improve the working conditions for domestic workers and to create a sound domestic service market, the Minister of Employment and Labor may prepare a standard contract for use that includes the matters specified in the subparagraphs of paragraphs (1) and (2) and may encourage domestic service providers to use it.

Article 12 (Grounds for Disqualification of Domestic Workers Providing Child Protection and Nurturing Services)

No domestic service provider shall allow any of the following domestic workers to provide protection and nurturing services for children 12 years of age or younger:

1. A minor, a person under adult guardianship, or a person under limited guardianship;

2. A mental patient;

3. A person addicted to narcotic drugs, marijuana, or psychotropic substances;

4. A person for whom three years have not passed since his or her imprisonment without labor or heavier punishment declared by a court was completely executed (including where it is deemed to have been completely executed) or since the person was exempted therefrom;



5. A person who is under suspension of the execution of his or her imprisonment without labor or heavier punishment declared by a court;

6. A person who was sentenced to punishment or medical treatment and custody for committing a crime under Article 71 (1) of the Child Welfare Act for violating Article 17 of the same Act, a sexual crime defined in Article 2 of the Act on Special Cases concerning the Punishment of Sexual Crimes, or a sex offense against children or youth defined in subparagraph 2 of Article 2 of the Act on the Protection of Children and Youth against Sex Offenses, and for whom 10 years have not passed since the execution of all or part of the punishment or medical treatment and custody was completed or suspended or since the person was exempted therefrom;

7. A person for whom 20 years have not passed since his or her imprisonment without labor or heavier punishment declared by a court for committing a child abuse-related crime defined in subparagraph 7-2 of Article 3 of the Child Welfare Act, was completed or since the person was exempted therefrom;

8. A person who was sentenced to suspension of the execution of imprisonment without labor or heavier punishment for committing a child abuse-related crime defined in subparagraph 7-2 of Article 3 of the Child Welfare Act and for whom 20 years have not passed since the suspension of execution became final and conclusive;

9. A person who was sentenced to a fine for committing a child abuse-related crime defined in subparagraph 7-2 of Article 3 of the Child Welfare Act and for whom 10 years have not passed since the sentence became final and conclusive.

Article 13 (Criminal History Inquiry to Check Grounds for Disqualification)

- (1) In order to check whether any of the grounds for disqualification specified in subparagraphs 4 through 9 of Article 12 applies to a domestic worker who is to provide protection and nurturing services for children 12 years of age or younger, a domestic service provider shall, with the consent of the domestic worker, request a criminal history inquiry under Article 6 of the Act on the Lapse of Criminal Sentences from the commissioner of the competent City/Do police agency or the chief of the competent police station: Provided, That where a domestic worker directly submits a reply to the criminal history inquiry to the domestic service provider, it is deemed that the criminal history inquiry has been made.

(2) The commissioner of the City/Do police agency or the chief of the police station who has received a request for a criminal history inquiry under paragraph (1) shall comply therewith, unless there is good reason.

(3) The commissioner of the City/Do police agency or the chief of the police station who has received a request for a criminal history inquiry under paragraph (1) shall notify only whether the grounds for disqualification specified in subparagraphs 4 through 9 of Article 12 apply.

(4) Matters necessary for the procedures for, and the scope, etc. of, criminal history inquiry under paragraphs (1) and (2) shall be prescribed by Presidential Decree.



CHAPTER IV WORKING CONDITIONS FOR DOMESTIC WORKERS

Article 14 (Specifying Working Conditions)

- (1) The employer of a domestic service provider shall specify the following matters when entering into a labor contract with a domestic worker; and the foregoing shall also apply to any changes to the following matters after the labor contract is concluded:
  - 1. Wages (including constituent items, calculation methods, and payment methods);
  - 2. Minimum working hours under Article 15;
  - 3. Paid holidays and annual paid leave under Article 16;
  - 4. The types and details of domestic services provided by the domestic worker;
  - 5. Other matters regarding working conditions prescribed by Presidential Decree.
- (2) The employer of a domestic service provider shall deliver a document stating the matters specified in the subparagraphs of paragraph (1) to the domestic worker: Provided, That such document shall be delivered to the domestic worker upon request where the matters specified in the subparagraphs of paragraph (1) are changed due to reasons prescribed by Presidential Decree, such as a change in the relevant collective agreement or employment rules.
- (3) If this Act sets standards that are different from the standards under the Labor Standards Act with regard to working conditions, a labor contract part of which does not meet the standards for working conditions stipulated in this Act shall be null and void to the extent of such part.
- (4) The part invalidated under paragraph (3) shall follow the standards set forth in this Act.

Article 15 (Minimum Working Hours)

- (1) The minimum working hours shall be at least 15 hours per week: Provided, That if there is an explicit intention of the domestic worker or in cases of unavoidable business circumstances prescribed by Presidential Decree, it may be set to less than 15 hours per week.
- (2) Article 16 shall not apply to domestic workers whose minimum working hours per week are less than 15 hours.

Article 16 (Paid Holidays and Annual Paid Leave)

- (1) The employer of a domestic service provider shall grant paid holidays and annual paid leave to domestic workers at a level equivalent to Articles 55 and 60 of the Labor Standards Act.
- (2) Detailed standards for determining paid holidays and annual paid leave under paragraph (1) and standards for calculating wages that the employer of a domestic service provider should pay to a domestic worker during paid holidays and annual paid leave periods shall be determined by Presidential Decree based on the actual working hours of the domestic worker.

- (3) Annual paid leave under paragraph (1) shall be granted at the time requested by a domestic worker: Provided, That the period may be changed if granting leave at the time requested by the domestic worker significantly hinders the operation of the business.
- (4) When the Labor Standards Act is applied to annual paid leave of domestic workers, annual paid leave under paragraphs (1) and (2) shall be construed as the annual paid leave under Article 60 (1), (2), and (4) of the Labor Standards Act.

Article 17 (Special Cases concerning Live-In Domestic Workers)

- (1) Where it is impracticable to calculate the actual working hours of a live-in domestic worker, the hours of providing domestic services specified in the contract for use under Article 11 (1) shall be deemed worked.
- (2) When a domestic service provider enters into a contract for use whereby domestic services are provided with moving-in as prescribed in Article 11 (1) and (2), it shall check in advance whether there is a bedroom for the domestic worker in the place where the relevant domestic services are to be provided.

CHAPTER V PROMOTION OF DOMESTIC SERVICES

Article 18 (Tax Reduction and Social Insurance Premium Support)

- (1) The State and local governments may reduce or remove national or local taxes for domestic service providers and users as prescribed by the Restriction of Special Taxation Act, the Restriction of Special Local Taxation Act, or other tax-related statutes.
- (2) For domestic service providers and domestic workers, the State may partially subsidize employment insurance premiums and industrial accident compensation insurance premiums under the Act on the Collection of Insurance Premiums for Employment Insurance and Industrial Accident Compensation Insurance; insurance premiums under the National Health Insurance Act; and the pension premiums under the National Pension Act.

Article 19 (Establishment and Operation of Computerized Systems)

- (1) The Minister of Employment and Labor may establish and operate a computerized system that provides comprehensive information on the provision of domestic services by domestic service providers, use of domestic services, etc.
- (2) If necessary for the operation of the computerized system under paragraph (1), the Minister of Employment and Labor may request a domestic service provider to submit information subject to disclosure under Article 9 (1). In such cases, the domestic service provider shall submit the relevant information unless there is good reason.

Article 20 (Deliberation upon Important Matters Related to Promotion of Domestic Workers’ Rights and Interests)

The following matters regarding the promotion of the rights and interests of domestic workers under this Act shall be deliberated upon by the Employment Policy Deliberative Council under Article 10 of the Framework Act on Employment Policy (hereafter in this Article referred to as the “Employment Policy Deliberative Council”):

- 1. Matters regarding formulating important policies and reforming systems, for employment stability and working conditions improvement for domestic workers;
- 2. Other matters submitted to a meeting by the chairperson of the Employment Policy Deliberative Council with regard to the promotion of the rights and interests of domestic workers.

CHAPTER VI SURVEYS AND SUPERVISION

Article 21 (Fact-Finding Surveys)

- (1) If necessary for improving the quality of domestic services and working conditions for domestic workers, the Minister of Employment and Labor may conduct a fact-finding survey on the status of the operation of domestic service providers, the satisfaction of users of domestic services, etc.
- (2) If necessary for the fact-finding survey under paragraph (1), the Minister of Employment and Labor may request a domestic service provider to submit data or to state opinions, etc. In such cases, the domestic service provider in receipt of such request shall comply therewith unless there is good reason.
- (3) Matters necessary for the methods, procedures, etc. for the fact-finding survey under paragraph (1) and requests for data submission under paragraph (2) shall be prescribed by Ordinance of the Ministry of Employment and Labor.

Article 22 (Guidance and Supervision)

- (1) If necessary for supervising a domestic service provider, the Minister of Employment and Labor may have relevant public officials enter the office of the domestic service provider or other places as necessary to inspect books, documents, or other items, or to ask relevant persons questions, and may order the relevant provider to report on its business or to submit data such as relevant documents, as prescribed by Presidential Decree.
- (2) A public official who enters relevant places or conducts an inspection pursuant to paragraph (1) shall carry identification indicating his or her authority and present it to relevant persons.

Article 23 (Corrective Orders and Revocation of Certification)

- (1) The Minister of Employment and Labor may order a domestic service provider to make corrections in any of the following cases:
  - 1. Where the domestic service provider takes measures unfavorable

- to domestic workers in violation of Article 4 (2);
- 2. Where the certification requirements under Article 7 (1) are not met;
- 3. Where the domestic service provider fails to disclose the information subject to disclosure or discloses false information in violation of Article 9 (1);
- 4. Where the domestic service provider concludes a contract for use which contains contents contravening the Labor Standards Act, the working conditions stipulated in this Act, etc. in violation of Article 9 (2);
- 5. Where the domestic service provider has a domestic worker provide domestic services without entering into a contract for use, or where the contract for use is concluded without containing matters to be contained, in violation of Article 11 (1) and (2);
- 6. Where the domestic service provider has a domestic worker provide protection and nurturing services for children 12 years of age or younger in violation of Article 12;
- 7. Where the domestic service provider fails to guarantee the minimum working hours for the domestic worker under Article 15 (1): Provided, That cases falling under the proviso of the same paragraph shall be excluded;
- 8. Where the domestic service provider fails to comply with a request for submission of data under Article 19 (2) without good reason, or where such provider submits false information;
- 9. Where the domestic service provider fails to comply with a request for submission of data or statement of opinion under Article 21 (2), without good reason, or where such provider submits false data or states a false opinion;
- 10. Where the domestic service provider refuses, obstructs, or evades entry or inspection under Article 22 (1) without good reason; refuses to make a statement in response to a question or makes a false statement; or fails to comply with an order to give a report or submit data, or gives a false report or submits false data.
- (2) The Minister of Employment and Labor may revoke the certification of a domestic service provider in any of the following cases: Provided, That in cases of subparagraph 1 or 4, the certification shall be revoked:
  - 1. Where obtaining the certification by fraud or other improper means;
  - 2. Where failing to comply with a corrective order under paragraph (1);
  - 3. Where closing business or suspending business for one year or longer without good reason after obtaining the certification;
  - 4. Where any subparagraph of Article 8 becomes applicable to the representative or an executive officer of the domestic service provider;
  - 5. In other cases where providing normal domestic services is deemed significantly impracticable.
- (3) Where the Minister of Employment and Labor is to revoke the certification of a domestic service provider on the grounds specified

- in paragraph (2) 4, he or she shall give a period of at least one month in advance to replace the relevant representative or executive officer.
- (4) Where the Minister of Employment and Labor intends to revoke the certification of a domestic service provider pursuant to paragraph (2), he or she shall hold a hearing.
- (5) A domestic service provider whose certification has been revoked under paragraph (2) cannot obtain certification again within two years from the date of the revocation.
- (6) Matters necessary for corrective orders under paragraph (1) and specific standards and procedures, etc. for revocation of certification under paragraph (2) shall be prescribed by Ordinance of the Ministry of Employment and Labor.

