

# Group Presentation

Chapter Two:

The History and Social and Moral Backdrop

Part Two :

Korean Attitude Toward Law

A survey on the Korean People's Attitude Toward Law

Of

Korean Law

In the Global Economy

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## C. People's Recognition of and Feeling for Law

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### To investigate Perception of Law

• Question 1. If someone refers to the word " law " what is your initial relation?

- ① authoritative 32.0 %      ② biased 24.7 %      ③ strict 18.9 %  
④ fair 13.4 %      ⑤ democratic 11.1 %

☞ over a half of the respondents, 56.7 % ( 24.7 % biased, and 32.0 % authoritative) has a negative view of law.

### Opinion about the Objectives and Value of Law

• Question 2. Why do you think we need law?

- ① to keep public order 76.7 %  
② to relieve someone who feels himself to be wronged 8.8 %  
③ to govern the nation 7.5 %      ④ to punish criminals 3.2 %  
⑤ to resolve disputes 1.9 %      ⑥ to reform society 1.9 %

• Question 3. If all laws disappeared in the world, what do you think would happen?

- ① would cause inconveniences 89.3 %    ② would be the same 7.7 %  
③ would be better 3.3 %

☞ The results demonstrate how the various demands of the social classes compelled the people to rely on law as a means of preserving public order during the democratization process.

### Choosing Law as a Method of Dispute Resolution

• Question 4. If you are involved in a dispute, and hear a statement "Let's resolve it through legal methods," what would your reaction be?

- ① reasonable 32.3 %      ② unpleasant 26.9 %  
③ inhuman 23.9 %      ④ desirable 16.8 %

☞ These results confirm the widespread continuation of the attitude( Traditionally it was not considered desirable to resolve disputes according to law )

### View on Law Violators

• Question 5. Do you agree to the statement that " One who lives successfully despite violation of laws is a man of ability?"

- ① not agree on the whole 42.2 % ② not fully agree 26.0 % ③ agree on the whole 22.5 %

☞ 69.2% answered that they did not agree. This is indicative of the increased disapproval of law offenders(when compared with past results). The inclination to utilize law more often as a method of resolving disputes and the increased disapproval of law violators can be interpreted to be a promising sign for the rule of law.

#### D. Legal Life of the People

It has been known that Koreans are mostly unconscious of their rights and the law. Some scholars attributed this to Confucian tradition, Japanese colonial rule and a disturbed constitutional history. But because of the democratization in Korea and participatory civilian culture, which was established during the process, this kind of interpretation has become inappropriate. The participatory civilian culture tends to enhance the legal consciousness of people, and it was no exception for the Koreans as clearly shown in the research results concerning the degree of the people's familiarity with law.

##### 1. Legal Life and Experience

In this research, questions were asked to learn about people's consciousness of the law.

##### 1) The process by which one acquires legal knowledge

- 74.9% of the respondents depended on the mass-media to acquire legal knowledge for everyday life. Since people are influenced the most which involves the law by the mass-media, the government should make an effort to utilize television and newspapers in providing people with useful legal information.

- Another distinctive result is that the children acquire legal knowledge mostly through booklets and schooling. Therefore, the government should not cease to publish booklets and organize public lectures.

##### 2) The desire for legal knowledge

- The result in this section shows that Korean people's desire for legal knowledge is higher than expected. This desire naturally leads to the advance of people's familiarity with law.

- The problem is that the legal texts are difficult for the people to comprehend. Thus, the authorities should make legal texts easier for people to understand so that it is more accessible to the people.

##### 3) Legal Experience

- About 30% of the respondents have been in court, and 48.7% consider filing a lawsuit for a money matter as obtaining justice and exercising their rights.

- To the question "What do you think would be the best way to deal successfully with a business in a township or office?" 66.3% answered 'by proper procedures'. This goes to show that the majority of people rely on law and not bribery. Among the young, affluent, educated in urban, the view of law as unreliable was most prevalent.

- To the question "Which is the best way to live a social life without getting into trouble?" the dominant thought among people was 'to abide by common sense' which was 56.3%. 13.1% of the respondents answered 'to abide by law' and this shows that law has not yet been firmly established in Korean life.

