
An Evaluative Analysis of Korean Legislative Development in Relation with Economic Growth

Formation of Social Infrastructure

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Abstract

I . Background and Purpose

- The Korean economy has achieved unprecedented economic growth at a rapid pace greatly powered by the economic development plan established in 1962. Despite its small land and limited resources, Korea has accomplished a high economic growth. Korea's economic success was largely backed up by its land development policies and legislation as they laid the foundation for the economic growth and balanced development of the nation
- Korea's land development policy in a modern concept started being formed from the 1960s and it has contributed to build a range of social infrastructure which is needed for the nation's growth and balanced development of the land
- Social infrastructure in principle provides the basic services which establishes the foundation of the national economy and strengthens the nation's competitiveness. Investment in social infrastructure plays a critical role in growing the economy
- One of the reasons that the economies grow at a slow pace in developing countries is because those countries have not made

upfront investment in the industrial foundation and infrastructure. Policies and legislation to build up social infrastructure are also an important task to address for developing countries. Korea's experiences and know-how on land development and the establishment of social infrastructure will certainly help developing countries follow the right path

- This study has looked into the progress of policies and legislation for land development in accordance with the economic growth in Korea and into the legislation for the establishment of social infrastructure. The observation has been analyzed and evaluated in a legislative point of view and consequently, implication of Korea's legislation on land development for developing countries has been drawn

II. Main Contents

- The Relationship Between the Korean Economic Growth and the Land Development
 - Korea has made a range of implementation strategies and put efforts on increasing efficiency for its land development policies in accordance with changes in political ideology of the government
 - Korea's land development policies mostly concentrated on postwar rehabilitation and reconstruction during the 1950s. With the establishment and implementation of the Act on Comprehensive Plans for

Construction in the National Territory in the 1960s, Korea's land development policies have made a full-fledged start. Policies related to land development were growth-oriented in the 1970s, then focused on balanced development between regions in the 1980s, on decentralized development in the 1990s and on sustainable development considering the natural environment in the 2000s

The Progress of the Legislation on Land Development

- The Act on Comprehensive Plans for Construction in the National Territory enacted in 1963 is the mother law of land planning and the basis of implementation. The Act on the Utilization and Management of National Territory enacted in 1972 classified the land into the urban areas and the non-urban areas. The Urban Planning Act applies to the urban areas and the Act on the Utilization and Management of National Territory applies to the non-urban areas
- As reckless development has emerged as a social issue since the 2000s, the Korean government legislated the Framework Act on the National Land in order for the land to be managed with the principle of 'planning first and developing later.' The Urban Planning Act and the Act on the Utilization and Management of National Territory have been abolished and consolidated into the Act on Planning and Use of the National Land

Analysis on Legislation for Establishing Social Infrastructure

- Land planning laws define infrastructure as basic facilities that create the basis of the national economic activities which include transportation,

spatial facilities, distribution and supply facilities, public and cultural facilities, emergency facilities, health and hygienic facilities and environmental basis facilities

- The Act on Public-Private Partnerships in Infrastructure was legislated for the purpose of easing the government from the burden of investment in building and maintaining social infrastructure and using creativity and efficiency of the private sector
- It was initially enacted as the Act on Public-Private Partnerships in Social Overhead Capital Facilities in 1998. Then it changed its name to the Act on Public-Private Partnerships in Infrastructure in 2005 and modified to a great degree in order to promote foreign and private investments

Improvement

- Legislation on land planning is a part of planning laws which requires legislators to have accuracy of prediction to a greater extent. Thus, legislators should put more efforts in making accurate prediction and forecast
- Land planning and the following development projects inevitably bring a big change to the spatial structure of the land and the natural environment. Therefore, sustainable land development must become the basic concept when legislation related to land planning are established
- Land development projects usually take longer time from planning to completion and cover a wide scope, which sometimes can limit the

basic rights of the residents living in the areas under development. Stricter standards are imperative after comparing public interest and private interest

- Setting up a detail execution plan for a comprehensive land plan should be compulsory in order to strengthen the effectiveness of land planning. Regular evaluation on execution results should be included in part of the related policies and legislation

III. Expected Effect

- This study looked into and analyzed the progress of the policies and legislation on land development of Korea by each period of its economic growth, which would provide a reference material in the aspect of comparative law to lay a legislative basis for the related or similar field
- It may also be used as a basic reference in exchanging legislative studies or supporting modification of laws and policies

▶▶ Key Words : land development policy, legislation on land development, Land planning, social infrastructure (SOC), Korea

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Chapter 1. Introduction

Section 1. Objectives

The Korean economy has achieved unprecedented economic growth at a rapid pace, driven by the economic development plan established in 1962. Korea's high economic growth within the confines of its small land and limited resources was made possible in large part by its land development policies and legislation that laid the foundation for the economic growth and balanced development of the nation.

Korea's land development planning and its implementation in a modern sense began in the 1960s. The comprehensive national land plans were established from the 1970s onward, contributing toward the balanced development of the land and the construction of a range of social infrastructure needed for national development. At present, the implementation of the 4th Comprehensive National Territorial Plan Corrective Plan (2011-2020) is in progress.

It was in the 1960s that Korea made a turning point in prioritizing land development as a major national policy. The Act on Comprehensive Plans for Construction in the National Territory enacted in 1963 provided a legal basis for a systemic land development. Before this, land development was conducted impromptu, rather than planned in an integrated fashion. In particular, the forced occupation by Japan and the Korean War left the whole country in ruins and destroyed the infrastructure of the country's economic system. Under these circumstances, Korea's land development policies were initially concentrated on postwar rehabilitation and reconstruction, then on remedying the development gap between two Koreas, caused by the division of the national land,

and expanding the infrastructure for economic development.¹⁾

Land development policies changed considerably over time. In the 1960s, the policies were growth-oriented, focusing on the expansion of social infrastructure and the provision of resources necessary for the economic development stages. In the 1970s, the expansion of infrastructure, efficient development of resources and the conservation of the natural environment were given priority for the efficient use and management of land. In the 1980s, policies were concentrated on balanced development, enhanced welfare of citizens, preservation of the environment of the national land and the construction of infrastructure for the reunification of two Koreas. In the 1990s, decentralized development was pushed forward in a response to the trends of globalization and localization. In the 2000s, in lieu of the growth-oriented approach, policies focused on balanced development of the land and sustainable development considering the balance between development and preservation of the natural environment. The implementation of these land development policies laid the foundation for enhanced competitiveness of the nation and enhanced levels of living for citizens.

After becoming a member state of the Organization for Economic Cooperation and Development (OECD) and the Development Assistance Committee (DAC), Korea has been operating a range of programs to pass over its knowledge in development experience to strengthen its capacity for implementing economic development. In particular, Korea's experience and

1) The national land policies in South Korea originated from the resource gap and industrial gap between South and North Korea. The division of the national land separated two Koreas, forcing the South into its agricultural function and the North into its industrial function. The North was relatively better endowed with underground resources and thus was at a more advantageous position to exploit land resources, whereas the South Korean economy was limited to agriculture and was in an unfavorable situation to grow rapidly. As such, the issue of national land utilization came under a completely different light (Ju Bong-gyu, Land Policy, Seoul National University Press, 2003, p.48).

know-how in national land planning, urban development and planning accumulated over the past half century will be of much help to developing countries in establishing social infrastructure, an essential element for economic development. This includes expansion of social infrastructure at the early stage of development for high economic growth, creation of industrial complexes for industrial facilities and resolution of urban issues caused by the rapid urbanization.²⁾

This study aims to survey the evolution of policies and legislation for land development following the economic growth in Korea and to analyze the background, achievements and limitations of such policies and legislation by perusing and evaluating them from a legislative perspective. However, since not all issues regards land development, use and preservation can be discussed here, the purpose of this study lies in suggesting points of reference from Korea's land development legislation by looking into the need for establishing social infrastructure among land development projects and analyzing the policies and legislation for establishing social infrastructure in terms of land development laws.

Further, while suggested points of reference do not have any normative effect, it may be of value as a comparative legal reference material for the efforts to lay a legislative ground for related or similar fields. Therefore, an analysis on Korea's land development policies and legislation formulated in accordance with the country's economic growth may, in and of itself, serve as a meaningful suggestion.

2) According to the statistics of the United Nations Population Fund (UNFPA), the world population exceeded 7 billion on October 31, 2011, and is expected to reach 9.3 billion in 2050 and more than 10 billion by the end of this century. The population growth occur mainly in underdeveloped countries or developing countries in Asia and Africa, and exponentially increasing population and ever accelerating urbanization are expected to lead to an explosive growth in urban population (UNFPA, State of World Population 2011, People and Possibilities in a World of 7 Billion, p.1).

Section 2. Scope and Methodology

This study is premised on an observation that expanding the basis for land development, increasing investment in infrastructure and securing financial resources are essential conditions for a national economy to overcome absolute poverty and move from the level of subsistence into the stage of sustainable growth. This study takes an approach that legislative support is necessary for developing countries to address these tasks.

In developing countries, investment in the industrial foundation and infrastructure are not made upfront, making it difficult to achieve economic growth as rapidly as desired. As such, policies and legislation for the establishment of social infrastructure are one of the most important challenges for these countries to address. In tackling these issues, Korea's experience and know-how in land development legislation for the establishment of social infrastructure may prove helpful.

The scope of this study includes: a description on the objectives and scope of this study (Chapter 1); deduction of the features of Korea's land development policies by period through surveying the evolution of the ideology of land development policies following Korea's economic growth (Chapter 2); examination of the timeline and evolution of development in land development legislation (Chapter 3); suggestions based on the analysis of policies and legislation for the establishment of social infrastructure under land development laws (Chapter 4); a survey of land development situations in developing countries and their issues and points of reference drawn from Korea's land development legislation (Chapter 5); and finally, an outline of the contents of the study and reiteration of suggestions from Korea's land development legislation (Chapter 6).

This study is based mainly on documental research as it aims to share Korea's experience and make suggestions to developing countries by surveying and analyzing Korea's land development policies and legislation formulated in accordance with the country's economic growth. In particular, given that there has been no preceding study that systematically surveys the evolution of Korea's land development policies and legislation, relevant expert conferences and workshops has been thoroughly examined, and developing countries' legislative needs has been investigated through policy consultative committees and interviews.³⁾

3) At the workshop "Evolution of National Land Development Legislation Following Korea's Economic Growth" which was held on April 23, 2012 for the performance of this task, contributions were made in the form of presentation and discussion by Song Si-gang (Prof., Department of Law, Hongik University), Lee Jae-sam (Prof., Department of Law, Gachon University), Yu Yeong-cheol (Prof., Department of Administration, Myongji University), Jeong Jin-gyu (Senior Researcher, Korea Research Institute for Human Settlements), Choi Yun-cheol (Prof., Law School, Konkuk University), and Kim Nam-cheol (Prof., Law School, Pusan National University).

Chapter 2. Relationship between Korea's Economic Growth and Land Development

Section 1. Establishment of Ideology for Land Development Policies

Land development policies refer to a collection of various public policies prepared for the purpose of achieving more efficient land use and better quality of life of people. Concrete measures for the implementation of land development policies include national land plans and regulatory measures for land use. Rather than being implemented in isolation, these policy measures constitute an integrated land development system in a closely linked relationship.

Among these policy measures, national land plans contain contents designed to concretize the goals and effects of policies to ensure comprehensive development, use and preservation of land and land resources by forecasting future land development to be taking place in a certain space.⁴⁾ Accordingly, policy measures and policy strategies other than the national land plans can be regarded as concrete measures to realize these plans.

As such, national land plans occupy the top of the hierarchy in the system of land development policies as the principles and general guidelines for land development, and the basic principles of national land plans are the same as the principles of land development policies. In the following, the evolutionary process for establishing the principles of land development policies will be analyzed by reviewing the basic principles of the comprehensive national land plans by period.

4) Kim Chan-ho, *et al.*, *Regulation and Development in the National Land Planning Act*, Korea Planners Association Information Bulletin, Jan. 2004, p.3.

Korea's land development policies first aimed at post-war reconstruction and began in earnest in the 1960s with the enactment and enforcement of the Act on Comprehensive Plans for Construction in the National Territory. In this period, much emphasis was placed on economic development, and land development was based on the state-led top-down development method, focusing on the designation of industrial complexes and the expansion of social infrastructure, with the pursuit of high growth as the guiding principle for policymaking.

In the 1970s, the goals of land development policies were set under the growth-oriented principles based on the theory of growth poles and the theory of unbalanced growth. In the 1980s, based on these principles, strategies for balanced development among regions and improved living environment for the people were pursued.⁵⁾ In the 1990s, to rectify the negative side effects of growth-oriented policymaking principles hitherto adhered to, balanced growth among regions and the realization of distributive growth became the guiding principles of policymaking. Since the 2000s, the focus of policymaking principles went beyond the development-centered approach and shifted toward sustainable growth and balanced enhancement of land based on the harmony between development and preservation. In the following, the goals and principles of Korea's land development policies will be reviewed.