Article 24 (Delegation or Entrustment of Authority or Tasks)

- (1) Part of the authority of the Minister of Employment and Labor under this Act may be delegated to the head of a local government or the head of a regional employment and labor office, as prescribed by Presidential Decree.
- (2) The Minister of Employment and Labor may entrust the following tasks to a relevant specialized institution or organization, as prescribed by Presidential Decree:
1. Establishment and operation of the computerized system under Article 19 (1);
  2. Fact-finding surveys under Article 21 (1);
  3. Other tasks prescribed by Presidential Decree.
- (3) The State may subsidize the institution or organization entrusted with tasks pursuant to paragraph (2) for the expenses incurred in handling the entrusted tasks.
- (4) A person who performed or is performing tasks entrusted pursuant to paragraph (2) shall neither divulge secrets learned in the course of performing such tasks nor use them for purposes other than business purposes.

Article 25 (Legal Fiction as Public Officials for Purposes of Applying Penalty Provisions)

Executive officers and employees of the relevant specialized institution or organization performing tasks entrusted by the Minister of Employment and Labor under Article 24 (2) shall be deemed public officials for purposes of applying penalty provisions under Articles 129 through 132 of the Criminal Act.

CHAPTER VII PENALTY PROVISIONS

Article 26 (Penalty Provisions)

- (1) A person who fails to grant paid holidays and annual paid leave or fails to grant annual paid leave at the time requested by domestic workers in violation of Article 16 (1) or (3) (excluding cases under the proviso of paragraph (3) of the same Article) shall be punished by

- imprisonment with labor for up to two years or by a fine not exceeding 20 million won.
- (2) A person who divulges secrets learned in the course of performing work or tasks or use them for purposes other than business purposes in violation of Article 9 (3) or 24 (4) shall be punished by imprisonment with labor for up to one year or by a fine not exceeding 10 million won.
- (3) Any of the following persons shall be punished by a fine not exceeding five million won:
1. A person who pretends to be a domestic service provider certified under this Act in violation of Article 7 (5);
  2. A person who fails to specify relevant matters in the labor contract or fails to deliver a document specifying relevant matters in violation of Article 14 (1) or (2).

Article 27 (Joint Penalty Provisions)

If the representative of a corporation or an agent, an employee, or any other worker of a corporation commits any violations described in Article 26 in conducting the business affairs of the corporation, the corporation shall be punished by a fine prescribed in that Article in addition to punishing the violator accordingly: Provided, That the foregoing shall not apply if the corporation has not been negligent in giving due attention and supervision concerning the relevant business affairs to prevent such violation.

Article 28 (Administrative Fines)

- (1) Any of the following persons is subject to an administrative fine not exceeding five million won:
1. A domestic service provider that fails to obtain a certification for change or to report a change in violation of Article 7 (4);
  2. A domestic service provider that has a domestic worker provide domestic services without entering into a contract for use or that enters into a contract for use without including matters to be included, in violation of Article 11 (1) and (2);
  3. A domestic service provider that allows the provision of protection and nurturing services for children 12 years of age or younger in violation of Article 12;
  4. A person who refuses, obstructs, or evades entry or inspection under Article 22 (1) without good reason; a person who refuses to make a statement in response to a question or makes a false statement; and a person who fails to give a report or submit data, or gives a false report or submits false data.
- (2) Any of the following persons shall be subject to an administrative fine not exceeding three million won:
1. A domestic service provider that fails to report business suspension, closure, etc. in violation of Article 10;
  2. A person who fails to comply with a request for submission of information under Article 19 (2) without good reason or submits false information;
  3. A person who fails to comply with a request for submission of

- data or statement of opinion under Article 21 (2) without good reason, or who submits false data or states a false opinion.
- (3) Administrative fines under paragraphs (1) and (2) shall be imposed and collected by the Minister of Employment and Labor as prescribed by Presidential Decree.

# Bridging between Korea and the World

Choi Taeun

Counsellor at the Permanent Mission of the Republic of Korea to the UN

In November 1951, the Observer Mission of the Republic of Korea to the United Nations was established. The Mission became a full-fledged Permanent Mission to the United Nations in September 1991, with the Republic of Korea's accession to the UN. Legal counsellors at the Permanent Mission are responsible for providing legal opinions to the UN ambassadors, reflecting national interests in forming international legal norms, and examining the suitability between national and international law.

**Q:** *You have worked at the International Legal Affairs Division of the Ministry of Justice (MOJ) and currently work as a counsellor at the Permanent Mission of the Republic of Korea to the United Nations (UN). Could you share with us your motivations for working in international affairs?*

I was not interested in international affairs from the beginning. However, I knew that gaining knowledge and experience in foreign criminal justice systems through pursuing an LL.M. and institutional training would open more opportunities to work in various fields as a prosecutor. This possibility motivated me to take the time out of my schedule to study English. And I was fortunate enough to be the first Korean prosecutor to receive institutional training at the World Bank after completing my LL.M. degree at George Washington University Law School. These experiences led me to work at the International Legal Affairs Division of the MOJ upon my return to Korea. During my experience at the Legal Affairs Bureau, I learned that a prosecutor deals with investigations and serves as a "lawyer for the government," in which I found great pride. In particular, I was given many opportunities to cooperate with the Ministry of Foreign Affairs while working on Bilateral Investment Treaties (BIT) or public international law (e.g., Dokdo). In this process, I became curious about life as a diplomat—those who work as a national representative on the "global stage." Furthermore, as the International Legal Affairs Division is the primary division for the works of legal counsels, I also learned about their careers. I started my career as a prosecutor to contribute to my country and the public good. And I thought being a legal counsellor could be another way to achieve that goal. At first, the title of "counsellor" made me feel awkward at times. However, I found many similarities between a prosecutor and a diplomat—they both represent the country's interest as the lawyer for the government. The only difference is that the latter primarily works at the UN, a global forum for multilateral diplomacy.



**Q:** *From our knowledge, legal counsels at the Permanent Mission of the Republic of Korea to the UN are responsible for providing legal opinions to the UN ambassadors, reflecting national interests in forming international legal norms, and examining the suitability between national and international law. What tasks are you undertaking, and what is the greatest concern to the Republic of Korea?*

The Permanent Mission of the Republic of Korea to the UN is not engaged in bilateral diplomacy or civil service but is dedicated to multilateral diplomacy related to international organizations like the UN. Legal counsels attend conferences, study global trends, make reports, and take necessary measures, such as holding votes according to the criminal justice and legal agenda they cover. The Permanent Mission of the Republic of Korea to the UN organizes teams following the UN Committees. Legal counsels belong to the 6th team, which is under the UN Sixth Committee (Legal) and is dedicated to affairs related to the International Criminal Court (ICC) and the UN Commission on International Trade Law(UNCITRAL). We are also in charge of criminal justice affairs under the 3rd team, which is in accordance with the UN Third Committee (Social, Humanitarian & Cultural). Criminal justice affairs relating to the UN Commission on Crime, Prevention and Criminal Justice(CCPCJ), the UN Commission on Narcotic Drugs(CND), a moratorium on the death penalty, human trafficking, and restitution of illegitimate assets highly resemble

affairs of prosecutors. My experience and expertise as a prosecutor helped me handle these tasks. This year, the Korean legal counsel's biggest concern is the ICC judicial election that will be held in December. The Republic of Korea will make full preparation in the vetting process for our candidate Paek Keebong to be elected after Chung Chang-ho, whose term runs out next year.

**Q:** *What are some emerging legal issues at the UN? Are there any areas that particularly catch your attention?*

Every year at the UN is dynamic and eventful, but none so much as the last two to three years, as all the diplomats here agree. For the first time, the UN closed its headquarters and held all meetings online due to the COVID-19 pandemic. Also, there has never been a case where a permanent member of the Security Council waged war, posing a challenge to the function and role of the UN. In the wake of the Ukraine crisis, the UN's tradition of striving for "consensus" among member countries has completely collapsed. Western powers, led by the US and EU, and anti-Western powers, led by China and Russia, are blatantly antagonizing each other during negotiations on important resolutions and at various committees. Furthermore, as the use of the veto by a member caused the "dysfunction" of the UN Security Council, the UN continues to discuss reform. But it will take time to see progress due to complex geopolitical dynamics.

An area that catches my attention is expanding the recruitment of Koreans at international organizations since I have worked for two years as the Facilitator of the New York Working Group for Geographical Representation and Gender Balance (GRGB) of the ICC. Although Korea ranks seventh in ICC budget contribution, taking up 4.9%, it is a non-represented country with zero full-time employees and one of the under-represented countries in the United Nations. Unfortunately, I could not directly contribute to expanding the recruitment of Koreans because I am a GRGB facilitator who should work neutrally and objectively as an individual rather than a country representative. However, unofficially, I have been trying my best to improve the recruitment system of the ICC with other under-represented countries, such as Japan, Germany, and Brazil.

**Q:** *How would you describe Korea's global presence when drafting UN international norms? For instance, how well are the national interests reflected? How is the final decision made when there are disagreements among the States?*

Due to its nature, it is unusual that international legal norms are formed solely by decision-makers. In particular, it is very rare that specific countries make the final decision in the process. For the general agenda, groups of like-minded countries are formed, and those countries make discussions and compromise in many cases.





The UN endeavors to achieve consensus for a critical agenda because there is a clear difference in authority and significance between an agenda adopted by consensus (e.g., resolution, declaration) and an adopted through voting. Nonetheless, as international relations are becoming more complex and small states have begun to raise their voices, cases are decreasing where member states adopt legally binding norms.