#### D. Legal life of the people

1. Legal life and experience.
2. Law-abiding spirit and consciousness of rights.
  - 1) The Law-abiding spirit.
    1. To the question of “Do you think law is well observed in our society?”, more than 80% of respondents replied “NO”. This reflects that people have observed quite often law-violation. Lack of law-abiding spirit with distrust of the legislative and government may cause to neglect law.
    2. To the question of “Who do you think the worst violator of law is?”, respondents answered “politician”(61.8%), “entrepreneurs”(15.6%) the most. This reflects the fact that people regard politician as the worst law offenders as well as they didn't set up the sound example as leading class of Korea.
    3. However, we can't deny the fact that Korean people need to have more law-abiding spirit. It has often said that Koreans are apt to conduct their business on the basis of mutual trust and understanding or on the basis of relationship, not on legal grounds.
  - 2) The prosecuting spirit
    1. Civic spirit can be defined as the censuring spirit and prosecuting spirit preserving a legitimate and just legal order. Thus the law-observing order of a society is largely contingent upon the civic spirit. The prosecuting spirit is comprised as a societal spirit of censorship.
    2. To the question 13, “if you are caught and punished for spitting or dropping a cigarette butt on the street, how would you feel?”, more than half of the respondents answered that violators of minor offenses would be punished. Even higher than his percentage, 84.7% of the respondents were critical of illegal real-estate transactions and 92% ready for reporting if they witnessed a thief sneaking into a neighbor's house.
    3. In question 16, approximately half of respondent of each question, listed “irregularity and corruption” and “rapes that destroy family happiness” as the top reason needed to be eradicated. First one represents also the distrust toward politics and next one shows the strong reactions against the threat of breaking family-value.
- 3) Consciousness of Rights.
  1. Koreans, traditionally, have regarded themselves as the people who didn't keep the strict legal consciousness, since they considered law as a means of governing the country or controlling the people rather than as a means of realizing individual

rights and liberties. However, a strong consciousness of rights contributes substantially to the elevation of the people's legal consciousness.

2. The questions in this part reflect that young, educated, affluent respondents had stronger consciousness of rights than ordinary people.

#### 4) Conclusion

The results of this research demonstrated a high disregard for law, although there exists a heightened litigiousness and increased consciousness of rights. The emergence in the 1990's of a participatory civil culture, intensified spirit of critique, and the heightened consciousness of rights are all signs of the firm establishment of a spirit of compliance. An expansion of consciousness of rights, when followed by a sound civil spirit, could be resolved into a spirit of criticism

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### Part 2: Korean Attitude Toward Law

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#### E. Ability to Utilize Law and Methods of Dispute Resolution

##### \*Ability to Utilize Law

- For the question “If a law suppresses people unjustly, what would you do”, 61% of the respondents stated that they would demand rectification or even violate law.
- For the question “If you bought some goods which turned out to be defective, what would you do?”, 79.5% replied that they would either insist on replacement, report to the consumer protection center or even file a suit for compensation.
- From these results, it can be deduced that people’s competence with law has improved and also their confidence in the legal system is becoming stronger.

( Here, the “competence” in utilizing law comprises two elements : people’s willingness to institute an action when a legal problem arises, and the ability with which the legal apparatus is utilized.)

##### \* Methods of Dispute Resolution

- Koreans possess definite competence in their use of law, which means they would prefer legal methods for dispute resolution to extra-legal ones.
- Koreans are generally not averse to choosing law to resolve disputes. The majority believes that it is most helpful to know a lawyer to solve legal problems. This is a very inspiring sign of the advancement of dispute resolution towards a more legal realm. In order to satisfy the increased demand for legal services, it is necessary to increase the number of lawyers and specialize their areas of expertise. In addition, costs associated with lawyer’s services should be lowered in order to make them more accessible to people.

#### F. Attitudes Towards the Legislative and Executive Organs

##### 1. The Attitudes Towards the Legislative and Executives Organs

- People believe that law was not well observed because legal procedures are complicated and change very often.
- The results reveal people’s distrust in the legislation and execution of law. Distrust of politicians in particular generated skepticism about the legislative procedure of the national assembly.

- An intense distrust in the police makes it mandatory to upgrade the police force both in quality and quantity.

## 2. Juridical Independence

- The judicial has to ensure that the judges are not materially or mentally subordinated to outside political or economic pressure in the litigation process. In this way, judicial independence effectively contributes to the maintenance of peace and legal order through declaring what law is in any given case. This is encapsulated in the proverb “Power has to follow, not precede, justice.”
- Korean society’s distrust of the leading classes is reflected by the attitudes critical of legislative and executive organs.
- The people’s faith in the government, prosecutors and judges demonstrates that as long as law is enforced properly, there exists the potential for popular willingness to cooperate with state authorities.

## G. Opinions on Existing Laws

### 1. Impractical Law

- The laws pertaining to politics(25.2%)are considered to be the impractical due to the laws regulating elections and political contributions.
- The laws regarding farming and fishing communities are pointed out because of the excessive restrictions presently imposed on farmers and fishermen.
- The prohibition of a marriage between a man and a woman with the identical surname and family clan origin and “The Law Regarding the family Ritual Standards” are mentioned as the concrete examples of impractical and obsolete laws.

### 2. Responsibility for Violations of Labor-Management Relations Act

- Basically, changes in the understanding of the working classes and the emergence of labor have transformed the public’s view on the antagonism between the labor and management, The majority believe that all the involved parties(labor, management, and government) are responsible for labor dispute.

### 3. Social Restrictions on Exercising Property Rights.

- About the partial operation rule for cars, 79% opposed its removal from the statute book. Therefore, it can be seen that Koreans positively recognize social restrictions on property rights.