5) Seo Chang-won, *Tasks and Policy Direction for National Land Planning in the Era of Localization*, Korea Research Institute for Human Settlements, National Land Policy Tasks, 1997, p.17.

<Table 1> Evolution of policy principles and objectives for national land development by period

Categories	1960s	1970s	1980s	1990s	2000s	2010s
Policy principles	<ul style="list-style-type: none"> • Grown oriented 	<ul style="list-style-type: none"> • Maximizing growth 	<ul style="list-style-type: none"> • Distribution of growth (balanced development) 	<ul style="list-style-type: none"> • Globalization and democratization (strengthening competitiveness) 	<ul style="list-style-type: none"> • Integration of development and environment (integration/green growth) 	<ul style="list-style-type: none"> • Global Green National Land
Contents of major policies	<ul style="list-style-type: none"> • Select preferential development areas • Select industrial complexes • Expand social infrastructure • Establish national land planning system • Curb concentration of population in the Seoul Metropolitan area 	<ul style="list-style-type: none"> • Efficient development of resources and preserve environment • Improve living conditions for people • Construct large scale industrial bases • Expand transport and communication networks • Develop fallen behind areas 	<ul style="list-style-type: none"> • Form regionally distributed national land framework • Establish infrastructure system such as land, raw materials and energy • Create national land environment for enhanced public welfare • Create national land infrastructure for reunification of South and North Korea 	<ul style="list-style-type: none"> • Form open type, integrated national land axis • Strengthen competitiveness by region • Create healthy/pleasant national land environment • Construct high speed networks of transport and communications • Create infrastructure for inter Korean exchange and cooperation 	<ul style="list-style-type: none"> • Construct infrastructure for independent regional development • Create infrastructure for national land management and reunification in the era of Northeast Asia • Construct network type infrastructure • Sustainable management of national land 	<ul style="list-style-type: none"> • Strengthen regional specialization and wide area partnership • Create nature friendly and safe national space • Create comfortable and cultural urban/housing environment • Formulate integrated network of green transportation and national land information

Section 2. Evolution of Land Development Policies

As described earlier, comprehensive discussions on land development began in earnest in the 1960s in Korea, but it was in 1971 that systematic planning was carried out for the first time, when the first Comprehensive National Territorial Development Plan (1972-1981) was drawn up in 1971.⁶⁾ The plan was deliberated on by the Deliberation Committee for the first Comprehensive National Territorial Development Plan, was decided on by the State Council and was promulgated on October 7, 1971 as the Presidential Notice No. 26. So far, following the first plan, the second (1982-1991) and the third (1992-2001) Comprehensive National Territorial Development Plan have been carried out, and at present, the Corrective Plan (2011-2020) of the fourth Comprehensive National Territorial Plan (2000-2020) is being implemented.⁷⁾

6) The best known land development policy is “the Reconstruction work of railroad and roads, etc. to recover the prewar level of the Korean economy,” which was carried out in 1953 by the Tasker Delegation from the United States under the aid from FOA, ICA, etc.

7) The Comprehensive National Territorial Plan is the highest land plan of the State, formulated under Article 121 (2) of the Constitution and the Act on Comprehensive Plans for Construction in the National Territory enacted in 1963. The term “Comprehensive National Territorial Development Plan” had been used until the 3rd Plan, but a point was raised that stressing ‘development’ leads to environmental destruction. Accordingly, the word development was taken out from the 4th Plan onward to address this concern and manifest willingness to seek harmony with the environment, using the term “Comprehensive National Territorial Plan.”

1. First Comprehensive National Territorial Development Plan(1972-1981)

This is the first comprehensive national land development plan that were implemented in Korea. The first national land plan was led by the government and promulgated on October 27, 1971 as the Presidential Notice No. 26. In drawing up this plan, an OTAM team from France performed a two-year service from 1970 on the special funds from the United Nations Development Program (UNDP), contributing toward determining development strategies and sectoral development directions.⁸⁾ The plan aimed at providing infrastructure for high economic growth and provided for developing growth poles centering around the Seoul Metropolitan area and the Southeastern industrial belt.

The basic goals of the plan were to ensure the efficient use of land resources, systematic expansion of social infrastructure, pavement of national roads, protection and preservation of resources and nature, and improvement of living environment of the people. Accordingly, the development plan recommended establishing large-scale industrial infrastructure and improving and expanding the facilities for transportation, communication, water and energy supply networks. The plan was based on the state-led growth pole development method.

The first national land plan contributed greatly toward building land development infrastructure in the 1970s, but in the process of implementing the plan, a shortage of urban infrastructure and facilities, such as housing, and water supply and sewage disposal systems, occurred due to the dramatic

8) However, due to the belated completion of the written plan, the use of the UNDP work was limited to its mid-term outcome (Seo Chang-won, Lee Heung-su, Ibid, 1997, p. 13).

increase in urban population during the period as a result of industrialization and urbanization. Further, development of growth poles intensified the polarization of national land, and environmental degradation caused by industrialization was inadequately addressed, thus giving rise to environmental issues.

2. Second Comprehensive National Territorial Development Plan(1982-1991)

The second national land plan was promulgated on December 31, 1981 as Presidential Notice No. 80. This plan was drawn up by the Korea Research Institute for Human Settlements, established in 1978 to perform the task. The plan focused on curbing the concentration of population in the Seoul Metropolitan area, balanced regional growth and the improvement of living environment for the people. To achieve this, the following were set out as basic goals: (1) population redistribution to provincial or local areas, (2) expansion of development potential throughout the country, (3) advancement of people's welfare, and (4) conservation of natural environment.

The plan adopted a distributed development approach and presented a concept of providing infrastructure for settlement in new regionally self-sufficient units as the basic framework for the plan, which was to be achieved through the promotion of growth centers, the formation of regional economic units, etc. This was the land policy to correct regional imbalance and induce settlement in provincial areas by designating, supporting and developing urban centers to serve as growth centers in underdeveloped areas.

In the process of implementing the second national land plan, the arrangement of living environment of the people such as housing, the expansion of infrastructure for resource development such as energy and for

land development such as roads and communication, and the reorganization of the spatial structure of national land were carried out. However, despite the regional distributive policy such as the promotion of growth centers and the formation of regional economic units, investments were made mainly in large cities, which led to regional disparity in wealth. Besides, environmental degradation became worse due to the implementation of development-centered policies.⁹⁾

This plan was revised in 1987 because there was a need to find a solution to problems caused by the continued concentration of population in the Seoul Metropolitan area.

3. Third Comprehensive National Territorial Development Plan(1992-2001)

Korea's land development issues in the 1980s are summed up as follows: concentration of population in the Seoul Metropolitan area, regional disparity in wealth, shortage of infrastructure, rise in land price, and spread of environmental degradation. Accordingly, the third national land plan was implemented to resolve these problems.

The third national land plans was promulgated on January 8, 1992 as Presidential Notice No. 117. The plan was intended to achieve the following goals: balanced regional development, the establishment of productive and resource-saving land-use system, the improvement of the quality of life for

9) With the gradual deterioration of the environment due to the execution of growth-oriented policies, new measures were required to preserve the environment for a clean environment, water and air. The Waste Disposal Act was enacted in 1986 to preserve and manage the environment, and the Framework Act on Environmental Policy, the Water Quality Conservation Act, the Clean Air Conservation Act, the Noise and Vibration Control Act, the Environmental Pollution Damage Dispute Mediation Act, and the Toxic Chemicals Control Act were enacted in 1989.

the people, the conservation of natural environment and the creation of infrastructure for reunification of two Koreas. Further, the plan aimed at converting the national spatial structure from the one with undue concentration in the capital area into the one with balanced regional distribution, allowing urban and agricultural areas to carry out appropriate development for each area. The plan adopted a balanced development approach to focus on lessening regional disparity.¹⁰⁾

The main strategies to accomplish these objectives include: (1) continued promotion of provincial areas and continued curbing of the concentration of population in the Seoul Metropolitan area; (2) enhancement of industrial structure through the creation of new industrial zones; (3) promotion of efficient distribution by building integrated exchange networks; (4) increased investment in the living environment of the people; (5) reorganization of systems for strengthened enforcement of the national land development plan;¹¹⁾ and (6) the development and management of inter-Korean exchange areas.

The third national land plan laid a basic framework for addressing a shortage of social infrastructure and contributed to the improvement of living conditions for the people and to the amelioration of regional disparity by developing national land centering around provincial areas. However, the

10) The keynote for the 1st and 2nd National Territorial Plans was the construction of the national basis for growth through the development of growth poles and the adjustment of the basis for balanced regional development through curbing the growth of the Seoul Metropolitan area. On the other hand, the 3rd National Territorial Plan aims to seek balanced land development through intensified fostering of the provinces and to gradually create a basis for reunification of South and North Korea, while proactively responding to internationalization and opening up through establishing an efficient land-use system.

11) In order to strengthen the efficacy of enforcement of land utilization, financial resources for investment in national land development were expanded to enhance the efficiency of national land development, and the participation of the private sector and the implementation of autonomous land development plans in response to localization were induced.

problems of pollution and of imbalance caused by the growth-oriented way of thinking and neglected reckless development remained unabated.

4. Fourth Comprehensive National Territorial Plan(2000-2020)

Into the 21st century, in order to alleviate the problems that surfaced in the comprehensive national land development executed thus far, the fourth national land plan was set for the 20-year period, 10 year lengthier than that of the 1st, 2nd and 3rd plans. The fourth national land plan took out the term “development” from its wording and was entitled “the Comprehensive National Territorial Plan” to indicate the plan’s commitment to preserving the environment. Under the theme of “integrated national land of the 21st century,” the plan’s objectives were divided into balanced national land, green national land, open national land and unified national land. To achieve these objectives, construction of the multifunctional administrative city, innovation cities and enterprise cities, and relocation of public institutions were carried out.

Due to the changes of domestic and international conditions that occurred while implementing this plan, however, the contents of the plan had to be revised. Therefore, the Revised Fourth Comprehensive National Territorial Plan (2006-2020) was announced in 2006,¹²⁾ and the 4th Comprehensive National Territorial Plan Corrective Plan (2011-2020) presenting the vision of “Global Green National Land” was declared in 2011 to incorporate new national land strategies into the national land plan in a response to diverse changes in

12) This Corrective Plan has the keynote of ‘the realization of thriving and integrated national land’ and set the five objectives by adding ‘welfare national land’ in addition to the already announced four objectives.

socioeconomic situations such as intensification of the globalized economic system, low birth rates and aging society. The basic goals of this revised plan lie in creating competitive and integrated national land, sustainable and environment-friendly national land, graceful and attractive national land and national land open toward the world.

Section 3. Characteristics of National Land Development Policies by Period

Korea's national land plans have worked out various strategies befitting the changes of policymaking principles over time and worked on ways to improve their effectiveness. In particular, since the first Comprehensive National Territorial Development Plan was established in 1972, the national land development policies have adopted the growth pole development strategy for high economic growth and succeeded in building large-scale industrial bases and social infrastructure facilities. In the 1980s, to achieve sustained economic growth, the extended metropolitan area development strategy, which blended growth pole development and balanced development strategies, was adopted, thereby spreading the development potential national land and improving people's quality of life. Further, in the 1990s, the third Comprehensive National Territorial Development Plan adopted the balanced development strategy to ameliorate the problems that emerged in the implementation stages of the first and second plans, such as the concentration of population in the Seoul Metropolitan area and environmental degradation, and to adapt to demands of globalization and localization, thus creating new region-centered industrial zones and stimulating the development of the Western seaboard.¹³⁾

13) Kim Hui-gon, *An Evaluation on the National Land Planning Legislation*, Public Land Law Review, 2011, 52. p. 30.

In the 2000s, in order to build a national land infrastructure that is ready for climate change, low-carbon green growth and socioeconomic structural changes, national land policies set the realization of competitive and integrated land, sustainable and environment-friendly land, graceful and attractive land and land open toward the world as the basic goals to lessen the problems of the reckless and unbalanced land development and environmental degradation that occurred in the past land development process. To achieve this, the implementation strategies of creating an environmentfriendly and safe land environment, building integrated transportation and land information networks for green growth and building supranational land management infrastructure are being implemented.