When adopting international norms, the basic principle is reaching a consensus since they directly and indirectly influence each state's legal system and work. Thus, if an agenda fails to build a consensus, it will be hard to become a norm. In particular, as the criminal justice system deeply reflects each state's history and culture, it is considered to be respected no less than a state's 'sovereignty.' It is also directly connected to human rights issues, the UN's most sensitive and complicated topic. I witnessed incendiary remarks and personal attacks during meetings on human rights issues, such as "a moratorium on the use of the death penalty." In contrast, the UNCITRAL working group meetings that draft international commercial laws go smoothly and calmly.

The recent trend is using the "implied consent procedure," a system that considers a resolution adopted by consensus if there is no disagreement within a given period. After discussing the agenda deeply and unofficially, facilitators refer to the implied consent procedure. But if it is not accepted, countries with different opinions and stakeholders are encouraged to find a compromise through bilateral meetings or other types of discussions. If this effort does not

work, the voting will be conducted at the General Assembly. The GRGB report I wrote as a facilitator was canceled twice as. We decided to delete phrases with an objection and further discuss them next year.

**Q:** *When working at the UN, did you find impressive cases where a foreign country successfully addressed an issue? Were there any cases Korea could follow?*

As one may need to be cautious of introducing a specific case in detail, I would like to speak in general. The one thing Korea could benchmark in a multilateral diplomacy setting is "consistency in policies."

When I worked at the International Legal Affairs Division of the Ministry of Justice, I participated in Free Trade Agreement (FTA) negotiations and UNCITRAL Working Group meetings. From those experiences, I found that in foreign countries, public officials could accumulate professional knowledge and know-how because they take on the same task for a long time. On the contrary, in Korea, due to its personnel system it is difficult to foster a genuine "professional."

In addition, the country's stance towards core agendas also completely changes with a new government coming. Representatives from other countries are also aware of such a tendency. To be sure, a new administration introduces changes in other countries, too: personnel (e.g., ambassadors) or policies (e.g., conservatism or liberalism). However, such changes rarely occur in the country's core

policies and values (e.g., human rights). It is regrettable that even the friendly nations of Korea are also concerned about how easily the country changes its stance toward core values directly related to the citizens' safety and the country's interest.

Some changes are inevitable, considering the unique situations we face, but still, we need to recognize the concerns of the international society objectively. Keeping this in mind, diplomats individually should do their best to handle international issues prudently and wisely.

**Q:** *What was the most challenging part of working at the Permanent Mission of the Republic of Korea to the United Nations, and how did you overcome it?*

The International Criminal Court (ICC) operates diverse Hague and New York working groups. At the recommendation of my predecessor, I volunteered to work as a facilitator of the GRGB at the New York working group. As a facilitator, I regularly discover agendas and bring light to them while presiding over Working Group meetings. I also refer requests and questions from the Parties to the Secretariat and instruct the Parties to report them at the meetings. Lastly, I draw up an annual report summarizing the results of the year's discussions and submit it to the Conference of the Parties.

Coordinating the Parties' opinions and leading discussions are truly challenging. In particular, I could not help but feel embarrassed when I had difficulty understanding the remarks of diplomats from non-English-speaking countries (of course, I pretended to understand them, though). After the meetings, I always felt deep frustration and self-doubt. I looked through English conference-related books, memorized useful expressions, and even tried taking online English classes. Still, having enough English skills to moderate meetings took much time.

Over time, however, I have gained a deeper understanding of all the procedures and materials and have taken note of discussion points by communicating with stakeholders. I also became more used to conducting international conferences and using relevant terms, feeling more comfortable about my tasks. However, overcoming the pressure and frustration of presiding over meetings as a facilitator will always be difficult. The comfort I have is a sense of responsibility and pride that I am the first Korean counsel to serve as the chairperson of a working group of an international organization.

**Q:** *Can you advise Korean lawyers who want to contribute to the international community through international organizations?*

We especially appreciate your insight into the mindset and qualifications that those who wish to work at international organizations should have.

Although Korea's national position in the world is higher than ever, driven by its economic development and cultural prosperity over the past decades, Korea is still one of the under-represented countries

regarding the number of those working in international organizations. Therefore, the Ministry of Foreign Affairs conducts various policies to encourage more Koreans to work in international organizations. Also, the International Legal Affairs Division is implementing initiatives to support young legal professionals going abroad. Therefore, this is the golden time for those who are proficient in foreign languages and aspire to work at international organizations. Furthermore, one of the concerns of the Ministry of Foreign Affairs is to create a sustainable environment to nurture diplomats who are also legal experts. It is noteworthy that more and more Korean diplomats work at international organizations and are recognized globally.

Nevertheless, it is regrettable that today's law schools focus solely on preparing for the bar examination. Hence, only a few law school students are willing to take courses on international law. International law, especially public international law, is the most useful area of law for the multilateral diplomatic stage, like the Permanent Mission to the United Nations. However, as the current law school system focuses on the bar exam, only a few students take classes or major in international law. Also, many potential legal professionals want to become judges, prosecutors, and lawyers, not considering other options.

For those who wish to work in international organizations, there is a psychological hurdle to overcome. If they expect treatment (e.g., position, salary) equivalent to that of domestic legal professionals (e.g., judges, prosecutors, lawyers) or cling to high positions at international organizations, they are most likely to limit their career options. Speaking bluntly, international organizations do not have knowledge about or interest in their position or power. Also, unlike Korean bureaucratic organizations, seniority is not a prerequisite for promotion at international organizations. More important is a mindset to find meaning and value in what you do instead of position or rank. Major international organizations like the UN, World Bank, and the International Monetary Bank(IMF) tend to appreciate working experiences in other international institutions highly. And those experiences become an important qualification for prime elected positions, such as the ICC and ITLOS (International Tribunal for the Law of the Sea) judge. I recommend building knowledge and experience in international organizations first and leveraging that to move toward the goal you set with perseverance.



# Recent Events



## MOJ Appoints Gymnast Yang Hak Seon as Honorary Ambassador

On January 17, 2023, the Ministry of Justice (MOJ) held the “MOJ Honorary Ambassador Appointment Ceremony” at Gwacheon Government Complex. At the event, the MOJ appointed Yang Hak Seon, a representative gymnast of Korea, as the honorary ambassador to the MOJ. Mr. Yang became the world’s best gymnast after overcoming difficult conditions and creating his own skills through constant efforts. He is an active athlete who continues to challenge himself to compete in the Olympics.

At the inauguration ceremony of new prosecutors on August 22, 2022, Justice Minister Han Dong Hoon introduced videos of the gold medalist in Men’s Vault at the 1932 LA Olympics and Mr. Yang at the 2012 London Olympics. By comparing the two videos, Minister Han emphasized that the difference lies in the accumulated know-how and passed-down assets. In addition, he mentioned, “As the prosecution’s skills that have accumulated for 70 years are an invaluable asset to the citizens, it is important to learn such skills quickly and work for the people.”

In appointing an ambassador, Minister Han directly contacted Mr. Yang to explain the values pursued by the MOJ and asked him to work as an honorary ambassador.

At the appointment ceremony, Minister Han stated, “I would like to thank

Gymnast Yang Hak Seon — a proud athlete of Korea — for accepting the offer to become an honorary ambassador to the MOJ. Today, we watched impressive videos of Mr. Yang’s performance. I was impressed not only by the world’s best, the ‘GOAT (Greatest Of All Time),’ performance at the 2012 Olympics but also by his performance at the 2022 National Sports Festival, where he showed his best efforts and skills after overcoming his previous injuries. For the MOJ to bear the fruit of our policies, we should



learn from Mr. Yang’s constant efforts in self-management and his sense of calling. The MOJ will do our best.”

Mr. Yang stated, “It is a great honor to become an ambassador to the MOJ, but I feel great responsibility at the same time. By working with the MOJ to prevent juvenile crime and participate in law-and-order protection campaigns, I will reflect on whether I am following these orders myself. I will do my best to encourage citizens to feel the importance of law and order.”

Mr. Yang, the honorary ambassador for the MOJ, is expected to participate in various online and offline campaigns related to the MOJ policies, including youth crime prevention, law-and-order protection campaigns, and environmental improvement projects for crime prevention.

## Ministry of Justice Joins “South East Asia Justice Network (SEAJust)”

On Friday, January 27, 2023, the Ministry of Justice joined the “South East Asia Justice Network (SEAJust)” to promote international judicial cooperation, such as extradition and mutual legal assistance in criminal matters.

SEAJust is a “judicial cooperation network centered in Southeast Asia,” supported by the United Nations Office on Drugs and Crime (UNODC). Established in March 2020, it has served as a platform facilitating official and unofficial communication and cooperation between central authorities for mutual legal assistance in criminal matters.

More specifically, SEAJust was founded as a part of a project entitled “Strengthening Regional Cooperation and the Capacity of ASEAN Countries to Counter Corruption and Other Serious Crimes,” dubbed the “Korea Project,” an ongoing project under an MOU between the Korean Ministry of Justice and the UNODC.

As of December 2022, SEAJust comprises the following twelve members: nine out of the ten ASEAN countries – Thailand, Viet Nam, Singapore, Lao PDR, Myanmar, Brunei Darussalam, the Philippines, Malaysia, and Cambodia – and Australia, Timor-Leste, and Maldives.

In November 2022, the MOJ submitted a letter of intent to join the SEAJust to the UNODC and has actively engaged in discussions with member countries of the UNODC and SEAJust. As a result, Korea became a member of the SEAJust at the recent SEAJust Extraordinary Plenary Meeting with the unanimous approval of the following ten participating countries: Thailand, Viet Nam, Singapore, Brunei Darussalam, the Philippines, Malaysia, Cambodia, Australia, Timor-Leste, and Maldives.

Korea has continuously worked to expand the worldwide network of treaties on extradition and mutual legal assistance in criminal matters. It has signed a “Bilateral Treaty on Mutual Legal Assistance in Criminal Matters” with 33 countries and joined the “European Convention on Mutual Assistance in Criminal Matters,” becoming the fiftieth party to the Convention.

Also, Korea’s accession to the SEAJust means that the country can build

an additional cooperative system to interact even more closely with the ASEAN and Asia-Pacific countries with active human and material resources exchanges.

In particular, as seen in recent cases, criminals often seek refuge in Southeast Asian countries. Thus, joining official and unofficial real-time communication channels with regional judicial cooperation officials will greatly help to facilitate the repatriation of international fugitives who disrupt the criminal justice order by avoiding investigation and prosecution after committing crimes.

In addition, the MOJ plans to invite high- and working-level officials from the central authority of each SEAJust member country to Seoul in late April 2023 and hold a “SEAJust Plenary Meeting” jointly with the UNODC. Through this event, the MOJ hopes to accelerate the extradition of international fugitives further and acquire evidence located abroad.

