

REPUBLIC OF KOREA

(SOUTH KOREA - TAEHAN-MIN'GUK)



BACKGROUND AND LEGAL SYSTEM

LEGAL SYSTEM	Civil law system.
POLITICAL SYSTEM	Republic.
HEAD OF STATE	President, elected by popular vote for a single five-year term.
HEAD OF GOVERNMENT	Prime Minister, appointed by the President with the National Assembly's consent.
SUBNATIONAL ENTITIES	As of 2006, South Korea is divided into 9 provinces (<i>do</i>) and 7 metropolitan cities (<i>gwangyoksi</i>). The capital is Seoul.
SUBLOCAL ENTITIES	There are 232 lower-level local governments including 74 city governments (<i>si</i>), 89 county governments (<i>gun</i>), and 69 autonomous district governments (<i>gu</i>) within the metropolitan cities.
TRANSLITERATION SYSTEM	Revised Romanization of Korean (RR). Adopted in 2000.
LANGUAGES	Korean.

NOTE ON KOREAN LEGAL PUBLICATIONS Korean legal research is difficult to procure due to the lack of Korean legal resources in English. There is a lack of comprehensive Korean legal research guides, legal encyclopedias, legal dictionaries, treatises, textbooks, and legal indexing services in English.

CONSTITUTION

OFFICIAL NAME *Hunbup.*

ENACTMENT Adopted on July 17, 1948.

CITATION FORMAT HUNBUP [SOUTH KOREAN CONST.] art. <article>, para.<paragraph>.

Example HUNBUP [SOUTH KOREAN CONST.] art.3, para.1.

STATUTES

GOVERNMENT STRUCTURE There are 253 members in the National Assembly. They are elected by popular vote to a four-year term, and 46 members who are selected in a proportional representation among political parties winning five or more sets in the direct election.

LEGISLATIVE PROCESS Bills may be introduced by members of the National Assembly or by the Executive Branch. To pass a bill, a majority of the National Assembly members must be present, and a majority of those present must vote for the bill. Each bill passed by the National Assembly shall be sent to the Executive, and the President shall promulgate it within fifteen days. The President may return the bill to the National Assembly with a written explanation of his objection for reconsideration of the bill. If the National Assembly passes the bill again in the original form after reconsideration with the attendance of more than one half of the total members, and with a majority of the members in attendance and two-thirds of them voting for passage, the bill becomes an Act. The President shall promulgate the Act as finalized without delay for the bill that was sent for reconsideration. If the President does not promulgate an Act within five days after it has become an Act, or after it has been

returned to the Executive, the Speaker of the National Assembly shall promulgate it. An Act is promulgated by listing it in the official gazette, and an Act shall take effect twenty days after the date of promulgation.

REPORTER *Popchecho*: Statutes of the Republic of Korea.

CITATION FORMAT Currently unavailable.

Example Currently unavailable.

ADMINISTRATIVE REGULATIONS

ADMINISTRATIVE SOURCES There are no current comprehensive collections in print. Local ordinances are published in local bulletins.

REPORTER *Hangjung Chojikbup* (Rules of Administrative Organization).
Hanjung Julchabup (Rules of Administrative Procedures).

CITATION FORMAT <Korean name of legal document> [<translated name in English>], Rule No. <rule>_ chap. <chapter>_ art. <article> (<year>).

Examples Hangjung Chojikbup [Rules of Administrative Organization], Rule No. 5529, chap. 1, art. 6 (amended 1998).

Hanjung Julchabup [Rules of Administrative Procedures], Rule No. 5241, chap. 3 (1996).

CODES

Minbup
(CIVIL CODE) Civil Act was promulgated in February 22, 1958 and was last amended in January, 2002. The code has 1,118 articles.

Minsa sosongbup
(CODE OF CIVIL PROCEDURE) The Act was promulgated in April, 1960, and was last amended in July 2001. It has 735 articles.