<Table 2> Evolution of basic objectives and major strategies for national land plans¹⁴⁾

	1 st National Land Plan (1972-1981)	2 nd National Land Plan (1982-1991)	3 rd National Land Plan (1992-1999)	4 th National Land Plan (2000-2020)	4 th National Land Plan Corrective Plan (2006-2020)	4 th National Land Plan Corrective Plan (2011-2020)
Background	<ul style="list-style-type: none"> • Growth of national strength • Promotion of industrialization 	<ul style="list-style-type: none"> • Improvement of living conditions • Easing of excessive concentration on in the Seoul Metropolitan area 	<ul style="list-style-type: none"> • Shortage of social infrastructure • Implementation of the local self-governance system 	<ul style="list-style-type: none"> • Intensification of concentration of population/industry in the Seoul Metropolitan area • Emergence of social problems 	<ul style="list-style-type: none"> • Proactive response to changing conditions in the 21st century • Population growth • Aging society 	<ul style="list-style-type: none"> • Climate change • Intensification of the globalized economic system • Population decrease • Aging society • Low birthrate
Basic objectives	<ul style="list-style-type: none"> • More efficient utilization of national land 	<ul style="list-style-type: none"> • Inducement of human settlement in provinces 	<ul style="list-style-type: none"> • Formation of regionally distributed national land framework 	<ul style="list-style-type: none"> • 4 objectives for realizing integrated national land for the 21st century 	<ul style="list-style-type: none"> • 5 objectives for realizing vitalized and ntegrated national land 	<ul style="list-style-type: none"> • Realization of Global Green National Land

14) Choi Ui-seon, Lee Gil-sang, *The Policy Direction of Land Development Policies in the Era of Green Growth Era*, Korea Environment Institute Environment Forum, 2009, 13(1), p. 13.

Section 3. Characteristics of National Land Development Policies by Period

Categories	1 st National Land Plan (1972-1981)	2 nd National Land Plan (1982-1991)	3 rd National Land Plan (1992-1999)	4 th National Land Plan (2000-2020)	4 th National Land Plan Corrective Plan (2006-2020)	4 th National Land Plan Corrective Plan (2011-2020)
	<ul style="list-style-type: none"> • Expansion of social infrastructure • National land development • Preservation of nature • Improvement of the living environment 	<ul style="list-style-type: none"> • Nationwide distribution of development potential • Enhancement of public welfare • Preservation of the natural environment 	<ul style="list-style-type: none"> • Productive utilization of national land • Enhancement of public welfare and preservation of the natural environment • Preparation for reunification 	<ul style="list-style-type: none"> • Balanced national land • Green national land • Open national land • Unified national land 	<ul style="list-style-type: none"> • Balanced national land • Green national land • Open national land • Unified national land • Welfare national land 	<ul style="list-style-type: none"> • Comprehensive national land with competitiveness • Sustainable green national land • Attractive national land with dignity • National land open to the world
Major strategies	<ul style="list-style-type: none"> • Construct large-scale industrial infrastructure • Adjust supply networks of transport, 	<ul style="list-style-type: none"> • Create regional living zones and multi-core cities nationwide • Expand social infrastructure such as transport and 	<ul style="list-style-type: none"> • Foster regional development and curb concentration the Seoul Metropolitan area • Create new industrial zones 	<ul style="list-style-type: none"> • Form open-type, integrated national land axis • Strengthen competitiveness by region 	<ul style="list-style-type: none"> • Construct infrastructure for independent regional development • Create infrastructure for 	<ul style="list-style-type: none"> • Strengthen regional specialization and wide-area partnership • Create nature-friendly and

Chapter 2. Relationship between Korea's Economic Growth and Land Development

Categories	1 st National Land Plan (1972-1981)	2 nd National Land Plan (1982-1991)	3 rd National Land Plan (1992-1999)	4 th National Land Plan (2000-2020)	4 th National Land Plan Corrective Plan (2006-2020)	4 th National Land Plan Corrective Plan (2011-2020)
	communications, water resources and energy	communications • Stimulate development of fallen-behind areas	and advance industrial structure • Construct integrated highway networks • Develop and manage inter-Korean exchange areas	• Create healthy/pleasant national land environment • Construct high speed networks of transport and communications • Create infrastructure for inter-Korean exchange and cooperation	national land management and reunification in the era of Northeast Asia • Construct network-type infrastructure • Sustainable management of national land	safe national space • Formulate integrated network of green transportation and national land information
Features and problems	• Growth pole-based development strategy	• Curbing the growth of large cities Growth poles Promotion of	• Insufficient reflection of conditions such as globalization,	• Stimulation of balanced regional development	• Setting up of independent economic regions and converting to	• Fostering new engines of growth and creating new industrial

Section 3. Characteristics of National Land Development Policies by Period

Categories	1 st National Land Plan (1972-1981)	2 nd National Land Plan (1982-1991)	3 rd National Land Plan (1992-1999)	4 th National Land Plan (2000-2020)	4 th National Land Plan Corrective Plan (2006-2020)	4 th National Land Plan Corrective Plan (2011-2020)
	<ul style="list-style-type: none"> • Seoul-Busan axis-centered development caused polarization. • Concentration of rural population on urban areas • Income disparity between urban and rural areas 	<p>balanced development by fostering regional cities</p> <ul style="list-style-type: none"> • Imbalance continued due to a lack of concrete execution 	<p>opening-up, and localization</p> <ul style="list-style-type: none"> • The launch of WTO and other developments changed the keynote of national land development. 	<ul style="list-style-type: none"> • Presentation of strategies for achieving harmony of development and environment 	<p>inter-regionally connected structure</p> <ul style="list-style-type: none"> • Promotion of spatial structure for the quality of life and the socially disadvantaged 	<p>infrastructure for green growth</p> <ul style="list-style-type: none"> • System of permission for development activities • Construction of rail-based green transport system

Chapter 3. Evolution of National Land Development Legislation

Section 1. Outline of National Land Development Legislation

As the mother law of national land development plans, the Act on Comprehensive Plans for Construction in the National Territory was enacted on October 14, 1963 to provide a legal basis to their implementation. Due to the enactment of this Act, a comprehensive and integrated long-term land development planning was made possible. Thereafter, the Act on the Utilization and Management of National Territory was enacted in 1972 to prescribe matters concerning the development and utilization of non-urban regions.¹⁵⁾ As a result, national land was divided into urban and non-urban areas under the land development and utilization system, applying the Urban Planning Act to urban areas and applying the Act on the Utilization and Management of National Territory to non-urban areas.¹⁶⁾

In the 2000s, with reckless land development becoming a social problem, there was a need to reorganize the planning system and strengthen interplan coordination in order to manage national land systematically in accordance with the principle of ‘plan first, develop later.’¹⁷⁾ Accordingly, the govern-

15) Before the enactment of the Act on the Utilization and Management of the National Territory, there was no legal regulatory device for non-urban areas, whereas the Urban Planning Act enacted in 1962 applied to urban areas. The enactment of this Act has great significance in that planned development and utilization of non-urban areas was made possible.

16) Cha Hyun-suk, *Legislation Assessments on Land-related Legislation*, Public Land Law Review, 2011, 52., p.101.

17) Ryu Hae-ung, Kim Seung-jong, *The Framework Act on the National Land and the*

ment legislated the Framework Act on the National Land by reconstituting the content and structure of the Act on Comprehensive Plans for Construction in the National Territory, and the Urban Planning Act and the Act on the Utilization and Management of National Territory were repealed and their contents consolidated into the National Land Planning and Utilization Act. Enactment of consolidated Acts like this not only contributes to ensuring the consistency of policymaking but is also regarded as highly significant for being an instance of Korea’s original legislation, going beyond copying or adopting the Japanese laws as before.

<Table 3> Comparison of legal systems related to national land planning

Former <3 national land laws>		Current <2 national land laws>
Act on Comprehensive Plans for Construction in the National Territory Act on Comprehensive Plans for Construction in the National Territory	⇒	Framework Act on the National Land
Act on the Utilization and Management of the National Territory Act on the Utilization and Management of the National Territory		National Land Planning and Utilization Act
Urban Planning Act Urban Planning Act		

In the following section, with the Act on Comprehensive Plans for Construction in the National Territory and the Framework Act on the National Land as the starting points, major statutes related to national land will be reviewed by period in terms of their backgrounds, objectives, contents and features.

National Land Planning and Utilization Act, Korea Research Institute for Human Settlements, 2002, p.3.

Section 2. Era of Act on Comprehensive Plans for Construction in the National Territory(1963-2002)

In the 1960s, land development policies were focused on the creation of industrial complexes and social infrastructure for high economic growth, and the Act on Comprehensive Plans for Construction in the National Territory (1963) was enacted for a more systematic and longerterm land development. Further, national land was classified into urban areas and non-urban areas; the Urban Planning Act (1962) regulated land planning in the urban areas; and the Act on the Utilization and Management of National Territory (1972) was enacted and prescribed land use in the non-urban areas, making planned use of land possible throughout the country.¹⁸⁾

In the 1980s, the balanced regional growth approach was adopted to alleviate adverse side effects of the growth pole-based land development policies in the past.¹⁹⁾ And the Act on the Special Measures for the Promotion of Comprehensive Development of Designated Areas (1980),²⁰⁾ the Seoul Metropolitan Area Readjustment Planning Act (1982), and the Rural Development Fund Act (1986), etc. were enacted to alleviate regional disparity in development and the concentration of population on large cities.

18) Jeong Tae-yong, *National Land Planning and Utilization Act*, Korea Legislation Research Institute, 2009, p.4.

19) Kim Du-ol, *The Six Decades of History of Korean Economy Legislation*, Haenam Publishing, 2011, p.305.

20) This Act applied to areas that needed development to achieve special economic or social objectives of the State or areas that lacked social infrastructure and financial and tax support from the State, and the purpose of the Act was to contribute to the development of the national economy and the improvement of people's lives. However, the Act, which was enacted in 1994, was merged into the Balanced Regional Development and Support for Local Small and Medium Enterprises Act.

Further, in the 1990s, the opening of the economy accelerated in response to globalization, the Balanced Regional Development and Support for Local Small and Medium Enterprises Act (1994) and the Industrial Sites and Development Act (1990) were enacted.

1. Act on Comprehensive Plans for Construction in the National Territory

(1) Significance of National Land Plan

The Act on Comprehensive Plans for Construction in the National Territory²¹⁾ was enacted for the purpose of contributing to the enhancement of public welfare through the achievement of economic, social and cultural development of the national land by comprehensively utilizing, developing and preserving the natural conditions of the national land, and by optimizing the industrial sites and people's living environment. (Articles 2 and 5)

The term "comprehensive plans for construction in the national land" under this Act referred to an overall and fundamental long-term plan to serve as goals and guidelines for sites and scales of projects to be carried out by the State or a local government. The plans were concerned with the following matters: utilization, development and preservation of land, water and other natural resources; prevention and relief from flood or storm damages and other disasters; outlines for arrangement of cities and farming villages and their respective scales and structures; arrangement and scales of important public facilities which serve as foundations for industrial sites; selection and

21) This Act was enacted on October 14, 1963 as Act No. 1415, consisting of 27 Articles and Article 28, which was the Enforcement Decree thereof, with addenda. After the Act was revised for the 7th times as Act No. 5982 in 1999, it was repealed, and the Framework Act on the National Land was enacted on February 4, 2002 and implemented thereafter.

formation of industrial sites; and protection of culture, welfare, tourism resources and other resources, and arrangement and scales of facilities thereto, etc.

Since its enactment, the Act on Comprehensive Plans for Construction in the National Territory provided a legal basis for establishing four comprehensive national land development plans before it was repealed. However, the Act did not contain the basic principles and structures of land management in its contents and only prescribed the procedures for establishing national land plans. Further, it lacked in presenting the basic direction and guidance for national land plans and policies. Accordingly, it was replaced by the Framework Act on the National Land, which was enacted in 2002 and remains effective from 2003.

(2) Structure and Implementation of National Land Plan

Under the Act on Comprehensive Plans for Construction in the National Territory, national land plans were classified into the following categories: a comprehensive national land plan, a comprehensive *Do* plan, a comprehensive *Si/Gun* plan, a comprehensive district plan, and a comprehensive sectoral plan. The relations among respective plans were clarified to promote harmony and consistency among plans (Articles 6 through 8 of the Act).

The comprehensive national land plan was formulated for the entire national land and included long-term policy direction relating to arrangement of spatial structure of national land, allocation of regional functions, expansion of key facilities of national land, rational utilization and management of underground space, and preservation and improvement of the environment, etc. The comprehensive national land plan was managed by the Ministry of Construction and Transportation (Articles 9 through 12 of the Act).

For arrangement or development suited to local characteristics, the head of a competent central administrative agency or the head of a local government were allowed to establish a local plan, such as a Seoul Metropolitan area enhancement plan, a wide area development plan, a specific area development plan and a development facilitation area development plan (Article 16).²²⁾

The comprehensive national land plan was prescribed to be reviewed and readjusted every 5 years in light of the degree of practicability of the plan and any changes in socioeconomic conditions. When any of comprehensive *Do* plan, comprehensive *Si/Gun* plan, comprehensive district plan and comprehensive sectoral plan were to conflict with one another or not in compliance with the comprehensive national land plan, such plans were prescribed to be adjusted via deliberation of the National Land Policy Committee (Articles 18 through 22).

(3) Council of Comprehensive Plans for Construction in the National Territory

In order to deliberate on guidelines for establishing national land plans and on overall coordination, etc., the Council of Comprehensive Plans for Construction in the National Territory (the Council) was prescribed to be established under the jurisdiction of the President (Articles 26 and 27 of the Act).²³⁾ The Council was prescribed to be composed of one chairman, two vice-chairmen and members not exceeding thirty in number. The Prime

22) Further, heads of central administrative agencies, the Seoul Special Metropolitan City Mayor, Metropolitan City Mayors and *Do* governors shall, as prescribed by Presidential Decree, formulate execution plan for following year's projects to be carried out for annual execution of national land plans and submit them via the Minister of Home Affairs to the Minister of Construction and Transportation. The Minister of Construction and Transportation may make a necessary adjustment with regard to the submitted project execution plans.