The MOJ will continue to push forward initiatives such as 1) expanding its connections with foreign judicial cooperation and law enforcement agencies and 2) developing extradition procedures tailored to each country and case to eradicate corruption and other serious crimes by preventing difficulties in acquiring evidence located abroad. The MOJ will spare no effort for the prompt apprehension and repatriation of those who committed corruption and financial crimes but avoid punishment and responsibility by fleeing overseas. It will also do its best to utilize the mutual legal assistance network to acquire evidence located abroad. In doing so, the MOJ plans to spread the message that there is no place for criminals to hide anywhere in the world.

# Policies of the Ministry of Justice

## 2023 Ministry of Justice New Year Work Plan

### 2023 Ministry of Justice Work Plan

#### 1. A Safer Society from Crimes

- Protect people from sex predators discharged from prison
- Recover the reputation as a drug-free nation
- A stern response to organized crimes affecting citizens' livelihoods

#### 2. New Immigration Policies

- Border control and immigration policies for Korea's next century
- Visa policies that contribute to the national economy
- Crackdown on illegal migrants

#### 3. Establish of Law and Order by Strictly Responding to Illegal Acts

- Eradicate illegal acts that undermine justice and common sense
- Establish a criminal justice system that meets the global standard

#### 4. Establishment of Law and Order Infrastructure Leading to Future Prosperity

- Revision of the Civil Act and the Commercial Act
- Handle international legal affairs as a global pivotal state
- Provide convenient legal services with cutting-edge technologies

#### 5. Protection of Human Rights

- Strengthen protection and support for the socially-underprivileged
- Improve human rights protection for immigrants
- Uncompromising human rights protection at correctional facilities
- Conduct human rights policies that meet the global standard

### A Safer Society from Crimes

1) The Ministry of Justice plans to push for legislation of Korea's "Jessica Law" to make people not worry about releasing high-risk sexual predators. Last year, many citizens expressed concerns over the high-risk sexual offenders discharged from prison, calling for fundamental measures to secure the safety of our children from sexual crimes. The MOJ plans to legislate a law preventing high-risk sex offenders from residing within 500 meters of education facilities, such as schools, kindergartens, and daycare centers after they are discharged from prison. This idea is similar to the Jessica Act of the United States. But the Korean version will be designed according to domestic circumstances, including the urban population. Also, considering the fundamental rights of the constitution, the target of this law is limited to those who have repeatedly committed crimes or committed sex crimes against children under the age of 13. The court will determine the distance between institutions and sex offenders' residences on a case-by-case basis.

2) The MOJ strives to stop the drug epidemic and recover Korea's reputation as a drug-free nation. As more and more countries legalize cannabis, drug trafficking cases are increasing in Korea. Last year, 17,073 people were arrested for drug-related crimes, a 5.7 percent rise from the previous year's 16,153. The increase was visible, especially among the younger people in their 10s or 20s. About one out of three, or 5,335 drug offenders arrested last year, were in their 20s. Young people proficient in using technology are using the anonymity of the dark web, making drug dealings much easier and more accessible. The Ministry of Justice plans to introduce several measures to reduce drug crimes. First, The Ministry of Justice plans to expand drug prevention education for minors in and out of schools. At the same time, it will focus more on treatment and rehabilitation for drug addicts in collaboration with relevant institutions. It will also expand connections with the private sector by designating them as the Ministry of Justice's Legal Culture Promotion Centers, such as the Korea Anti-Drug Campaign Headquarters and the Korea Addiction Control Center Association. The Ministry of Justice further plans to provide drug addiction prevention campaigns online and offline. It

will provide YouTube contents and education portals that alert people to the danger of drug abuse. Second, the MOJ will launch the Special Investigation Team for Drug Crimes and Task Force for Dark Web to eradicate on and offline drug transactions.

Third, by cooperating with other government agencies, the Ministry will strengthen the punishment for public service workers involved in drug crimes.

3) The MOJ takes a stern response to organized crimes damaging citizens' daily lives. It plans to establish a joint investigation consultative body in 18 district prosecutors' offices nationwide to share gangster-related information and database. Also, to prevent housing rental or jeonse scams, the MOJ will revise Housing Lease Protection Act to streamline the leasehold registration process and check landlords' tax information.

### New Immigration Policies

1) The MOJ will build new border control and immigration policies for Korea's next century. Currently, Korea's immigration policies are handled separately by different government branches: the Ministry of Labor and Employment, which covers migrant workers; the Ministry of Gender Equality and Family, which creates policies for marriage migrants and their children; the Ministry of Education which handles international students; the Ministry of Justice which covers visa process and other administrative affairs; and the Ministry of Foreign Affairs which deals with ethnic Koreans overseas. This segregation has caused overlapping execution, cost inefficiency, and inconvenience to the public. To address these issues, the MOJ plans to launch a control tower for immigration services (tentatively named "Immigration Agency") to promptly establish pan-governmental policies, thereby laying the framework for social integration.

2) The MOJ will pursue visa policies that contribute to the national economy. The Ministry will adopt new visa rules to secure skilled foreign workers. It will facilitate the Overall Assistance for Startup Immigration System(OASIS), designed to invigorate the domestic economy and create job and business opportunities by issuing startup visas to non-Koreans who want to start a business in Korea based on their advanced technologies. Also, it will implement "Fast-track Permanent Residence and Nationality for Talented Sciences & Technology Individuals" to attract talented foreign people.

3) At the same time, the MOJ will strengthen border management. Currently, there are an estimated 410,000 undocumented immigrants in South Korea. According to the Ministry, the rate of illegal immigrants among the foreign community in South Korea went up from 19.3 percent in 2020 to 19.9 percent in 2021. The Ministry plans to halve the number of illegal immigrants within the next five years through a strict migrant policy. Other than that, the Ministry of Justice plans to revise the voting system of non-citizens in local elections. In doing so, the Ministry will consider 'the principle of reciprocity,' considering that most voting rights for overseas Koreans are highly limited.

### Establish of Law and Order by Strictly Responding to Illegal Acts

1) The MOJ will eradicate illegal acts that undermine justice and common sense. Recently, many cases have disturbed law and order, including illegal collective action and the spreading of false information. Citizens are calling for consistent and stern responses to illegal acts. The MOJ will spare no effort to arrest and repatriate those who fled overseas during the investigation and trial by revising relevant provisions so that they hold accountable for their crimes. In addition, the Ministry of Justice plans to respond to online defamation actively. It will adopt stringent policies for those who spread false information or cyberbullying.

2) The MOJ will establish a criminal justice system that meets the global standard. The Ministry of Justice will introduce a cryptocurrency tracking system to prevent money laundering crimes abroad. Also, it will build an infrastructure for the science-based investigation to respond to sophisticated crimes using cutting-edge technologies. Furthermore, it plans to accede to the Budapest Convention, a framework for States to cooperate internationally in cybercrimes.

### Establishment of Law and Order Infrastructure Leading to Future Prosperity

1) The MOJ plans to revise the Civil Act and the Commercial Act. The Ministry of Justice plans to revise the Civil and Commercial Act in light of the social changes. First, it will launch the 3rd Civil Act Revision Committee to promote a full-scale revision of the Civil Act, which has been maintained in a large frame for 65 years since its enactment. Second, the Commercial Act will be revised to protect shareholders and improve the business environment. For instance, it will introduce an e-shareholder's meeting system, lift regulations on startups and small companies, and promote in-kind and stock dividends.

2) The MOJ will carry out international legal affairs as a global pivotal state. A new bureau responsible for overall international legal affairs will be established. The new bureau will build up an effective system to respond to international investment and public law disputes. In addition, it will play a leading role in drafting and introducing new international rules that can create high value-added. And it plans to make Seoul a global arbitration hub by attracting ICCA Congress and Permanent Court Arbitration (PCA).

3) The MOJ will provide convenient legal services with cutting-edge technologies. The Ministry of Justice plans to revise the Act On The Use Of Electronic Documents In Civil Litigations so that citizens can submit the digitalized document to the court without visiting administrative or public institutions in person. Also, for the convenience of BAR takers, Computer Based Test (CBT) programs will be introduced in the BAR exam in 2024.



## Protection of Human Rights

- 1) The MOJ will strengthen protection and support for the socially underprivileged.  
The Ministry of Justice plans to prepare a 'Victim-specific One-stop' support system. It plans to develop therapeutic programs for victims, increase budgets for public defenders, and protect victims' personal information. Further legal services will be provided to social minorities by expanding the 'Public Interest Team' under the prosecutor's office and departments that support women and juvenile crimes.
- 2) The Ministry also will improve human rights protection for immigrants.  
The Ministry of Justice plans to recruit more refugee interpreters and improve the refugee screening process. It will expand open protection facilities for foreigners.
- 3) It will fully protect human rights at correctional facilities by securing more space and modernizing facilities to relieve overcrowding in correctional facilities. Policies to protect human rights in juvenile detention facilities, such as improving the education system and raising the cost of meals, will also be introduced.
- 4) The MOJ will conduct human rights policies that meet the global standard by establishing the 4th National Action Plan (2023-2027) on Human Rights and reviewing thhe International Covenant on Civil and Political Rights.

# Can hours spent on training outside of the company be considered hours worked?



- The Supreme Court held that supplementary education for a transport employee should be counted as payable work.
- Additionally, it found that work performed on the day designated as a holiday by collective agreements, etc., may be included in holiday work in relation to which additional wages should be paid.

## Case Study 1.

Q. I am an employee at Company X. All employees at Company X are required to attend training sessions led by the supervisor and are excluded from the promotion if they miss the sessions. Can I get paid for the hours spent on the training, including the waiting time before the session and the intermission?

A. Yes, hours spent on training should be considered work hours if the training is mandatory and the employees are led to believe that not attending the training will negatively affect their position in the company or working conditions. While it is not the work itself, the

hours spent on 'preparing' for the job are considered hours worked. Education or training is regarded as one of the 'preparations' for the work and asks for corresponding restitution for the provision of the employees' time and labor. Furthermore, a provision under Article 50(3) of the Labor Standards Act provides that any waiting time spent by employees under the direction and supervision of their employers necessary for the relevant work shall be deemed work hours. Therefore, the break time or waiting time is considered work hours if they occur under the direction and supervision of employers.

On the other hand, if the training is voluntary and for personal growth that is not necessary for the relevant work, the hours spent on training are not considered hours worked. Some examples are attending graduate schools and learning foreign languages from a private tutor.

Hours spent on training or education that is not required by the employer or does not occur under the direction and supervision of employers can, nevertheless, be counted as work hours depending

on the circumstances. For example, for jobs that require certain licenses or qualifications to perform the work, employees often need to take supplementary education provided by an external institution for a certain amount of time to acquire or maintain that license or qualification. It has been debated whether one can consider it a work or merely a form of self-development.