<i>Sangbup</i> (COMMERCIAL CODE)	The Act was promulgated in January, 1962, and was last amended in July, 2001. The Act has 874 articles.
<i>Hyonbup</i> (CRIMINAL CODE)	The Act was promulgated in 1953 and was last amended in December, 1997. It has 372 <i>cho</i> (articles).
<i>Hyongsa sostonbup</i> (CODE OF CRIMINAL PROCEDURE)	The Act was promulgated in September, 1954, and was last amended in December, 1997. It has 493 articles.
CITATION FORMAT	<STATUTE><English Translation> art.<article> <year when available> (S. KOR.).
<i>Examples</i>	MINBUP [The Korean Civ. Code] art. 781 (S. KOR.). HYONGBUP [The Korean Criminal Code] art. 111 (S. KOR.).

CASE LAW

JUDICIAL OVERVIEW	<p>The judicial system consists of a Supreme Court, appellate courts, and a Constitutional Court. There is no jury system in South Korea, all issues of fact and law are decided by judges.</p> <p>The Supreme Court justices are appointed by the President with the consent of the National Assembly. There are fourteen Supreme Court justices that serve a non-renewable six year term. All Justices are appointed by the President, with the consent of the National Assembly. The Chief Justice also recommends Justices to the President.</p> <p>The Supreme Court is the court of last resort and has appellate jurisdiction over cases in the South Korean legal system. It also has original jurisdiction concerning challenges to the validity of a presidential or parliamentary election and the power to review the constitutionality and legality of rules, orders, regulations, and actions of administrative entities.</p> <p>The Constitutional Court justices are appointed by President based partly on nominations by National Assembly and Chief Justice of the Court. There are nine positions, and they serve a six year renewable term.</p>
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The Constitutional Court specializes in reviewing constitutionality under the Constitution. It also has administrative law functions: ruling on competence disputes between governmental entities, giving final decisions on impeachments, and making judgments on the dissolution of political parties.

Appellate Courts include: six High Courts, 13 District Courts, and several courts of specialized jurisdiction, such as the Family Court and Administrative Court. Branches of District Courts, and Municipal Courts can be established.

REPORTER
APPELLATE
COURTS

Pallye sokbo (Advance Case Reports).

Pallye wolbo (Monthly Case Reports).

Hagup simpan gyoljip (Lower Courts Decisions Report).

REPORTER KOREAN
SUPREME COURT

Pallye kongbo (Supreme Court Decisions Official Report).

Taebobwon pallyejip (Supreme Court Decisions Report).

Taebobwon pallye haesol (Commentaries on the Supreme Court Decisions).

Taebobwon chonwon habuiche pallyejip (Supreme Court Grand Bench Report).

Taebobwon pangyol yojijip (Supreme Court Abstract Report).

Taebobwon pangyol saegin (Index to Supreme Court Reports).

Taebobwon pangyollye (Supreme Court Cases Commentary).

REPORTER KOREAN CONSTITUTIONAL COURT	<i>Honpopchaepanso Kyolchong Sokbo</i> (Constitutional Court Decisions Advance Report). <i>Honpop chaepanso Kongbo</i> (Constitutional Court Gazette). <i>Honpop chaepanso Pallyejip</i> (Constitutional Court Reports). <i>Honpop chaepanso Pallye Yojijip</i> (Constitutional Court Abstract Reports).
REPORTER ADMINISTRATIVE LAW CASES	<i>HANGUK HAENGJONG PALLYE YONGUHOE</i> [ADMINISTRATIVE LAW CASES].
CITATION FORMAT REPORTERS, CONSTITUTIONAL COURT & ADMINISTRATIVE LAW CASES	<case name>, (<source>)(<court>,<date of decision>).
<i>Example</i>	99Do2934, (Gong1999Ha, 2559)(Supreme Ct., Nov. 12, 1999).

SOURCES

The CIA Factbook:

<https://www.cia.gov/cia/publications/factbook/index.html>

Supreme Court of Korea,

http://www.scourt.go.kr/scourt_en/index.html

Ministry of Justice Official Website,

<http://www.moj.go.kr>

Ministry of Government Legislation,

<http://www.moleg.go.kr>

Korean Legal Resources on the Internet,

<http://www.law.siu.edu/lawlib/koreanlaw#stat>

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