23) *Korea Planners Association: 50 Year History*, Korea Planners Association, 1999, p. 115.

Minister was prescribed to be the chairman and the Minister of the Finance and Economy and the Minister of Construction and Transportation were prescribed to be vice-chairmen. Members consisted of: eight or less heads of central administrative agencies, including the Ministers of Home Affairs, National Defense, Trade, Industry and Energy, Agriculture and Forestry, Health and Welfare, Environment, and Office of Planning and Budget, and the head of the Planning and Coordination Office; nineteen or less persons of expert knowledge and experience concerning national land plans; and three or less persons with much knowledge and high reputation working in industrial and economic fields. The term of office of the members was four years.

In addition, the council of the comprehensive plan for construction in *Do* was prescribed to be established to deliberate on comprehensive *Si/Gun* plans and matters concerning the performance thereof.

(4) National land surveys

The Act on Comprehensive Plans for Construction in the National Territory prescribed that national land surveys be conducted for utilization, development and preservation of the national land, and national land surveys were classified into three types; a fundamental survey, a land classification survey, and a resource survey.

Under this act, the term “fundamental survey” meant activities for preparing maps or ledgers reflecting the results both of measurements of lands and waters which would serves as a basis for a land classification survey²⁴⁾ and a resource survey²⁵⁾, and of surveys aimed at setting the basic

24) The term “land classification survey” means the performance in which a survey is conducted of land’s actual utilization situations, quality and scale, physical and chemical properties and other major natural factors, and the productivity thereof, and based on that survey, maps or ledgers are prepared in order to classify land by utilization purposes.

25) The term “resource survey” meant the performance in which a survey is conducted of

criteria for a land classification survey and a resource survey. Expenses for conducting national land surveys were prescribed to be borne by persons who conduct such surveys, but in case where a local government conducted such surveys, part of the expenses therefor was allowed be subsidized by the National Treasury.

2. Urban Planning Act

With the progress of urbanization following economic growth, Korea needed to develop, rearrange and manage urban areas, and the Urban Planning Act was enacted to prescribe necessary matters concerning the establishment and execution of systematic urban plans. In particular, this Act provided for the designation of urban planning zones and of residential, commercial, industrial, green, fine view, education, sanitation districts, and urban plans on these matters were established and enforced under this Act (Article 2 of the Act).

After hearing opinions of the relevant local councils, the Administrator of the Land Construction Administration²⁶⁾ were allowed to make decisions on

the quality, quantity and distribution of natural resources, and based on that survey, maps or ledgers are prepared in order to classify and measure natural resources by utilization purposes.

26) With the revision of the Government Organization Act in June, 1962, the Land Construction Administration was elevated to the Ministry of Construction in charge of preservation, utilization, development and reconstruction of national land and water resources, along with matters concerning cities, roads, harbors, rivers, reclamation projects and housing construction. The Ministry of Construction and Transportation was formed by the consolidation of two Ministries, Construction and Transportation, through the revision of the Government Organization Act on December 3, 1994. After the Ministry of Construction and Transportation was organized, the government was able to control transportation and logistics problems by developing an integrated relationship between constructing and operating infrastructure for transportation. With the revision of the Government Organization Act in February, 2008, the Ministry was recreated by merging with the Ministry of Maritime Affairs and Fisheries. The current official name of this Ministry is “Ministry of

urban plans and the designation of urban planning zones, through the resolution by the Central Urban Planning Committee, or to delegate part of such plans to local Ministers.

Thereafter, in order to address the excessive concentration of industries and population within urban communities and alleviate the problems of shortages of infrastructure such as housing and transportation, the Urban Planning Act was wholly revised in 1971 to introduce specified facilities restriction zone, development restriction zone²⁷⁾ and development-planned zone. These systems contributed toward revitalizing urban functions and creating the basic structure of the urban planning system.²⁸⁾

In the 2000s, for the prevention of reckless development and the efficient use of urban space, the Urban Planning Act and the Act on the Utilization and Management of National Territory were repealed and merged into the National Land Planning and Utilization Act.

3. Act on the Utilization and Management of National Territory

The Act on the Utilization and Management of National Territory was enacted in 1972 to prescribe matters necessary for the drawing up and determination of plans for utilization of national land, for regulation on transactions of land, and for adjustment of land use, etc., to achieve an efficient implementation of the comprehensive plans for construction in

Land, Transport and Maritime Affairs.”

27) The development restriction zone system was introduced through the revision of the Act in 1971, and with the enactment of the Act on Special Measures for Designation and Management of Development Restriction Zones on July 1, 2000, it was separated into a special law.

28) Kim Du-ol, Ibid, 2011, p. 325.

national land and to establish the order of the utilization of national land (Article 1 of the Act). The significance of this Act is that planned development and utilization was made possible also in non-urban areas by the Act, and not just in urban planning zones.

Under the Act on the Utilization and Management of National Territory, national land was classified into specific use areas and specific use zones, and specific use areas were used as units by which to divide and allocate industries. In addition, for the efficient use and management of national land, specific use areas were classified again into five categories: urban areas, quasi urban areas, conservation areas (agricultural and forest areas, quasi agricultural and forest areas, natural environment conservation areas), prescribing that land be used for its purpose. Further, the Act on the Utilization and Management of National Territory aimed at preservation of the natural environment and planned utilization of limited land resources by deciding on a plan for designating specific use areas in order for land to be used most suitably in accordance with its specific use (Article 2 of the Act).

Any owner of land in a specific use area determined by the land utilization plan was prescribed to use the land in conformity with the purpose designated for the area concerned, and a restriction of activities in a specific use area was prescribed to be limited to the minimum extent necessary to be in conformity with the purpose designated for the area concerned. The Urban Planning Act applied to urban planning areas, the Industrial Sites and Development Act applied to national industrial complexes or general industrial complexes, and the Act on Special Cases concerning Electric Source Development applied to business zones and prearranged zones for electric source development, respectively.²⁹⁾

29) Kang Yong-bae, *Act on the Utilization and Management of the National Territory*,

Section 3. Era of Framework Act on the National Land(Since 2003)

In the 2000s, in order to achieve enhanced quality of life based on sustainable development, the Act on Comprehensive Plans for Construction in the National Territory was complemented and replaced in 2002 by the Framework Act on the National Land,³⁰⁾ which contributed greatly towards providing the basic direction and systematic framework for national land policies.³¹⁾

In this period, previously existent legislation in respective fields was repealed and merged into new legislation. The Act on the Utilization and Management of National Territory and the Urban Planning Act were merged into National Land Planning and Utilization Act (2002), which places the entire national land under one consistent management system. Besides, the Urban Redevelopment Act and the Act on Temporary Measures for the Improvement of Dwelling and Other Living Conditions for Low-Income Urban Residents were merged into the Act on the Maintenance and Improvement of Urban Areas and Dwelling Conditions for Residents (2002), and the Public Water Management Act and the Public Water Reclamation Act were merged into the Public Waters Management and Reclamation Act (2010). Meanwhile, a new type of Acts emerged, such as the Special Act on

the Ministry of Construction and Transportation, National Land Policy, Dec. 12, 2006, vid. The website of the National Archives of Korea, (<http://contents.archives.go.kr/next/content/listSubjectDescription.do?id=001355&p.Flag=>, visited on May 30, 2012).

30) As of January 1, 2003, the Act on Comprehensive Plans for Construction in the National Territory was repealed.

31) Choi Jeong-gi, *Direction of the Framework Act on the National Land*, Policy Interpretation, Korea Research Institute for Human Settlements, 2000, p. 50.

Balanced National Development (2004), which is a special law aimed at balanced national land development.³²⁾

1. Framework Act on the National Land

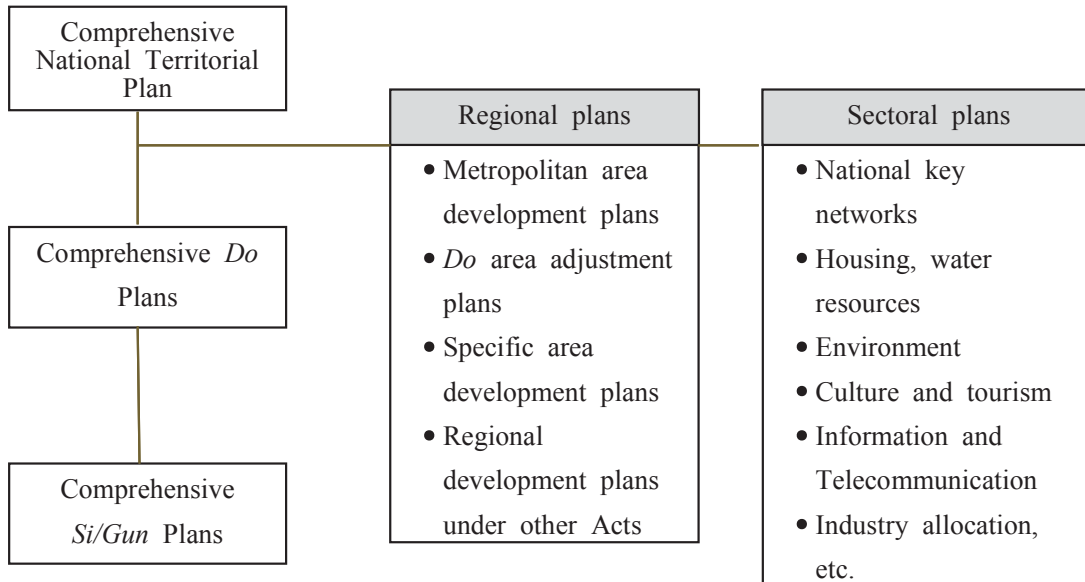
(1) National Land Planning System

Under the Framework Act on the National Land, according to the objects of regulation, national land plans are classified into the following categories: a comprehensive national land plan, a comprehensive *Do* plan, a comprehensive *Si/Gun* plan, a regional plan, and a sectoral plan.³³⁾ The comprehensive national land plan shall form the basis for the *Do* comprehensive plan and *Si/Gun* comprehensive plan, and the sectoral plan and the regional plan shall be in harmony with the comprehensive national land plan. In addition, the *Do* comprehensive plan shall form the basis for the *Si/Gun* comprehensive plan to be formulated within the areas under the jurisdiction of the relevant *Do* (Article 7 (1) and (2) of the Act). Further, the comprehensive national land plan under this Act shall take precedence over any plan regarding national land formulated under other Acts and subordinate statutes, and form the basis for the latter: *Provided, That* the same shall not apply to any plans for military affairs (Article 8 of the Act).

32) Kim Du-ol, Ibid, 2011, p.304.

33) The comprehensive land plan is a comprehensive plan presenting a long-term development direction of national land, covering its entire areas in the case of a comprehensive national land plan, covering the areas under the jurisdiction of the *Do* in the case of a *Do* comprehensive plan, and covering the areas under the jurisdiction of the Special Metropolitan City, Metropolitan City, *Si or Gun* in the case of a *Si/Gun* comprehensive plan. The regional plan is a plan formulated in order to achieve the objectives of special policies, covering a specific region, and the sectoral plan is a plan presenting a long-term development direction for a specific sector, covering the entire areas of the national land. (vid. Article 6 of the Framework Act on the National Land)

<Table 4> National land planning system under Framework Act on the National Land



Sources: Choi Jeong-gi, Ibid, 2000, p.52 (‘A Draft for the Reorganization of the National Land Planning System’).

As can be seen in <Table 4>, the Framework Act on the National Land stratifies the comprehensive national land plan, the comprehensive do plan and the comprehensive *Si/Gun* plan into one unified planning system under the principle of ‘plan first, develop later,’ focusing on ensuring the consistency and efficacy of plans by clarifying the hierarchy and interrelationship among various plans.³⁴⁾ In addition, the regional plan and the sectoral plan are included in the land planning system to integrate them systematically. As such, the basic principles and policy objectives of the land planning system are in harmony with various plans and can serve as guidelines for drawing up plans.

34) Phi Seok-hyeon, Lee Myeong-hun, *The Land Planning System under the Framework Act on the National Land and the National Land Planning and Utilization Act: Problems and Solutions*, Korea Research Institute for Human Settlements, National Land Review, 2003, 37, p.5.

Under the act, the Minister of Land, Transport and Maritime Affairs shall formulate the comprehensive national land plan, and when the Minister of Land, Transport and Maritime Affairs intends to formulate the comprehensive national land plan, he/she may request the heads of central administrative agencies, the Special Metropolitan City Mayor, Metropolitan City Mayor or *Do* governor, to submit the draft of plans by jurisdiction as to the policies and projects to be reflected in the comprehensive national land plan. The Minister of Land, Transport and Maritime Affairs shall formulate the comprehensive national land plan on the basis of the submitted draft plans by jurisdiction by adjusting and integrating such drafts (Article 9 of the Act).