The Supreme Court Decision 2022Da203798, decided on May 12, 2022, affirmed that hours spent on supplementary education performed outside of usual working hours for a transport employee, where that education is required to engage in driving service, shall correspond to work hours. Therefore, the employer, although it does not directly require or supervise the supplementary education, needs to pay the employee wages corresponding to the hours spent on the education because it is necessary to the provision of the service that the employer demands and not attending the training will adversely affect their working conditions.

## Case Study 2.

Q. I am an employee at Company Y. Although we were supposed to work four days a week according to our collective agreement, an emergency occurred, and I got called in to work on Friday. As a result, I worked five days a week. My employer, however, refuses to pay me a holiday bonus for my work performed on Friday, claiming that it is conventional to work on Fridays at other companies, and the collective agreement is void at times of emergency. Will I win if I sue this company to get my additional wages back?

A. Holiday work, in relation to which an employer shall, in addition to the ordinary wages, pay employees at least 50/100 thereof for extended work performed on holiday under Article 56 of the former Labor Standards Act (amended by Act No. 15513, Mar. 20, 2018), contains work performed on the day designated as a holiday by collective agreements, rules of employment, etc. as well as work performed on paid holidays stipulated in Article 55 of the same Act. Therefore, provided the lack of the clause declaring the agreement null at times of emergency, you may be entitled to the additional wages for the extended work performed on Friday as it was designated as a holiday by the collective agreement.

However, providing a conclusive answer may call for a close examination of the case. According to the Supreme Court Decision 2022Da203798, whether the day is designated as a holiday should be determined after comprehensively considering the following matters: the language and text of the provisions related to holidays prescribed by collective agreements, rules of employment, etc.; the background leading up to the establishment of such provisions; the system and practice of regulations regarding work hours of the corresponding

workplace; the title of the wage actually paid where work was offered and the amount paid; and the method of calculating the amount paid.

If you are interested in learning more about the Supreme Court decision that laid the criteria for the circumstances where wages are payable in the above or similar cases, you can refer to the summary of the case below:

## Supreme Court Decision 2022Da203798 Decided May 12, 2022 [Wage]

### Summary of the Facts

- Plaintiff A, a transport employee, received a four-hour "supplementary education" every year. Although education was required for the provision of driving service according to Article 25(1) of the Passenger Transport Service Act (hereinafter the "Passenger Transport Act"), the employer did not consider such education hours part of work hours and did not pay the plaintiff corresponding wages.
- Additionally, plaintiff A did not get bonuses for the holiday work, although he worked fifteen to sixteen days a month more than the thirteen days per month designated as work days by the collective agreement.
- Accordingly, the plaintiff filed a lawsuit in December 2018 on the grounds that the employer failed to provide him with wages corresponding to the hours spent on education that he claimed to be considered work hours, as well as the holiday bonuses for the additional days he worked in excess of the work days designated by the collective agreement.
- The courts of the first and second instances ruled in favor of the plaintiff, and the Supreme Court affirmed the lower court's decision.

### Main Issues and Holdings

- (1) Whether work performed on the day designated as a holiday by collective agreements, rules of employment, etc., may be included in holiday work, in relation to which additional wages should be paid under Article 56 of the former Labor Standards Act (affirmative) and standard for determining whether the day is designated as a holiday
- (2) Where an employee received any education in addition to contractual work hours according to the regulations of statutes, collective agreements, rules of employment, etc., related to his/her duties or instructions from his/her employer, the standard for determining whether such education hours correspond to work hours
- (3) Whether supplementary education hours for a transport employee prescribed in Article 25(1) of the Passenger Transport Service Act may be included in work hours (affirmative)

### Summary of Decision

- (1) Holiday work, in relation to which an employer shall, in addition to



the ordinary wages, pay employees at least 50/100 thereof for extended work performed on holiday according to Article 56 of the former Labor Standards Act (amended by Act No. 15513, Mar. 20, 2018), contains work performed on the day designated as a holiday by collective agreements, rules of employment, etc. as well as work performed on paid holidays stipulated in Article 55 of the same Act. Moreover, whether the day is designated as a holiday should be determined after comprehensively considering the following matters: the language and text of the provisions related to holidays prescribed by collective agreements, rules of employment, etc.; the background leading up to the establishment of such provisions; the system and practice of regulations regarding work hours of the corresponding workplace; the title of the wage paid where work was offered and the amount paid; and the method of calculating the amount paid.

(2)Where an employee received any education in addition to contractual work hours according to the regulations of statutes, collective agreements, rules of employment, etc., related to his/her duties or instructions from his/her employer, whether such education hours correspond to work hours should be determined by fully taking into account the following circumstances: the details and purpose of related statutes, collective agreements, rules of employment, etc., the purpose of the corresponding education and a link between the corresponding education and the provision of work, who is the subject of education; whether an employer has a statutory obligation to accept such education, whether such education is performed due to the cause attributable to the employee; and the existence and degree of disadvantage the employee may gain by failing to complete such education.

(3)A transport employee should receive a "supplementary education" therefor before he/she starts any driving service. A transport business entity should take any measure necessary for such supplementary education for the transport employee and should not allow a transport employee who has not completed such additional education to engage in driving service in accordance with Article 25(1) of the Passenger Transport Service Act (hereinafter the "Passenger Transport Act") and Article 58(1)2 of the Enforcement Rule of the same Act. As such, fully considering that "supplementary education," as a statutory obligation imposed on both a transport employee, who is an employee, and a transport business entity, who is an employer, is an essential prerequisite for the legitimate provision of labor by a transport employee and the employment and determination of an employee to engage in driving service by a transport business entity and thus is recognized to be closely linked with the provision of work, and where a transport business entity fails to take necessary measures to ensure training of a transport employee, the transport business entity may gain disadvantage such as the revocation of his/her license, permission, registration, or authorization or the issuance of an order to fully or partially suspend business operation for a fixed period of up to six months or an order to change his/her business plan to close routes or reduce the number of motor vehicles in operation



(Article 85(1)23 of the Passenger Transport Act), even though the subject of education is not an employer, viewing that supplementary education hours for the transport employee based on Article 25(1) of the Passenger Transport Act are included in work hours is reasonable.

### Conclusion

Provided that the education is related to the relevant work, the hours spent on the education can be considered hours worked even though the employers do not mandate participation or supervise it if the education is necessary to the provision of the service demanded by the employer pursuant to the relevant law, and the employees are led to believe that not attending the training will adversely affect their position in the company or their working conditions. Nevertheless, one should not presume that all kinds of supplementary education are counted as work. For example, the mandatory training for lawyers is conducted to enhance the lawyer's professionalism and work ethics pursuant to article 85 of the Attorney-at-Law Act, so it is hard to say it is necessarily a part of the job training, neither is it a requisite for the provision of the legal service as law firms can still hire the lawyers who did not take the training. The fine is also a one-time penalty imposed directly on the employees who fail to attend and does not adversely affect their position in the company or their working positions. Therefore, the hours spent on mandatory training for lawyers are unlikely to be considered work hours. In conclusion, the fact that the employer does not directly oversee or mandate the training does not constitute a sufficient reason to discount the training hours as work hours. One needs to take a holistic view of the situation and consider if the training is necessary for providing the work and whether there are disadvantages in relation to work for failing to attend.

Sources:  
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# Safety First: Laws and Policies to Protect Children



*Walking near an elementary school in Korea, one would easily find a bright yellow sign that reads “Child Protection Zone” or “School Zone.” These signs usually have an image of a child walking hand-in-hand with a guardian and a symbol for a 30-kilometer per hour (kph) limit. They indicate that, in the area, drivers and pedestrians should be vigilant and watch out for children. In fact, school zones and educational environment protection zones are great examples of laws and policies in Korea implemented to protect children’s safety.*

## School Zones

The Road Traffic Act first introduced school zones in Korea in 1995. The official name of the zones is Children Protection Zones, which aims to protect children under 13 from road accidents. Article 12 of the Act stipulates that when deemed necessary, a mayor, etc., may designate protection areas for children, those specifically being areas within a 300 or 500-meter radius from the main gate of elementary schools, kindergartens with students over 100, special education

schools, childcare centers, and private teaching institutes. The need for school zones arises when considering children’s physical and behavioral characteristics. According to the Korea Road Traffic Authority, KoRoad, children face a greater risk of traffic accidents because they have a slow response to sound and limited vision due to low eyesight levels. Considering these characteristics, accidents frequently happen at crosswalks when children run while only looking forward. These accidents account for more than 81 percent of children’s traffic accidents. Therefore, school zones encourage drivers to take exceptional care when driving, such as looking around for children and moving slowly.

According to the Ministry of the Interior and Safety, safety rules in school zones include driving slowly at under 30 kph, refraining from parking or stopping, making temporary stops before crosswalks, and avoiding sudden braking or quick starts. Children should also keep in mind following traffic signals, looking right and left, raising hands when crossing streets, and refraining from running at crosswalks or looking at smartphones while walking.

In March 2020, the revised Road Traffic Act came into effect, which established stricter regulations for enhancing children’s protection. The Act may be more familiar as the “Min-Sik Law” to Koreans, as the law was first introduced after an elementary school student named Min-Sik was hit and killed in a car accident while crossing a street in front of his school. The revision newly added Paragraphs 4 and 5 to Article 12, requiring the installation of speed cameras, speed bumps, and traffic lights within school zones.

### Road Traffic Act Article 12 (Designation and Management of Protection Areas for Children)

- (4) The commissioner of a City/Do police agency, the chief of a police station, or a Mayor, etc., shall install unmanned traffic regulation equipment referred to in Article 4-2 preferentially at a place prescribed by Ordinance of the Ministry of the Interior and Safety among the roads in children protection zones to control acts, etc., in violation of paragraph (3). <Newly Inserted on Dec. 24, 2019; Dec. 22, 2020,>
- (5) A Mayor, etc. shall install the following facilities or equipment preferentially in children protection zones designated pursuant to paragraph (1) or request the competent road management authorities to install the relevant facilities or equipment: <Newly Inserted on Dec. 24, 2019,>
1. Signal apparatus for a crosswalk on an arterial road which is at the nearest distance to the main entrance of a facility designated as a child protection zone;
  2. Speed restriction signs and crosswalk safety signs;
  3. Facilities for preventing overspeeding or slipping of motor vehicles and horses, among road appurtenances under subparagraph 2 of Article 2 of the Road Act;
  4. Other facilities or equipment prescribed by the Joint Ordinance of the Ministry of Education, the Ministry of the Interior and Safety, and the Ministry of Land, Infrastructure, and Transport.

The revision also imposed stronger punishments for drivers liable for traffic accidents in school zones. A new article was inserted in the Act on the Aggravated Punishment of Specific Crimes, which states that the punishment for causing an accident resulting in the death of a child shall be longer than three years or indefinite imprisonment with labor. In accidents that cause injuries to a child, the punishment shall be imprisonment with labor between one and 15 years or a fine between five million and 30 million won. The revised Act expects to contribute to reducing and preventing traffic accidents involving children.



### Act On The Aggravated Punishment Of Specific Crimes Article 5-13 (Aggravated Punishment for Death of an Injury to Child in Protection Area for Children)

Where a driver of a motor vehicle (including a motorcycle) commits a crime provided for in Article 3 (1) of the Act on Special Cases concerning the Settlement of Traffic Accidents against a child (referring to a person who is under 13 years of age; hereinafter the same shall apply) without fulfilling the obligations to observe measures under Article 12 (1) of the Road Traffic Act and to pay attention to the safety of children while driving in a protection area for children referred to in paragraph (3) of the same Article shall be punished aggravatingly as follows:

1. Where the crime causes death of a child, the driver shall be punished by imprisonment with labor for an indefinite term or not less than three years;
2. Where the crime causes injuries to a child, the driver shall be punished by imprisonment with labor for not less than one year but not more than 15 years or by a fine of not less than five million won but not more than 30 million won.

[This Article Newly Inserted on Dec. 24, 2019]

School zones are in the progress of improvement. For instance, according to the Ministry of the Interior and Safety, yellow-colored crosswalks will be implemented in school zones in 2023 to ensure drivers stop before crosswalks. Yellow crosswalks are installed in Switzerland, the country which is known for having the lowest number of fatalities by road accidents among OECD member states. The United States (U.S.) also has such colored crosswalks in child protection zones. With these yellow crosswalks, Korea hopes to protect more students and create a safer environment.



## Educational Environment Protection Zones

Other than school zones, educational environment protection zones are another safety measure to help protect children’s overall learning environment. These zones restrict acts or facilities near schools that may pose a negative influence on children’s health, hygiene, safety, and learning.

The Educational Environment Protection Act defines educational environment protection zones by dividing them into absolute and relative protection zones. According to Article 8, an absolute protection zone is defined as “an area within a radius of 50 meters of straight-line distance from a gate of a school (an area within a radius of 50 meters of straight-line distance from the school boundary in case of a planned school site).” Relative protection zone is the outer skirts of the absolute protection zone, defined as “an area excluding an absolute protection zone in an area within a radius of 200 meters of straight-line distance from the school boundary.”

While the educational environment protection zones prohibit acts or facilities that may threaten students’ educational environment, exceptions can be made in relative protection zones for those deemed to have no negative effect after deliberation by the local committee. The prohibited acts and facilities in the zones are elaborated in Article 9 of the Educational Environment Protection Act. Examples include facilities emitting air or water pollutants in excess of the permissible emission levels; production places and storage places of guns or explosives; tobacco vending machines; businesses providing games or Internet computer game facilities; and karaoke businesses.

The Educational Environment Protect Act Article 16 stipulates that the penalty provisions for committing an act or installing a facility in violation of Article 9 are imprisonment with labor for not more than two years or a fine not exceeding 20 million won. Therefore, for those who plan to open a new business and are concerned about whether its facility type or location falls into these zones, it is best to check beforehand using the “Land EUM” website. This website, operated by the Urban Vitality Division of the Ministry of Land, Infrastructure, and Transport, offers a useful map that displays absolute and relative protection zones in Korea to help citizens understand the boundaries of the zones.

## Conclusion

The African proverb, “It takes a whole village to raise a child,” emphasizes that wholehearted attention and efforts of the entire community are needed when raising children. In other words, to create a healthy and protected environment for children, people need to put in the extra effort to look out for and avoid anything that can harm them. In this light, school and educational environment protection zones are indeed important policies designed to protect children’s safety in Korea.

# A New Wave is Coming – Dive into the World of Webtoons



## Overview

A "webtoon" is a special form of webcomic originating in Korea that uses a vertical scrolling method and is serialized on an online platform. The term was coined in Korea by combining the words "web" and "cartoon." It is believed the word "cartoon" was used instead of "comic" because cartoons and comics tend to be collectively called cartoons in Korea.

Webtoons are generally published weekly on online platforms such as Naver Webtoon and Kakao Page. Initially, illegal translations of these webtoons were actively shared online for overseas readers, causing concern about the future of the webtoon industry. Over the years, however, platforms such as Naver Webtoon have created official translation websites, which have been a huge success with foreign readers. Additionally, webtoon authors are often recruited from countries where Korean platforms provide overseas services, and their works tend to be very popular with local readers. Because of such developments, the term "webtoon" has come to refer to a specific form of webcomic rather than works created in Korea by Korean authors.

Webtoons are optimized for the smartphone interface because of their vertical layout, enabling easy scrolling. ▶

## History

In the late 1990s and early 2000s, many websites, such as web portals and news websites, began posting comics and cartoons online to attract user traffic. These comics and cartoons were mostly short, simple works with casual, diary-like storytelling. Though primitive, they were the beginning of today's webtoon.

Separately from this trend, amateur cartoonists also began uploading their works on online communities around the same period. Creating online spaces where amateurs could freely upload their works greatly

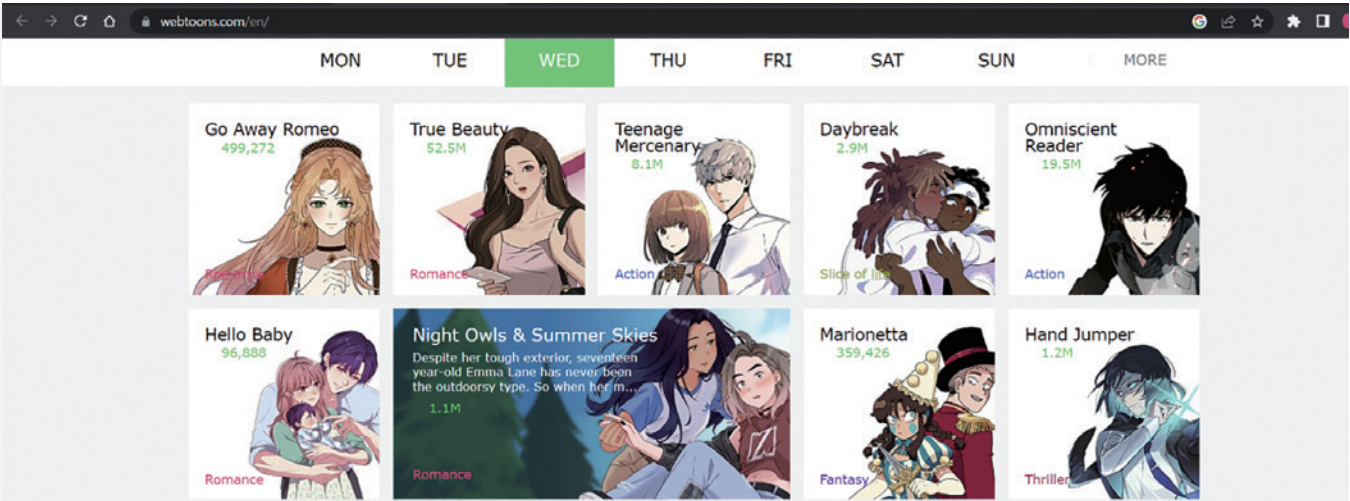


aided the discovery and evolvement of talented artists. Following the emergence of skilled authors and the rising popularity of webtoons, major web portals such as Daum and Naver launched official webtoon services for the first time, and investment in webtoons increased rapidly. Despite such efforts, the view count fluctuated, causing some businesses to withdraw from the industry.

Then in 2003, Kangfull's Love Story became an all-time hit, popularizing long-term webtoons published weekly for months and even years. These new full-length webtoons were what firmly established the vertical layout of today's webtoons. Cho Seok's legendary work, The Sound of Your Heart, also started serialization on Naver Webtoon during this time, catapulting the platform to success and making it the number-one platform even today.

Over the years, webtoons have become Korea's most influential comic medium. In the early days, most webtoons were free of charge, which played a major role in their popularization. As platforms later began charging readers, the size and diversity of the webtoon market expanded dramatically. According to the "2022 Webtoon Business Survey" conducted by the Korea Creative Content Agency, the sales of the webtoon industry were about USD 1.2 billion in 2021. The most popular webtoon authors nowadays boast a monthly income of up to USD 80,000.

Webtoons are gaining a presence in other countries as well. Many Korean platforms have been active in Southeast Asia since the 2010s. In English-speaking countries, Naver Webtoon and Kakao Page aggressively translate and serialize Korean works and works by local authors. In the global market, various works of Kakao Page have achieved more than USD 7 million in sales. Naver Webtoon also attracts tens of millions of monthly readers in the North American market.



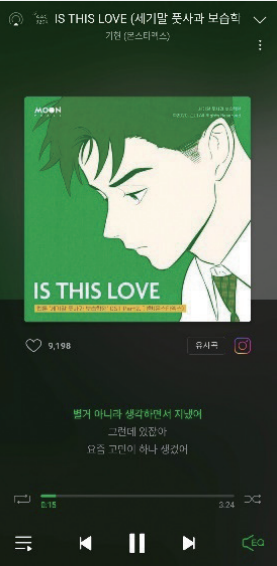
▲ Naver Webtoon's official English translation website

## Characteristics of the Content

As webtoons are digital media, authors can lavishly color their works without worrying about printing costs. Coloring allows writers to add depth to the characters' emotions and the overall mood of a scene. This is a major advantage over printed comic books, usually black and white.

The unique scrolling method of webtoons is another advantage. Unlike printed comic books, authors do not need to strictly arrange images on each physical page since, in webtoons, they can use an infinite vertical canvas. Not only is this scrolling method optimized for the smartphone, but it also allows authors to illustrate the passage of time in a cinematic manner. The example on the right shows the character leaping into the air, defeating the enemy, and landing on the ground. The pictures are arranged vertically, which the reader scrolls through and takes in sequentially as if watching a movie.

Additionally, playing background music or making the pictures move as



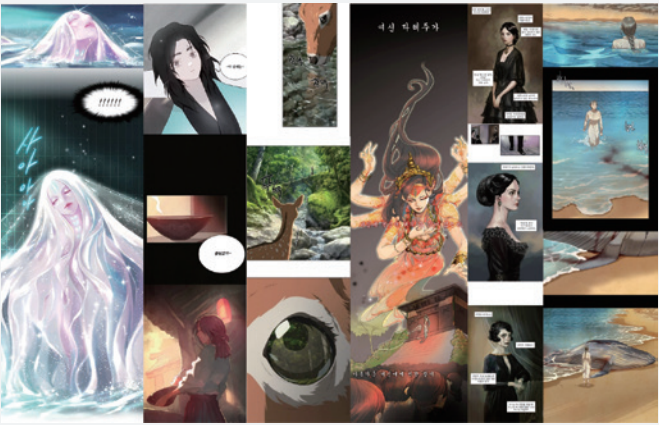
the reader scrolls through a webtoon is possible. Horang's horror webtoon "Bongcheon-Dong Ghost" is famous for its jump scare effect fueled by playing specific sound effects and moving the pictures when the reader reaches a particular section of the vertical canvas. It is also common for popular webtoons to insert OSTs in collaboration with famous Korean singers, which often top Korean music charts.