(2) Formulation and Contents of National Land Plan

Under the act, when the Minister of Land, Transport and Maritime Affairs prepares a draft comprehensive national land plan, he/she shall hold a public hearing and hear the opinions of the public and pertinent specialists, etc., and when he/she deems that the opinions presented at the public hearing are proper, he/she shall reflect them in formulating the comprehensive national land plan: *Provided, That* the same shall not apply to such matters as requiring any secrecy of national defense, and have been requested by the Minister of National Defense (Article 11 (1) of the Act).

Under the act, the comprehensive national land plan shall contain matters for: current status of national land, and prospect of changes in circumstances; basic principles and visions for national land development; improvement of spatial structures of national land, and allocation of functions by region; expansion of key facilities of national land; prevention of disasters; utilization of underground spaces; and conservation and improvement of the environment (Article 10 of the Act).

The Minister of Land, Transport and Maritime Affairs shall, when he/she intends to formulate a comprehensive national land plan or to alter the settled plan, obtain approval from the President after undergoing deliberation by the National Land Policy Committee and deliberation by the State Council (Article 12 (1) of the Act).

The *Do* governor shall formulate a *Do* comprehensive plan and shall obtain approval from the Minister of Land, Transport and Maritime Affairs.³⁵⁾ The plan shall include matters for analysis of current status and peculiarity of the region, prospect of any changes in internal and external conditions; objectives and strategies of the regional development; improvement of the region's spatial structures, and direction for allocating functions within the region; and construction of infrastructure (Article 13 of the Act).

In case where the head of a central administrative agency or of a local government deems it necessary for the consolidation or development suitable for local peculiarities, he/she may formulate regional plans, and the head of a central administrative agency may formulate a sectoral plan as to his/her competent duties, covering the entire national land. A sectoral plan shall reflect the contents of the comprehensive national land plan and shall not be in contradiction to the comprehensive national land plan (Article 17 (2) of the Act).

35) When the Minister of Land, Transport and Maritime Affairs intends to grant approval for a *Do* comprehensive plan, he/she shall have a consultation thereon with the heads of related central administrative agencies, and the heads of related central administrative agencies in receipt of a request for consultation shall present their opinions to the Minister of Land, Transport and Maritime Affairs within 30 days of receiving such request, unless there are any special grounds to the contrary. (Article 15 of the Framework Act on the National Land).

<Table 5> Formulation of regional plans under the Framework Act on the National Land³⁶⁾

Categories	Main contents of regional plans
Seoul Metropolitan area development plan	A plan to be formulated in order to induce the decentralization and reasonable arrangement of excessively concentrated population and industries in the Seoul Metropolitan area
Metropolitan zone development plan	A plan for making a broadly-based and systematic development of such areas as the Metropolitan city and its vicinity areas, the industrial complexes and its background areas, the areas, etc. where many cities lie adjacent each other and form a single living zone
Specific area development plan	A development plan to be formulated in order to strategically develop the economy, society, culture, tourism, etc. for the specific area
Development plan for development-promotion district	A plan to be formulated in order to facilitate the development of fallen-behind district where the level of development or base of incomes is far inferior to other areas

(3) Efficient Implementation of National Land Plan

Under the act, the head of a central administrative agency and the Mayor/Do governor shall reflect the contents of the comprehensive national land plan in the policies and plans related to his/her competent duties, and formulate an implementation schedule by competence in order to execute the comprehensive national land plan under the conditions prescribed by Presidential Decree, and submit such schedule to the Minister of Land,

36) Article 16 (2) of the Framework Act on the National Land.

Transport and Maritime Affairs.³⁷⁾ The Minister of Land, Transport and Maritime Affairs shall integrate the actual implementation records, assess periodically the outcomes of comprehensive national land plan and reflect the results of such assessment in the formulation and execution of the national land policies (Article 18 of the Act).

The Minister of Land, Transport and Maritime Affairs shall make an overall review of the comprehensive national land plan every five years by taking account of the outcomes of formulation and assessment of the implementation schedules and the changes in social and economic conditions, and if deemed necessary, he/she shall upgrade the plan (Article 19 of the Act).

In cases where the Minister of Land, Transport and Maritime Affairs judges that any of the *Do* comprehensive plan, *Si/Gun* comprehensive plan, regional plan and sectoral plan are contradictory to one another or not in conformity with the comprehensive national land plan, or in cases where he/she deems it necessary to supplement or adjust the relevant land plan as a result of the national land plan assessment, he/she may request the heads of central administrative agencies or the heads of local governments to adjust such plans (Article 20 (1) of the Act). As such, in cases where the heads of central administrative agencies or the heads of local governments in receipt of a request for adjusting such plans fail to reflect it without any special ground to the contrary, the Minister of Land, Transport and Maritime

37) The implementation schedule by jurisdiction for executing the comprehensive national land plan shall be drawn up every five years and include matters concerning current state and problems, goals and implementation strategies, tasks to be performed and subdivided implementation schedules, implementation periods and investment plans, and other matters necessary to efficiently carry out the implementation schedule. (vid. Article 7 on the details of implementation schedule, etc. of the Enforcement Decree of the Framework Act on the National Land).

Affairs may adjust it through deliberation by the National Land Policy Committee (Article 20 (2) of the Act).

In addition, the Minister of Land, Transport and Maritime Affairs may, when he/she deems that there exists a concern over causing any impediments to a smooth execution of the national land plan, because any dispositions or projects performed by the head of central administrative agency or the head of local government for implementing the said plan are contradictory to one another, adjust such dispositions or projects through deliberation by the National Land Policy Committee and provide necessary financial measures (Article 21 of the Act).

2. National Land Planning and Utilization Act

Under the previous national land plan legislation, the Urban Planning Act applied to urban areas, and the Act on the Utilization and Management of National Territory applied to non-urban areas. Under this system, however, reckless development of quasi agricultural and forest areas, suitable for both preservation and development purposes, became a social issue.³⁸⁾ To alleviate this problem, these two Acts were merged into the National Land Planning and Utilization Act (“the Land Planning Act”), which was enacted on February 4, 2002.³⁹⁾

38) The reckless development case of Yongin-si, Gyeonggi-do, in March, 2000, drew the public’s attention to the problem of reckless development, which emerged as a social problem. In response to this, the Framework Act on the National Land and the National Land Planning and Utilization Act, etc., known as the land planning laws, were enacted in 2002, significantly alleviating the problem of reckless land development. (Yu Cheon-yong, How to Reorganize and Operate Zone-Unit Planning Guidance under the Future Integrated Guidance System, Public Officials Benefit Association, Urban Matters, 2010, 45(3), p.23).

39) Ryu Hae-ung, *Commentary to Land Planning Laws*, Korea Appraisal Board, 2003, p.3.

The purpose of the Land Planning Act is to promote public welfare and to upgrade the quality of life for the people by providing for matters necessary for the formulation, implementation, etc. of plans to utilize, develop and preserve national land (Article 1 of the Act).

(1) National Land Planning System

Under the Land Planning Act, plans are classified into the four categories: metropolitan plan, basic urban plan, urban management plan and district unit plan. Any metropolitan plan or urban plan shall comply with a national plan, and when the contents of any metropolitan plan or urban plan are different from those of the national plan, the details of the national plan shall take precedence. In such cases, the head of a central administrative agency who intends to draw up a national plan shall consult in advance with the heads of the local governments concerned.

(2) Permission, etc. for Development Activities

Designed to prevent reckless development, the permission system for development activities is a system in which permission for a development activity is granted on the basis of whether such a project is appropriate, has secured infrastructure, and is in harmony with its surroundings. In order to prevent reckless development, the Land Planning Act expanded the permission system for development activities by prescribing a person who intends to engage in development activities to obtain permission in non-urban areas as well as in urban areas.

Accordingly, under the Act, permission is prescribed to be obtained from the Special Metropolitan City Mayor, the Metropolitan City Mayor or the head of a *Si/Gun* by a person who intends to engage in any of the following activities: constructing buildings; installing structures; altering the form and

quality of any land; gathering earth and rocks; dividing land; and piling up goods within the green area, control area or natural environment conservation area for at least one month (Article 56 (1) of the Act). However, activities may be performed without permission for the following development activities: emergency measures for disaster restoration or disaster control; remodeling, expansion or rebuilding of buildings that may be reported and installed under the Building Act, and alteration of the form and quality of land within the scope required therefor (Article 56 (4) of the Act).⁴⁰⁾

A person who intends to engage in development activities shall file an application accompanied by a written plan for installing the infrastructure following the relevant development activities, and for securing sites required therefor, prevention of danger and environmental pollution, and scenery, landscape, etc., with the permitting authority for development activities. In a case where the contents of an application for permission for development activities comply with the permission standard for development activities, the permitting authority shall issue a permit to the relevant applicant.

(3) Specific Use Areas, Specific Use Districts and Specific Use Zones

In consideration of the actual conditions and characteristics of land utilization, the future direction of land utilization, etc., national land shall be

40) Cases where minor matters prescribed by Presidential Decree are altered refer to the following cases: where reducing the project period; where reducing the project area within the limit of five percent; where inevitably altering matters permitted due to the amendment of related Acts and subordinate statutes or the alteration of urban management plan. When a person who has obtained permission for development activities alters any of the minor matters stipulated above, he/she shall promptly notify the Special Metropolitan City Mayor, a Metropolitan City Mayor, or the head of a *Si/Gun* of the said facts. (vid. Article 52 of the Enforcement Decree of the National Land Planning and Utilization Act).

divided into four types of specific use areas: urban areas, control areas, agricultural and forest areas and natural environment conservation areas (Article 6 of the Act).

Urban areas are divided into residential areas, commercial areas, industrial areas and green areas, and control areas are divided into conservation and control areas,⁴¹⁾ production control areas⁴²⁾ and planned control areas,⁴³⁾ and designation of areas is determined by an urban management plan (Article 36 of the Act). Control areas are divided into conservation and control areas, production control areas and planned control areas.

To promote public wellbeing and urban functionality within specific use areas, the Minister of Land, Transport and Maritime Affairs or a Mayor/Do Governor may make a decision on designation of any of the following specific use districts: scenery districts, fire-prevention districts, disaster-prevention districts, conservation districts, facility protection districts, development promotion districts and specific use restricted districts (Article 37 of the Act), and may restrict development activities in relevant districts. For instance, the Minister of Land, Transport and Maritime Affairs, the Mayor/Do Governor, or the head of a *Si/Gun* may restrict permission for development activities within any of the followings areas for a period of up to three years only once after undergoing

41) Conservation and control areas include areas difficult to be controlled by designating them as natural environment conservation areas, in consideration of relationship, etc. with peripheral specific use areas, while conservation is necessary to protect the natural environment, and forests, to prevent water pollution, to secure green spaces, to conserve ecosystems, etc.

42) Production control areas include areas difficult to be controlled by designating them as agricultural and forest areas, in consideration of relationship, etc. with peripheral specific use areas, while a control is needed for the production in agricultural, forestry and fishery businesses, etc.

43) Planned control areas include areas requiring planned and systematic control that are expected to be integrated into an urban area, but intended for restricted utilization and development in view of the natural environment.

deliberation thereon by the competent urban planning committee: (1) green areas or planned control areas wherein trees collectively grow, or birds, beasts, etc. inhabit in groups; (2) areas where development activities could seriously pollute or damage the surrounding environment, scenery, fine view, cultural heritage assets, etc. (Article 63 of the Act).

Section 4. Interrelationship between National Land Development Policies and Legislation

After the establishment of the government, in order to lay the foundation for economic growth through the expansion of social infrastructure as the means of national development and to provide a base for ensuring a better life for the people, Korea has pushed forward with land development, many Acts and subordinate statutes have been enacted and revised repeatedly.

As land development legislation has the ultimate goal of efficient use of land and balanced development, Acts related to land planning, urban planning, urban development, industrial complex creation, housing, railroad, roads and rivers have intimate relationships with economic development policies, land development policies, industrial policies and financial policies, and have come to take the current form.⁴⁴⁾

In this context, land development policies and related Acts can be classified by the features of each periods, such as socioeconomic conditions, as shown in the following table.

44) Ryu Hae-Woong, *Evolution of Land Use Laws*, Korea Research Institute for Human Settlements, 1985, p. 7.