## Characteristics of the Pictures

Webtoon pictures range from simple, stick-figure-like drawings to almost photorealistic illustrations. Although it is impossible to say a certain style is better than another, some works have been criticized due to their objective decline in picture quality. Many people pointed out a tight deadline. Most webtoons are published weekly. That means that authors should perfect the sketches and coloring while also paying attention to the plot development in a very short time.

In recent years, however, a studio system has been introduced in webtoon production as webtoons have become more lucrative due to platforms charging readers. Before, a solitary author had to work through the painstaking process of creating a weekly webtoon episode, from story composition to character and background sketches and coloring. In contrast, under the studio system, an entire team of artists and story writers work on one webtoon, strictly dividing their labor and working under a system like a factory assembly line. This has led to a sharp increase in webtoons with high-quality pictures.

Owing to the heightened efficiency of a studio system, a greater number of works have been able to showcase beautiful pictures that utilize high-definition color images and computer graphics despite the





tight schedule of weekly serialization. The webtoon mentioned above is a golden example of such a studio-produced webtoon.

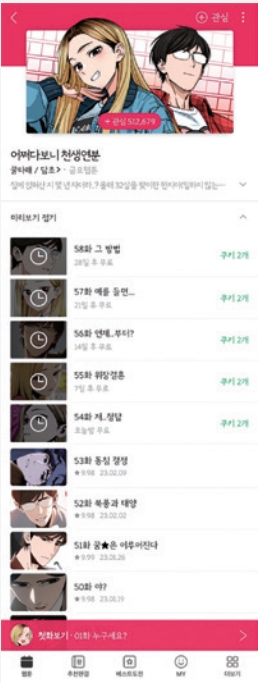
## Business Model

### Attracting user traffic to web portals

Before the smartphone era, web portals like Naver used webtoons to attract user traffic. Since webtoons at the time were usually free, most webtoon platforms generated profit by placing advertisements. As a result, readers were less likely to view webtoons as actual "products."

### Charging readers

Mobile payment methods became much more common in the smartphone era, which led to the emergence of pay-to-read platforms such as Lezhin Comics. The wild success of such platforms has caused paid webtoons to become the norm in the webtoon market. Platforms are currently luring users to pay for their content in various ways. Some webtoons divide episodes into seasons and only require payment for previous seasons. In other webtoons, only the first few episodes are free, and the rest are paid. Another popular method is "free if you wait," where only the first ten episodes are free, and each next episode is released free of charge if the reader waits a certain period, usually one day. If the reader gets impatient, they will pay to unlock the next episode immediately for a small fee. However, the most successful charging tactic is providing paid "preview episodes," where several episodes are provided in advance for a small fee. A reader who purchases a preview episode can view it a week to a month or two earlier than other readers. This method is so effective that popular webtoons make massive profits by selling preview episodes.



◀ An example of paid preview episodes. The webtoon is free from beginning to end, but the reader can pay an extra fee to view the top five episodes in advance.

## The Webtoon Industry

The webtoon industry is an exceptionally fast-growing Korean cultural industry. There are countless talented authors, and adaptations into films and television shows are also rising. Popular webtoons Secretly, Greatly, and Along with the Gods have been made into successful movies. Many television adaptations of works such as Misaeng and All of Us Are Dead have achieved critical acclaim and commercial success. On the other hand, Lezhin Comics and Naver Webtoon have shown remarkable results in the paid webtoon market, and webtoons are also gaining a presence in other countries. In fact, Korea is one of the few places in the world with such a well-equipped comics market. It is the only place in Asia other than Japan where the comics market is so stable and vibrant. While there are many talented authors in China, Taiwan, Thailand, and Indonesia, they have few webtoon platforms, and only a handful of authors make profits. Even in Japan, a major comics powerhouse, the comics market has seen sales halve compared to its heyday due to the slow transition of printed comic businesses to online and digital media. In Korea, the demise of print comics has eventually led to the birth of a whole new market. Many Korean comic businesses in the past were crushed by the popularity of Japanese competitors, but Korean companies have now become leading players in the new webtoon market. As the axis of the comics market shifted from printed comics to webtoons, the market pie has also grown significantly. We can expect even more high-quality works as the market matures and more talented authors appear. We hope to see the webtoon market grow and make another Korean Wave or Hallyu.



▲ The popular webtoon All of Us Are Dead and its TV adaptation

# Modern History of Korean Law

## Reforms of the Judicial System in Late Joseon



In this section, we will delve into reforms of Korea's judicial system in late Joseon that laid the groundwork for the modern judicial system.

### Reform of Korean Law in Late Joseon

After the Meiji Restoration, Japan sought to exert power over Joseon and open new intercourse. Still, Heungseon Daewongun, the father of Emperor Gojong and the then-regent, rebuffed these attempts to stave off foreign influences. After Daewongun stepped down in 1873, Japan tried to resume talks with Joseon. However, as the talks became protracted, Japan sent warships to Joseon in 1875. As the Japanese warships approached the coasts of Ganghwa Island, the Korean ports opened fire but could not overtake Japan's superior firepower. The following year, a Japanese fleet came over to Joseon. It demanded the Joseon government sign the Treaty of Ganghwa, citing that Joseon should apologize for threatening Japan. Joseon could not help but sign the unequal treaty that opened Korean ports to Japanese trades, specifically Busan, Incheon, and Wonsan. Following signing the Treaty of Ganghwa, Joseon was under pressure to sign similar treaties with other foreign powers, including China (1882),

the United States (1882), and the United Kingdom (1883) that tried to interrupt Japan from gaining too much control over Korea and ultimately, the world. These unequal treaties granted the foreign powers extraterritorial rights, which provided that local courts did not have jurisdiction over the citizens of the treaty powers and must hand over the cases against them to the consular courts established in the region. The treaty powers demanded the rights, claiming that Joseon had an underdeveloped legal system and thus could not properly govern cases against their citizens.

After opening up to foreign trades, many foreigners, especially Japanese and Chinese, settled near open ports and Hanseong (Joseon's capital) for commercial and diplomatic purposes. Foreigners engaged in commercial activities were arbitrarily under the auspices of their nations and occasionally got into conflicts with Koreans as they encroached on their property. Crimes like homicide, robbery, theft, fraud, smuggling and debt-related disputes prevailed. Still, the extraterritorial rights exercised by consular courts not only qualified Joseon Emperor's sovereign power but had a widely erosive effect on Joseon's politics, diplomacy, administrative affairs, and economy by allowing preferential treatment to their citizens in a dispute against Koreans, only to further the spread of conflicts and crimes.

To protect Joseon's sovereignty and its citizens against foreign powers, the Joseon government realized that it had to reform its legal system. Voices for modernizing Joseon's judicial system first appeared in the reform petition submitted by Joseon's official Park Young-hyo to Emperor Gojong in January 1888. He listed eleven reform provisions: "The law should be equally applied to everyone, irrespective of rank and age, and punishments should be implemented based on humanity and justice while laws should be enforced with credibility." He claimed that only judges should exercise jurisdiction and that the judicial system should remain independent from other branches of power or authority, including the king. He also called for banning harsh punishment, torture, the guilt-by-association system, and vigilantism. He advocated evidence-based judgment, the introduction of penal servitude, and making trials open to the public. However, his suggestions were not accepted due to strict government policy.

### Korea's First "Law"

Reform efforts came to fruition when the Enlightenment Party ('Gaehwa' Party) seized control over the government in 1894. They initiated a series of modernizing reforms from 1894 and 1896, and reforming the judicial system was a key part of the efforts. On March 25, 1895, a modern trial system that separated judicial matters from administrative affairs was established for the first time in Korea's history with the promulgation of 'The Law of Constituting the Court of Justice (재판소구성법)' as Korea's first law. It consisted of sixty-one provisions, with the following major ones. First, there shall be five kinds of Court of Justice: District Court, Open Port Court('개항장재판소'), Circuit Court, High Court, and Special Court. Second, the Minister of Justice shall decide the location and jurisdiction of respective courts. Third, the Circuit Court and the Open Port Court are designated as the court of the first instance.

The former shall adjudicate civil and criminal cases, while the latter shall oversee civil and criminal cases of both domestic and foreign people. The Circuit Court and High Court serve as the court of the second instance. The former shall supervise appeals regarding decisions of district courts and Open Port Courts of Busan and Wonsan, while the latter shall manage appeals for decisions made by the Open Port Courts of Hanseong and Incheon. Additionally, the Special Court shall be in charge of criminal cases involving the royal family. It was the court of the first and last instances and disallowed appeals. Fourth, the court members shall consist of the judge, public prosecutor, clerk, and lawyer. A presiding judge shall additionally attend the High Court and Special Court. Fifth, the trials shall be open to the public. Sixth, the rules of the High Court and Special Court shall be governed by the consensus of the majority at the court, while the decisions of the rest shall be rendered by a judge alone.

Following the second comprehensive and third partial amendments, 'The Law of Constituting the Court of Justice' was repealed on October 28, 1909.

### Reform of the Trial Procedures

With the class system abolished, the trial procedures that differed according to ranks became standardized. However, the officer ranks determined the jurisdiction of the courts. The general public or low-ranking officers had to go through the District Court or Hanseong Court/Open Port Court, depending on their residence, and proceed to the High Court. On the other hand, high-ranking officers, political prisoners, and the royal family only went through a single trial. The high-ranking officers and political prisoners were held at the High Court, while the royal family was brought to the Special Court.

Every civil and criminal case was open to public, and the presiding judge could evict or punish someone who disrupted the trial proceedings. Those engaged in a proceeding should follow the standard even for papers they used at the trials. For example, the official paper had to contain ten vertical lines on a page and twenty letters for each line, with the name of the court stated. When they did not abide by this format, their petitions got turned down by the court.

The details of trial procedures, which bear some resemblance to today's counterparts, were stipulated in "Rules of Civil and Criminal Litigation (민형소송에 관한 규정)". For civil cases, the plaintiff produced and filed a petition according to a prescribed format, to which the defendant responded. If the litigants could not carry the lawsuits by themselves, they could appoint someone to represent them for the litigation after acquiring the court's approval. The clerk documented pleading records, signed and sealed by both the judge and the clerk. The judgment had to be made within seven days after the trial's closing. As for the enforcement, the court issued the court order upon the litigant's request and instructed the court clerk to execute it. If the litigants objected to the decision, they could appeal within fifteen days after the decision. The court then deferred the execution until all appeal proceedings ended.

For criminal cases, accusation and indictment were distinguished, with the accusation done by the injured party and the indictment initiated by an official or someone other than the injured. Additionally, a civil action was lodged by the injured to the public prosecutor to redeem the damages inflicted by the defendant's action. If the public prosecutor considered the accused guilty after examining the claims referred to them, he prepared a written arraignment with the evidence attached and formally requested a criminal trial. The court then assigned it a case number in the order of receipt and opened trials according to the number. The trial procedures were similar to how the court handles criminal cases today, except for one provision that allowed the injured party to prove damages upon the prosecutor's final speech and the accused to respond to the claims. The deadline for finding was the same for criminal cases as it was for civil cases (seven days after the trial's closing). If one is dissatisfied with the court's finding, either the prosecutor, the accused, or the injured party could appeal within three days of the decision. After the deadline for the appeal had passed, the prosecutor compelled the execution of the punishment, except the capital punishment, and



attended to it to ensure its performance. The prosecutor was also responsible for executing capital punishment by himself.

## Implications of the Reform

Before the reform, the general public was subject to severe punishments if they pressed charges against government officials. After the repeal of the class system, however, the number of accusations against the officials’ corruption skyrocketed. Especially the Independence Club, which was set up in 1896 to promote the public’s participation in politics and uproot corruption, organized the People’s Joint Association and lodged accusations against government officials. These instances got widespread coverage through media outlets like the ‘Independence Newspaper’ and catalyzed a nationwide movement for the general public to accuse officials of corruption and abuse of power.

The process of arresting and interrogating suspects also saw several improvements. First, warrants became required for an arrest. When the public prosecutor issued a warrant and sent it to Gyungmuchung (the law enforcement agency), the police officer used the warrant to arrest the suspect. Second, it became possible to arrest without the king’s final approval, except in cases concerning the royal family’s crimes or public offenses. However, due to concerns that this policy was too radical, it was later revoked in April 1896. Third, the interrogative measures became softened. The practice of whipping the suspects to produce confession continued, but the interrogators had to use leather or light whips instead of big ones. Also, interrogators could not lash more than ten times for light crimes and twenty times for serious crimes during one session. Furthermore, flogging could not occur more than once a day and more than three sessions for a suspect.

When the criminal investigation was completed, and the prosecutor instituted a public action, the judge examined the case and applied the law. A new statute that allows punishment reduction in extenuating circumstances got enacted during this period. In 1895, Lee Joon-yoŋ, the grandson of Joseon’s one of the most important political figures Heungseon Daewongun, was charged with treason by the Special Court after Yuan Shikai’s plans to replace Emperor Gojong with him had failed. Since treason was one of the ten most serious crimes according to 『Daemyeong-ryul(大明律)』, a death sentence was unavoidable. However, the cabinet could not execute the beloved grandson of Heungseon Daewongun, so they enacted and proclaimed two legislations – 『Classification of the Types and Criteria of Punishment Moderation(유형 분등과 가감례)』 and 『Cases of Punishment Reduction at the Special Court (특별법원에서 형벌을 작감하는 건)』 – the day before the Special Court’s verdict. It consequently reduced his punishment to ten years of banishment. Afterward, the cabinet ensured that these statutes applied to cases in other courts but required the court to follow the order of Bub-bu (the then Department of Justice) when considering punishment reduction. In addition, courts were required to solicit and follow the order of Bub-bu before ruling life sentences or when they doubted applying

laws.

The most notable changes since the reform lay in the punishment. Unreasonably harsh penalties, like the guilt-by-association system, beheading, and dismemberment, were abolished, and penal servitude replaced Yuhyeong (banishment for life) and Dohyeong (forced labor). Janghyeong (beating with a heavy stick) was incorporated into Taeheyong (light flogging). Regardless of rank, the convicts could escape Taehyeong if they paid a ransom. The ransom, however, increased by twenty times compared to the pre-reform level. As for capital punishment, death by hanging applied to civilians, whereas soldiers were executed by shooting.

Since the reform introduced penal servitude, it took significant time to function properly. It not only required the facilities and the financial resources to clothe and feed the prisoners but a place for labor and a suitable working environment. However, the lack of government budgets led to friction between the courts and the Bub-bu, as the court encountered many enforcement problems amid poor conditions.

While Dohyeong was similar to penal servitude, the severity of the labor abated significantly. The prisoners were ordered to do simple repetitive tasks, like drawing water and sweeping, and ex-officers or the Yangban (nobility) were even exempt from such petty tasks. Therefore, after serving prison terms, many ex-offenders who got used to the monotonous routine experienced difficulties in terms of living and tended to repeat offenses. Nevertheless, the inmates could borrow money from the jailer to buy rice straws and make straw shoes, which could be sold to the market either by themselves under the superintendence of the police or by a consignee. Inmates serving life sentences were provided clothes and food and could even smoke or drink in return for their labor. They could also get a prison sentence reduction if they succeeded in getting pardons and eventually be released from jail.

## Afterward

Unfortunately, Joseon’s modernizing efforts to make the trial procedures fair and transparent did not last long, as the Japanese imperial government annexed Korea on August 29, 1910. Nevertheless, it brought about the modern trial system, enhanced human rights by abolishing unreasonably harsh punishments, and advanced democracy by eliciting the public’s participation in politics and the judiciary.

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### Constitutional Court of Korea

<http://english.ccourt.go.kr/>  
82-2-708-3460

### Fair Trade Commission

<http://eng.ftc.go.kr>  
82-44-200-4326

### Financial Services Commission

<http://www.fsc.go.kr/eng/index.jsp>  
82-2-2156-8000

### National Assembly Law Library

<http://law.nanet.go.kr/eng/index.do>  
82-2-788-4111

### Judicial Research & Training Institute

<http://jrti.scourt.go.kr/>  
82-31-920-3114

### Korea Communications Commission

<http://eng.kcc.go.kr/user/ehpMain.do>  
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### Korea Customs Service

<http://english.customs.go.kr/>  
82-1577-8577

### Ministry of Food and Drug Safety

<http://www.mfds.go.kr/eng/index.do>  
82-43-719-1564/ 82-1577-1255

### Korean Intellectual Property Office

<http://www.kipo.go.kr/kpo/user.tdf?a=user.english.main.BoardApp&c=1001>  
82-42-481-5008

### Korea Law Service Center

<http://law.go.kr/LSW/main.html>  
82-2-2100-2520  
(Ministry of Government Legislation)/  
82-2-2100-2600  
(Legislative Research Services)

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<http://web.kma.go.kr/eng/index.jsp>  
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<http://www.koreanbar.or.kr/eng/>  
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<http://www.nl.go.kr/kolisnet/index.php>  
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### Korean National Police Agency

<http://www.police.go.kr/eng/index.jsp>  
82-182

### Ministry of Agriculture, Food and Rural Affairs

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110 (from Korea) / 82-2-6196-9110 (from overseas)

### Ministry of Culture, Sports and Tourism

<http://www.mcst.go.kr/english/index.jsp>  
82-44-203-2000

### Ministry of Education

<http://english.moe.go.kr/enMain.do>  
82-2-6222-6060

### Ministry of Employment and Labor

<http://www.moel.go.kr/english/main.jsp>  
82-52-702-5089 (National Labor Consultation Center)  
82-44-202-7137 (International Cooperation Bureau)  
82-44-202-7156 (Foreign Workforce Division)

### Ministry of Environment

<http://eng.me.go.kr/>  
82-44-201-6568 / 82-1577-8866

### Ministry of Foreign Affairs

<http://www.mofa.go.kr/eng/index.do>  
82-2-2100-2114

### Ministry of Gender Equality and Family

<http://www.mogef.go.kr/eng/index.do>  
82-2-2100-6000

### Ministry of Government Legislation

<http://www.moleg.go.kr/english>  
82-44-200-6900

### Ministry of Health and Welfare

<http://www.mohw.go.kr/eng/index.jsp>  
82-44-202-2001~3

### Ministry of Justice

[http://www.moj.go.kr/moj\\_eng/index.do](http://www.moj.go.kr/moj_eng/index.do)  
82-2-2110-3000

### Ministry of Land, Infrastructure and Transport

<http://www.molit.go.kr/english/intro.do>  
(Day) 82-44-1599-0001, (Night) 82-44-201-4672

### Ministry of National Defense

<http://www.mnd.go.kr/mbshome/mbs/mndEN/>  
82-2-748-1111

### Ministry of the Interior and Safety

<https://www.mois.go.kr/eng/a01/engMain.do>  
82-2-2100-3399

### Ministry of Economy and Finance

<http://english.moef.go.kr/>  
82-44-215-2114

### Ministry of Trade, Industry and Energy

<http://www.motie.go.kr/language/eng/index.jsp>  
82-2-1577-0900 / 82-44-203-4000

### Ministry of Unification

[https://www.unikorea.go.kr/eng\\_unikorea/](https://www.unikorea.go.kr/eng_unikorea/)  
82-2-2100-5722

### National Assembly Library

<http://www.nanet.go.kr/english/>  
82-2-788-4211

### National Intelligence Service

<https://eng.nis.go.kr/>  
82-111

### National Research Foundation of Korea

<https://www.nrf.re.kr/eng/index>  
82-2-3460-5500 / 82-42-869-6114

### National Tax Service

<http://www.nts.go.kr/eng/>  
82-2-397-1200 / 82-1588-0560

### Network of Committed Social Workers

<http://www.welfare.or.kr/>  
82-2-822-2643

### Public Procurement Service

<http://www.pps.go.kr/eng/index.do>  
82-70-4056-7524

### Ministry of SMEs and Startups

<https://www.mss.go.kr/site/eng/main.do>  
82-1357

### Statistics Korea

<http://kostat.go.kr/portal/english/index.action>  
82-2-2012-9114

### Supreme Court Library of Korea

<https://library.scourt.go.kr/base/eng/main.jsp>  
82-31-920-3612~3

### Supreme Prosecutors' Office

<http://www.spo.go.kr/eng/index.jsp>  
82-2-3480-2337

### The Board of Audit and Inspection of Korea

<http://english.bai.go.kr>  
82-2-2011-2114

### The Supreme Court of Korea

<http://eng.scourt.go.kr/eng/main/Main.work>  
82-2-3480-1100

### The National Assembly of the Republic of Korea

<http://korea.assembly.go.kr/index.jsp>  
82-2-788-3656

### National Library of Korea

<http://www.nl.go.kr/english/>  
82-2-535-4142

### VOD Service for Conferences

<http://na6500.assembly.go.kr/>  
82-2-788-3056/2298



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## *The Rule of Law Based on Justice and Common Sense*

### Emblem

The Republic of Korea government has changed its official “government identity.” The new logo conveys the dynamism and enthusiasm of the country with the three colors of blue, red and white. It echoes off Korea’s national flag *Taegeukgi* with the *taegeuk* circular swirl and the blank canvas embodies in white. The typeface

was inspired by the font used in the “*Hunminjeongeum*” (1446), the original *Hangeul* text, in consideration of the harmony embodied in the *taegeuk* circle. Starting March 2016, the new logo is used at all 22 ministries including the Ministry of Justice and 51 central government agencies.



Ministry of Justice, Republic of Korea





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