<Table 6> Evolution of national land development policies and legislation

Period	Land development policies	Land development legislation
<p>Before 1961 (Initial Stage)</p>	<ul style="list-style-type: none"> - Resolving absolute poverty - Postwar reconstruction 	<ul style="list-style-type: none"> - Public Waters Management Act (1961.12) - Public Waters Reclamation Act (1961.12) - Road Act (1961.12) - River Act (1961.12) - Aviation Act (1961.3) - Water Supply and Waterworks Installation Act (1961.12) - River Act (1961.12) <p>* Modern legislation not yet established.</p>
<p>1960s (Mass production stage)</p>	<ul style="list-style-type: none"> - First Five-Year Plan for Economic Development - Balanced growth of national economy - Creating the industrial base 	<ul style="list-style-type: none"> - Urban Planning Act (1962.1) - Cultural Heritage Protection Act (1962.1) - Land Expropriation Act (1962.1) - Special Act on Land Expropriation for the Creation of Industrial Sites (1962.1) repealed in 1963.12 - Building Act (1962.1) - Act on Comprehensive Plans for Construction in the National Territory (1963.10)

Chapter 3. Evolution of National Land Development Legislation

Period	Land development policies	Land development legislation
<p>1970s (Chaotic stage)</p>	<p>First Comprehensive National Land Development Plan</p> <ul style="list-style-type: none"> - More efficient use and management of land - Expansion of social infrastructure 	<ul style="list-style-type: none"> - Toll Road Act (1963.11) - Act on the Creation and Development of Export Industrial Complexes (1964.9), replaced in 1970 by the Act on the Establishment of Free Export Zones - Specific Multi-Purpose Dams Act (1966.4) - Land Compartmentalization and Rearrangement Projects Act (1966.8) - Sewerage Act (1966.8) - Park Act (1967.3) Replaced in 1981 by the Natural Parks Act - Road Readjustment Promotion Act (1967.2) - Harbor Act (1967.3) - Fishery Harbors Act (1969.5)
		<ul style="list-style-type: none"> - Petrochemical Industry Promotion Act (1970.1) - Regional Industry Development Act (1970.1) - Agricultural Community Modernization Promotion Act (1970.1) - Farmland Preservation and Utilization Act (1972.2) - Act on the Utilization and Management of the National Territory (1972.12)

Section 4. Interrelationship between National Land Development Policies and Legislation

Period	Land development policies	Land development legislation
	<ul style="list-style-type: none"> - Land development and preservation of nature - Improvement of living environment 	<ul style="list-style-type: none"> - Housing Construction Promotion Act (1973.12) - Industrial Base Development Promotion Act (1973.12), repealed and replaced in 1989 by the Public Notice of Values and Appraisal of Lands, etc. Act - Tourist Complex Development Promotion Act (1975.4) - Farmland Expansion and Development Promotion Act (1975.4) - Industrial Complex Management Act (1975.12) - Act on Special Cases concerning the Acquisition of Lands for Public Use and the Compensation for their Loss (1975.12) - Urban Redevelopment Act (1976.12) - Underground Railroad Construction Promotion Act (1979.4)
<p>1980s (Developing stage)</p>	<p>Second Comprehensive National Land Development Plan</p> <ul style="list-style-type: none"> - Inducing population settlement in provincial areas - Nationwide expansion of development potential - Enhancement of public welfare 	<ul style="list-style-type: none"> - Act on the Special Measures for the Promotion of Comprehensive Development of Designated Areas (Repealed) (1980.1) - Natural Parks Act (1980.1) - Urban Parks Act (1980.1) - Housing Site Development Promotion Act (1980.12) - Seoul Metropolitan Area Readjustment Planning Act (1982.12)

Chapter 3. Evolution of National Land Development Legislation

Period	Land development policies	Land development legislation
	<ul style="list-style-type: none"> - Preservation of natural environment 	<ul style="list-style-type: none"> - Rental Housing Construction Promotion Act (1984.12) - Urban Traffic Improvement Promotion Act (1986.12) - Hinterlands Development Promotion Act (1988.12) - Act on the Special Accounts for Road Projects (1988.12)
<p>1990s (Mature stage)</p>	<p>Third Comprehensive National Land Development Plan</p> <ul style="list-style-type: none"> - Formation of regionally distributed national land structure - Productive use of land - Enhancement of public welfare and preservation of the environment - Preparation for reunification 	<ul style="list-style-type: none"> - Industrial Sites and Development Act (1990.1) - Special Act on Jeju-do Development (1991.12) - Groundwater Act (1993.12) - Act on Construction of Dams and Assistance, etc. to their Environs (1999.9) - Balanced Regional Development and Support for Local Small and Medium Enterprises Act (1994.) - Wetlands Conservation Act (1999.) - Coast Management Act (1999.)
<p>After 2000s (Completion stage)</p>	<p>Fourth Comprehensive National Land Plan</p> <ul style="list-style-type: none"> - Realization of integrated national land of 21st century 	<ul style="list-style-type: none"> - Framework Act on the National Land(2002.2) - National Land Planning and Utilization Act (2002.2) - Special Act on the Construction of New Administrative City (2003.12)

Section 4. Interrelationship between National Land Development Policies and Legislation

Period	Land development policies	Land development legislation
	<ul style="list-style-type: none"> - Balanced land - Green land - Open land - Unified land - Welfare land <p>Revision of Fourth Comprehensive National Land Plan</p> <ul style="list-style-type: none"> - Realization of Global Green National Land - Comprehensive national land with competitiveness - Sustainable green national land - Attractive national land with dignity - National land open to the world 	<ul style="list-style-type: none"> - Special Act on Balanced National Development (2003.12) - Special Act on Decentralization (2003.12) - Act on the Maintenance and Improvement of Urban Areas and Dwelling Conditions for Residents (2002.12) - Act on Public Water Management and Reclamation (2010.10) - Act on the Conservation and Management of Uninhabited Islands (2007.8) - Special Act on Balanced National Development(2009.4)

Sources: The above table is a supplemented and rearranged version, based on Korea Planners Association: 50 Year History, 1999, p. 106 and the table of construction-related legislation in Chapter 24, Legislation in Korea: 50 Year History, Ministry of Government Legislation, 1998.

As seen in <Table 6>, in the 1960s, while policies for land development were thought out, growth-oriented land development policies were pushed forward for industrial development and the expansion of social infrastructure. As land use became diversified due to the demand from economic growth, Acts for planned utilization of land were enacted.⁴⁵⁾ Representative among them were the Act on Comprehensive Plans for Construction in the National Territory, enacted for planned execution of land development and utilization, the Urban Planning Act, enacted for planned urban development, and the Building Act, enacted for enhanced public welfare by prescribing the standards for buildings. In addition, the Road Adjustment Act, the Harbor Act, and the Fishery Harbors Act were enacted for adjusting transportation facilities such as roads, harbors and fishery harbors.

In the 1970s, the concentration of population in urban areas led to the worsening of housing situations and gave rise to social problems due to excessive concentration, and in order to address these problems, the Housing Construction Promotion Act and the Urban Redevelopment Act were enacted. In addition, the Farmland Preservation and Utilization Act was enacted to curb chaotic diversion of farmland, and with the increase of land expropriation following the expansion of public demand for land, the Act on Special Cases concerning the Acquisition of Lands for Public Use and the Compensation for their Loss was enacted to resolve the problems that surfaced in the process of land expropriation.

In the 1980s, land development planning was focused not only on balanced regional development but also in enhanced public welfare and preservation of natural environment, and the creation of infrastructure for reunification.

45) *Korea Planners Association: 50 Year History*, Korea Planners Association, 1999, p. 111.

Based on these themes, the Natural Parks Act and the Urban Parks Act were enacted for enhanced quality of life for the people, and the Act on the Special Measures for the Promotion of Comprehensive Development of Designated Areas was enacted to promote the development of underdeveloped regions. In addition, the Seoul Metropolitan Area Readjustment Planning Act, the Urban Traffic Improvement Promotion Act, and the Rental Housing Construction Promotion Act were enacted to expand infrastructure for alleviating traffic congestions and other problems caused by the excessive concentration of population in the Seoul Metropolitan area.

In the 1990s, legislation that push forward with formation of regionally distributed land structure, enhancement of public welfare and preservation of the environment took center stage. Representative among them were the Special Act on Jeju-do Development and the Balanced Regional Development and Support for Local Small and Medium Enterprises Act. And in order to protect the health and wealth of the public and to preserve the livable natural environment, the Groundwater Act, the Wetlands Conservation Act and the Coast Management Act, etc. were enacted.⁴⁶⁾

In the 2000s, reckless development of land became a social problem, and there arose a need to reorganize the planning system and strengthen coordination and linking among plans under the principle of ‘plan first, develop later.’⁴⁷⁾ Accordingly, by rearranging the Act on Comprehensive

46) In the 1990s, national land development policies focused on the improvement of the public welfare and the preservation of the environment. For it was important to overcome the relative backwardness of the living environment of the people and create an environment that can meet the basic needs of life for the people, and land development had to be conducted in the direction of responding to the increased qualitative sophistication of life and new changes in social value management.

47) Ryu Hae-ung, Kim Seung-jong, Ibid, 2002, p.3.

Plans for Construction in the National Territory with new systems and contents, the government enacted Framework Act on the National Land, and the Urban Planning Act and the Act on the Utilization and Management of the National Territory were repealed and merged into the National Land Planning and Utilization Act.

Chapter 4. Examination of Creation of Social Infrastructure under National Land Planning Laws

The term “infrastructure” means public facilities that form the basis of various productive activities. It includes: transport facilities, such as roads, railroads, harbors, airports; spatial facilities, such as squares and parks; distribution and supply facilities, such as supply facilities for water, electricity and gas, and broadcasting and communications facilities; public, cultural and sports facilities, such as schools, playgrounds, public offices, cultural facilities, and sports facilities, etc.; health and sanitation facilities; and basic environmental facilities (Article 2 (2) 6 of the Land Planning Act).⁴⁸⁾

Social infrastructure provides basic services that form the basis of national economy, thus contributing toward facilitating smooth productive activities, maximizing corporate profits and strengthening national competitiveness by lowering distribution costs. In addition, investment in social infrastructure accelerates economic growth and stimulates corporate investment, playing an important role in creating jobs and income. More important than anything else, however, is that social infrastructure lays the foundation for the people to enjoy a better quality of life by increasing convenience of the people.⁴⁹⁾

From here on, policies and legislation for creating social infrastructure under land planning laws will be examined by surveying the evolution of policies for social infrastructure and the related laws.

48) Social infrastructure has been defined and used differently by many, since Adam Smith) referred to roads, harbors, water supply, etc. as public works, which he argued were necessary conditions (Yang Ji-cheong, *Social Overhead Capital*, Seoul Press, 1994, p. 19).

49) Kim Jeong-ho, *Investment Strategies for SOC Facilities*, Korea Research Institute for Human Settlements, Construction Economy, 1996, 15, p. 20.

Section 1. Policies for Creating Social Infrastructure

1. Evolution of Policies for Social Infrastructure

So far, the government has pushed forward with a range of policies for securing social infrastructure through technological and financial support, etc. for creating social infrastructure. In the 1960s and the 1970s, land development policies focusing on the expansion of social infrastructure to bolster high economic growth, but investment in social infrastructure was relatively low compared with the level of economic development. Traffic facilities such as railroad, harbor and airport were, despite their critical importance, regarded as low priority, and investment in them lagged behind the economic growth for a long time. The growth rate of the Korean economy was too fast for the supply of social infrastructure to catch up with it, thus leading to a considerable gap between the national economy and the social infrastructure sector.⁵⁰⁾ As late as the 1980s and the early 1990s, due to the concentration of population in urban areas caused by urbanization and industrialization and the creation of new industrial cities for balanced regional development, the construction of housing and industrial complexes took priority over investment in social infrastructure, which still lagged behind.

In the mid 1990s, thanks to the policies and stably secured financial resources to expand investment in social infrastructure for enhanced national competitiveness and industrial productivity, more investment were made compared to the past. However, the investment ratio of social infrastructure in GDP dramatically rose from 2-3% in the 1980s to 4-6% in the 1990s and

50) Kim Jeong-ho, Ibid, 1996, p. 20

fell to 3-4% in the 2000s. It is widely believed that in order for the Korean economy to grow steadily at 7-8% per annum, 6-7% of GDP should be invested in social infrastructure.⁵¹⁾

Social infrastructure should be planned and executed in an extended period of time due to its project size and immense economic effect, and systematic long-term plans should be confirmed before constructing multipurpose dams, power plants, highways, airports and harbors.⁵²⁾ However, investment in social infrastructure so far has been made impromptu, or in some facilities, plans have been greatly changed later or gone back to the starting point in many cases.⁵³⁾ As continued investment in social infrastructure is required in the future as well, the government should take proactive measures to resolve the problems of social infrastructure investment.

2. Significance of Social Infrastructure under Comprehensive Land Plans

The comprehensive national land plan is the supreme national land plan formulated under the Framework Act on the National Land, and the plan includes matters relating to basic principles for land development, future vision for national land, improvement of spatial structures, policies for balanced development, expansion of key facilities of national land, and efficient utilization of national land. And yet the creation and expansion of social

51) Ahn Hong-gi, *Economic Growth and SOC Investment*, Korea Research Institute for Human Settlements, Construction Economy, 2008, 54, p. 32.

52) Multipurpose dams or power plants take around at least 7-8 years or even 10 years or longer to construct. Highways, airports, and harbors take at least 6-7 years, as well.

53) Before the 20th century, investment in and supply of infrastructure was conducted in a passive manner to meet the existing demand, rather than proactively leading economic growth. (Kim Jae-yeong, *National Competitiveness Enhancement and Land Development*, Korea Research Institute for Human Settlements, National Land Policy Tasks, 1997, p. 27).

infrastructure forms the crux of plans for physical facilities presented by the comprehensive national land plan.⁵⁴⁾

The 4th Comprehensive National Territorial Plan Corrective Plan (2011-2020), which is currently being implemented, presents ‘Realization of Global Green National Land’ as the principle for national land development and the keynote for planning. Accordingly, future investment in social infrastructure should be directed toward supporting the realization of ‘global green national land.’ Namely, by setting the response to climate change and green growth as the keynote of land planning, the expansion of social infrastructure will be approached from comprehensive perspectives including environment, industry, transportation, urban development and disaster.

(1) Transportation and distribution

In the case of Korea, the level of development in the transport and distribution systems is evaluated to have overcome the absolute shortage of facilities, but it still lags behind that of advanced countries. Below, indicators of Korea’s transport infrastructure will be compared with those of major OECD countries through statistical data on the scale of Korea’s transport infrastructure.

54) Park Yang-ho, *Comprehensive National Land Plan and SOC Investment*, Korea Research Institute for Human Settlements, Construction Economy, 2002, 31, p. 20.

<Table 7> Scale of key transport facilities from social indicators for Korea in 2011

Year	Road extension		Rail extension	Subway extension	Airport handling capacity Number of annual services (1,000/year)	Harbor handling capacity	
		Road density (km/km ²)					Piers (vessels)
2000	88,775	0.89	3,123.0	393.4	2,265	626	430,437
2001	91,396	0.92	3,125.3	401.4	2,265	639	469,585
2002	96,037	0.96	3,129.0	411.5	2,306	624	486,510
2003	97,252	0.98	3,140.3	411.5	2,112	656	510,210
2004	100,278	1.01	3,374.1	423.5	2,112	717	523,537
2005	102,293	1.02	3,392.0	470.8	1,972	723	597,819
2006	102,061	1.02	3,392.0	482.1	1,972	747	682,283
2007	103,019	1.03	3,399.1	500.3	2,052	761	728,612
2008	104,236	1.04	3,391.2	500.9	2,308	775	758,615
2009	104,983	1.05	3,377.9	534.0	2,308	793	800,533
2010	105,565	1.05	3,557.3	537.0	2,222	820	830,022

(unit: km)

Sources: Yearbook of the Ministry of Land, Transport and Maritime Affairs, Korean Railways Public Bulletin, 2011.

In view of these facts, the 4th Corrective Plan (2011-2020) presents the construction of integrated networks of green transport and land information as the implementation strategy to realize the policy principle of “Global Green National Land.”

First, rail-based low carbon, green growth transport system will be built. Transport policies will be shifted from road-centered ones to railroad-centered ones, and from the new construction-based approach to efficient operation-based approach. High speed railroad networks will be built for speedy connection between urban centers in wide-area economic zones and between super wide-area development zones, and the interconnected mass transport system will be strengthened for enhanced accessibility to high-speed railroad.

Second, the strengthening of national land competitiveness through efficient adjustment of road networks based on selection and concentration will be supported. Inter-road connection between highways and national roads, etc. will be strengthened, and the improvement and expansion of road facilities for providing balanced inter-regional road services will be pursued. Further, the provision of state-of-the-art transport services that are safe, speedy and convenient are aimed at with more intelligent and advanced major national roads networks.

Third, the integrated and interconnected transport system through functional role distribution among means of transport will be constructed. Low cost, high efficiency transport system through interconnection among means of transport such as roads, railroads, airports and harbors will be constructed. By strengthening the integration and coordination of plans for national key transport networks and sectoral plans, the interconnection between transport policies and the expansion of transport facilities will be promoted.

Fourth, environment-friendly transport policies that reduce carbon emission and save energy will be pursued. To achieve this, the establishment of green transport in everyday life through the expansion of bike roads and pedestrian roads will be pursued, and mass transport-oriented transport policies will be pursued. In addition, an environment-friendly green transport system through the gradual expansion of low CO₂ emission means of transport (CNG buses, light electric rail, electric cars and hybrid cars, etc.) will be constructed.

(2) Water resources and disaster prevention

This Corrective Plan directs the construction of a preventive and integrated disaster prevention system through pursuing the stable supply of water resources and water quality management. To lead the re-creation of river-centered national land and balanced development of the land, recovery of tributaries, recovery of four rivers with culture, making beautiful and lively river villages, and the revitalization of green growth industry utilizing the four rivers will be pursued.

In addition, for the creation of river-friendly national land where the public enjoys riverside activities, a comprehensive river use and management system in consideration of water control, water utilization, water friendliness and water quality will be constructed, and rivers, riversides and the surrounding areas will be managed in a systematic and integrated fashion. Further, a new river culture will be created, in which rivers are utilized as multifunctional spaces for cultural and leisure activities through reorganizing river spaces and developing various cultural contents and programs, etc.

(3) Eurasia-Pacific Rim cooperation

The Korea-China-Japan complex transport system will be constructed, and efforts will be made toward making Korea a global gateway state for

transport and distribution by pursuing the connection of the Korean railroad system with the Asian Highway and trans-Asian railroads. Further, a global aviation network will be constructed through expansion of international airline networks and pursuit of aviation liberalization.

In particular, the development strategy for the coastal axis composed of east coast area, west coast area and south coast area is being taken notice, and the coastal axis should be fostered into an economic and distribution hub that connects Eurasia and the Pacific Ocean. To do this, expansion of infrastructure for connecting islands with the land, such as harbors, airports and undersea tunnels, is needed as well.

Section 2. Legislation for Creation of Social Infrastructure

1. Investment in Social Infrastructure under the Framework Act on the National Land

Article 4 of the Framework Act on the National Land stipulates that in order to create competitive national land conditions, “The State and local governments shall strengthen national competitiveness and strive to ensure the improved quality of life for the people by systematically expanding the infrastructure of the national land, such as roads, railroads, harbors, airports, water-supply facilities, logistics facilities, information and communications facilities, etc.” The fact that the expansion of social infrastructure forms the basis for determining national competitiveness and the quality of life for the people is specifically stated in a law, and since these objectives belong to the core values pursued by the comprehensive national land plans, social infrastructure is located at the center of the planning and execution of the comprehensive national land plans.

In addition, Article 10 of the Act prescribes the content of a comprehensive national land plan to include matters for the elevation of national competitiveness and the expansion of social infrastructure of national land forming the basis for the everyday life of the people. In connection with the formulation of a Do comprehensive plan, the Act prescribes the plan to include matters for the improvement of the region's spatial structures and a direction for sharing the functions within the regions, and matters for the construction of the infrastructure, such as the transportation, distribution, and information and communications networks (Article 13 (1) of the Act).

Further, the government shall prepare an annual report on the major policy measures for the national land planning and utilization, containing the details on the current status of the national land environments and major policies, current status of utilization of national land resources, and current status of social infrastructure, and submit it to the National Assembly each year not later than an opening of its ordinary session (Article 24 (2) of the Act).⁵⁵⁾ These contents are used for the construction of the national land information system.

2. Investment in Social Infrastructure under the Land Planning Act

(1) Concepts and types of social infrastructure

The Land Planning Act defines the term infrastructure as basic facilities that form the basis of various productive activities, including transport

55) The annual report shall contain matters concerning formulation and management of the national land plan; policies promoted and those intended to be promoted for planning and utilizing the national land; current status of regional developments and major policies; current status of social infrastructure; current status of utilization of the national

facilities, spatial facilities, distribution and supply facilities, public, cultural and sports facilities, disaster prevention facilities, health and sanitation facilities, and basic environmental facilities.

<Table 8> Classification of infrastructure under the Land Planning Act⁵⁶⁾

Categories	Examples
Transport facilities (11)	roads, railroads, harbors, airports, and parking lots, etc.
Open facilities (5)	squares, parks, and green areas, etc.
Distribution and supply facilities (9)	distribution business facilities, supply facilities for tap water, electricity and gas, broadcast and communications facilities, and utility tunnels, etc.
Public, cultural and sports facilities (10)	schools, playgrounds, public offices, cultural facilities, and sports facilities, etc.
Disaster-prevention facilities (8)	rivers, storage reservoirs, and fire-prevention facilities, etc.
Health and sanitation facilities (6)	crematoria, public cemeteries, and charnel houses, etc.
Basic environmental facilities (4)	sewerage systems, and waste treatment facilities, etc.

Further, among various types of infrastructure, the term urban plan facilities means facilities determined by urban management plans, and the term metropolitan facilities means the facilities that require maintenance systems in a metropolitan scale. An urban management plan shall be drafted differentially in terms of the level of detail in an urban management plan and the types of infrastructure to be determined by an urban management plan, by comprehensively considering the population density of the regions of urban, agricultural, forest and fishery communities, characteristics of land

land resources; current status of the national land environments and major policies; current status of the land utilization by specific-use area, and trends of the land transactions; and other important matters for the plan for and utilization of national land.

56) Vid. Article 2 (1) 6 of the National Land Planning Act.

utilization, and the surrounding environments, etc. (Article 25 (3) of the Act).

(2) Installation of social infrastructure following land development activities

1) Development-Density Control Area System

Among areas anticipated to lack capacities for processing, providing or admitting the infrastructure (including urban planning facilities) due to development activities, an area faced with a difficulty in installing any infrastructure is referred to as a development-density control area. The Special Metropolitan City Mayor, the Metropolitan City Mayor or the head of a *Si/Gun* may designate this type of control area to control development activities in the area by applying a stricter building-to-land ratio or floor area ratio, and the maximum limit of 50 percent floor area ratio is set to be applied to the area.

The development-density control area is an area in which it is difficult to install infrastructure, among areas anticipated to fall short of the volume of infrastructure, such as roads, water supply facilities, sewage systems, school, etc. An area falling under any of the following categories may be designated as a development-density control area: (1) areas in which traffic is markedly delayed due to an extremely low level of road services in relevant areas; (2) areas, of which the road ratio falls short by not less than 20 percent of the road ratio by each specific use area; (3) areas in which the quantity of demand for water supply in the relevant area is anticipated to exceed the quantity of installed water-supply facility within two years hereafter; (4) areas in which the quantity of sewage generation in the relevant area is anticipated to exceed the quantity of installed sewage systems within two years hereafter; (5) areas in which the number of students in the relevant area is anticipated

to exceed the capacity of schools by not less than 20 percent within two years hereafter.

The boundary line of a development-density control area shall be clearly divided by utilizing roads, rivers and other landmarks or by installing it along the boundary line of a specific use area, etc., and the scope of stricter floor area ratios shall be decided in consideration of degrees of shortage of infrastructure.

Accordingly, a person who intends to engage in development activities shall file an application accompanied by a written plan for installing the infrastructure following the relevant development activities and for securing sites required therefor, prevention of danger and environmental pollution, and scenery, landscape, etc., with the permitting authority for development activities. A written plan for installing infrastructure within a development-density control area or for securing the sites required therefor shall not be filed. However, a person who intends to construct a building or install a structure that is governed by the Building Act shall file an application in accordance with the procedures under the Building Act.

2) Infrastructure-levy area system

The infrastructure-levy area means an area, other than a development-density control area, which requires installation of infrastructure, such as roads, parks, green areas, etc., due to development and is designated and publicly announced as such to ensure installation of infrastructure or to have a site necessary therefor secured. The Special Metropolitan City Mayor, a Metropolitan City mayor, or the head of a *Si/Gun* shall designate any of the following areas as an infrastructure-levy area: (1) areas where restrictions on development are relaxed or released due to the enactment and amendment of

this Act or other Acts and subordinate statutes; (2) areas where restrictions on development are relaxed because specific use areas, etc. designated under this Act and other Acts and subordinate statutes have been changed or released; (3) areas prescribed by Presidential Decree, in consideration of the present condition of permission on development activities, population growth rate, etc. (Article 67 of the Act). *Provided, That* where the Special Metropolitan City Mayor, a Metropolitan City Mayor, or the head of a *Si/Gun* acknowledges it necessary to systematically control the relevant areas due to excessive development, such areas may be designated as infrastructure-levy areas, notwithstanding the above.

Where the Special Metropolitan City Mayor, a Metropolitan City Mayor, or the head of a *Si/Gun* intends to designate or change an infrastructurelevy area, he/she shall hear the opinions of the residents, and shall officially announce it, as prescribed by Presidential Decree, following deliberation thereon by the local urban planning committee established in the relevant local government. Where a decision and announcement are made on designation of a Class II district-unit planning zone, the relevant area shall be deemed to have been designated and officially announced as an infrastructure-levy area. Where an infrastructure-levy area has been designated, the Special Metropolitan City Mayor, a Metropolitan City Mayor, or the head of a *Si/Gun* shall establish infrastructure building plans and reflect them in the relevant urban management plan.

3) Installation of infrastructure

The infrastructure-building fees means an amount of money to be imposed and collected to build infrastructure resulting from new construction and enlargement of facilities, such as detached houses, lodging facilities, etc. or to

secure a site necessary for building infrastructure.

Infrastructure-building fees shall be calculated by multiplying the sum of standard expenses incurred in building infrastructure and expenses for a site thereof by the ratio a private developer bears, which shall be 20/100, less the amount the State and local governments bear from the total expenses incurred for the total floor area of buildings subject to imposition and for construction of infrastructure: *Provided, That* where the Special Metropolitan City Mayor, a Metropolitan City Mayor, or the head of a *Si/Gun* has established infrastructure-levy plans, as prescribed by Presidential Decree, taking the required quantities, etc. of infrastructure in the relevant area into consideration, such plans shall apply.

The Special Metropolitan City Mayor, a Metropolitan City Mayor, or the head of a *Si/Gun* shall impose infrastructure-building fees on a person obligated to pay within two months from the date he/she has obtained a building permit, and the person obligated to pay shall pay the fees by the time he/she files an application for approval of use. Where a person obligated to pay fails to pay infrastructure-building fees by the time specified above, it may be collected in the same manner as delinquent local taxes are collected.

3. Act on Public-Private Partnerships in Infrastructure

It is burdensome for the government to finance the creation of largescale social infrastructure that requires massive funding, and due to a great deal of public character and externalities, the benefit of taking advantage of the creativity and efficiency of the private sector in the site selection, installation and management of facilities is stressed. As such, the importance of private

participation in infrastructure became more pronounced, and the Act on Public-Private Partnerships in Infrastructure was enacted to regulate it.⁵⁷⁾

The first Act enacted for the construction of social infrastructure by inducing private capital was the Promotion of Private Capital into Social Overhead Capital Investment Act established in 1994. The purpose of this Act was to contribute to the development of the national economy by promoting private investment in the social overhead capital facilities and striving for their positive and efficient expansion and operation.⁵⁸⁾ In the 14-year period since its enactment, the Act was revised 47 times, attesting to the dynamic nature of public-private partnership as regards economic growth and the enhanced quality of life for the people. This Act was revised and renamed in 2005 as the Act on Public-Private Partnerships in Infrastructure (hereinafter referred to as “the Public-Private Partnerships Act”), which remains effective to this day.⁵⁹⁾

In addition, the Road Act, the Harbor Act and other development Acts on social infrastructure have provisions under which public-private partnership is utilized.⁶⁰⁾

57) Kim Dae-in, *A Legal Examination on the Participation of Private Capital in Investment for Social Infrastructure*, Public Land Law Review, 2009, 43, p.184.

58) The Kim Young-sam government, chosen by the people at the time, was strongly swayed by the sentiment that the private sector should invigorate the government. In addition, stimulating the private sector into participation was in line with the deregulation and privatization occurring all over the world along with globalization. More than anything else, however, the central motive was to ease the government’s financial burden in constructing social infrastructure (Kim Gwang-su, *Ibid*, 2009, p.169).

59) The Public-Private Partnership Act has a characteristics of a special law in that it not only prescribes general matters concerning public-private partnership projects but also takes precedence over other relevant Acts. (Choi Seung-pil, *An Examination on Public-Private Partnership Projects from a Legal Perspective*, HUFs Law Review, 2010, 34(1), p. 301).

60) Before the Promotion of Private Capital into Social Overhead Capital Investment Act was established in 1994, private investment in social infrastructure was governed by the

(1) Definition and classification of social infrastructure

The purpose of the Public-Private Partnership Act is to contribute to the development of the national economy by encouraging the creative and efficient expansion and operation of infrastructure, through promoting the investment of the private sector in such infrastructure. (Article 1 of the Act).

The Public-Private Partnership Act lists types of social infrastructure facilities that are the object of the current Acts and define public-private partnership projects for such infrastructure facilities as the public-private partnership projects under the Act. Infrastructure facilities under the Act means fundamental facilities which serve as the foundation of production, increase the efficiency of such facilities, and accommodate the convenience of users and in the lives of the public. Infrastructure facilities include roads and appurtenances thereof, railroads, urban railroads, harbor facilities, airport facilities, multi-purpose dams, water supply systems, sewage systems and public sewage disposal facilities, river facilities, fishery harbor facilities, waste disposal facilities, telecommunication facilities, electric source facilities, gas supply facilities, integrated energy facilities, information and communications network, logistics complexes, logistics terminals and warehouses, passenger car terminals, passenger terminals, tourist resorts and resort complexes, off-road parking lots, urban parks, wastewater treatment terminal facilities, livestock excreta public treatment facilities, recycling facilities, public sports facilities, juvenile training establishments, libraries, museums and art galleries, etc.

(2) Modes of execution for public-private partnership projects

The stages of public-private partnership projects are divided into Build, Rehabilitate, Own, Operate, Transfer, etc., and the modes are classified by the

individual Acts in respective areas, such as the Toll Road Act, the Harbor Act, etc.

combinations of each stage. According to this classification method, the investment modes are divided into BTO, BOT, BOO, BLT, ROT, ROO, etc.

First, BTO (Build-Transfer-Operate) is the mode by which the ownership of the infrastructures is transferred to the State or a local government upon the completion of construction, and the concessionaire has the rights to manage and operate the infrastructure facilities for a specified period. A BTO method is a type of public-private partnership project under Article 4 (1) of the *Public-Private Partnership Act* and is used for construction of facilities that can guarantee the recovery of investment through revenues generated by operating roads, railroads, harbors, etc.⁶¹⁾

Second, BOT (Build-Operate-Transfe) is the mode by which the concessionaire assumes ownership of the infrastructure facilities for a specified period after the completion of construction, and the ownership is transferred to the State or a local government upon the termination of the concession period. The interior container construction project of the Northern Capital area interior cargo base in Paju belongs to this category, in which the concessionaire may meet operation costs with operation revenues and pursue profits. This is the type stipulated under Article 4 (3) of the *Public-Private Partnership Act*.

Third, BOO (Build-Own-Operate) is the type stipulated under Article 4 (4) of the *Public-Private Partnership Act*, a mode by which the concessionaire assumes ownership of the infrastructure facilities upon the completion of construction. In a BOO project, the concessionaire has ownership of the social infrastructure facilities and may charge fees from the users of the facilities, which is the same as in a BOT structure, but it differs from the

61) Yu Yeong-cheol, *A Study on Policy Development for Private Investment for the Expansion of Social Infrastructure*, Korean Policy Association, 2008, 17(2), p. 7.

BOT method in that the concessionaire has permanent ownership of the facilities.

Fourth, BLT (Build-Lease-Transfer) is a mode by which the concessionaire leases the rights to manage and operate the infrastructure facilities to the government upon the completion of construction. After the expiry of the leasing, the ownership of the infrastructure is transferred to the State or a local government. This is the type stipulated under Article 4 (3) of the Public-Private Partnership Act and is newly introduced in the 2005 revision of the Act. The method was initially introduced to improve the investment situations of the cultural or sports facilities from which it is difficult to recover investment only through operation of the facilities,⁶²⁾ but it is presently also applied to investment in transport facilities such as railroads, roads, subways, etc. and in finance and technology sectors.⁶³⁾

Fifth, ROT (Rehabilitate-Operate-Transfer) is a mode by which, upon the completion of rehabilitating the preexisting infrastructure facilities owned by the State or a local government, the concessionaire has the rights to manage and operate the said facilities for a specified period. Mostly, the operation rights

62) For more detail, see the bill for revision of the Act on Private Participation in Infrastructure, which was submitted by the government in 2004.

63) The Daejeon Subway Construction Authority was selected on August 25, 2005 as an excellent innovation model case by the Balanced National Development Committee for financing their project through the BLT method for the first time in Korea. In this BLT structure, the 284.5 billion KRW contract has been signed, under which the investor directly finances funds via mid- to long-term loans for facilities and installs and leases for a specified period (at least five years) the infrastructure facilities in finance, electricity, electric rail, signals, communications, subway station automation, vehicles, examination, and other technical areas. Upon the expiry of the period, the ownership of the facilities is transferred to to the local government. (Park Gil-su, The Daejeon Subway Construction Authority selected as an excellent innovation model case for the BLT method, Aug. 26th 2005, p. 5, vid. the news article, <http://www.cctoday.co.kr/news/articleView.html?idxno133106>, visited on Apr. 3rd 2012).

of facilities owned by the State or a local government, which are aged or need improvement, are transferred to the private sector, which rehabilitates or improves the facilities and gain operation revenues. Accordingly, the ownership of the infrastructures is transferred to the government after the expiry of a specified period.

Sixth, ROO (Rehabilitate-Own-Operate) is a mode by which the concessionaire rehabilitates the preexisting facilities and has ownership of the said facilities.⁶⁴⁾ This method is similar to the ROT method in terms of the object of its project but differs in the recognition of ownership.

In addition, there are other methods such as CAO (Contract-AddOperate) and DOT (Develop-Operate-Transfer).

(3) Contents and procedures of public-private partnership projects

The Public-Private Partnership Act prescribes that the State or a local government first formulate basic plans for public-private partnerships in infrastructure in order to induce public-private partnership in the creation of social infrastructure (Article 7 of the Act). This plan is a general guideline for a public-private partnership project and shall include matters concerning policy orientation, the scope of investment, and the management and operation of private public-private partnership projects (Article 8 of the Act).

As such, a person who intends to conduct a public-private partnership project in accordance with the government's basic plan for public-private partnership project shall prepare a project proposal and submit it to the

64) Gwon Gyeong-hyeon, *A Legal Study on the Applications of the Act on Public-Private Partnerships in Infrastructure in New/Renewable Energy Equipment, etc. Administrative Law Review*, 2010, 27, p. 95.

competent authority. After evaluating the written proposal, the competent authority designates a potential concessionaire and make a concession agreement⁶⁵⁾ with the designated potential concessionaire through negotiations.⁶⁶⁾ After the concessionaire has completed the project, he shall obtain the confirmation of the completion from the competent authority, and in BTO and BTL projects, the concessionaire contributes such facilities to the competent authority, for which the competent authority recognizes the concessionaire's rights to manage and operate the said facilities. The concessionaire manages and operates the facilities and may recover investment with revenues generated from charges, operation fees and rental fees and pursue profits.⁶⁷⁾

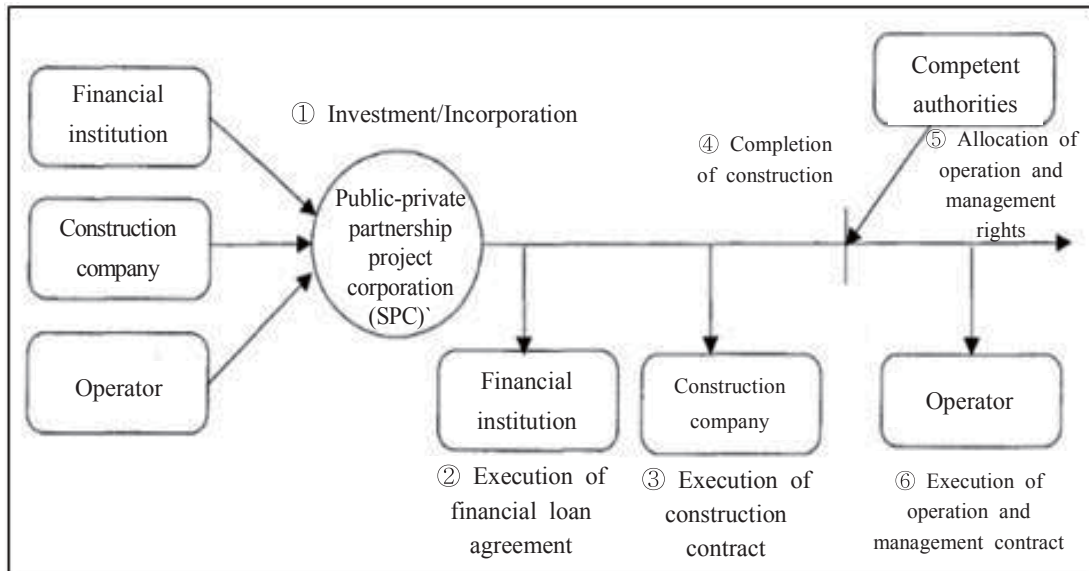
The figure below illustrates the implementation procedures described above, centering around the main interested parties, i.e., construction companies, financial institutions, operators and competent authorities.

65) By entering into a concession agreement, the concessionaire is designated, and the agreement provides the basis for the management and operation of the social infrastructure facilities carried out as the public-private partnership project, including matters concerning the rights and duties of the parties to the agreement, decision on and alteration of the total project cost, financing and allocation of funds, construction and operation of the facilities, imposition and collection of usage fees, expiration and termination of the agreement, and methods of dispute resolution, etc. (Kim Gwang-Soo, Legal Issues in the Public-Private Partnership System for Social Infrastructure, Public Land Law Review, 2009, 43(2), p. 174).

66) Choi Seung-pil, Ibid, 2010, p.302.

67) Yu Yeong-cheol, Ibid, 2008, p.9.

<Figure 1> Implementation procedures of public-private partnership projects



Sources: Jeon Hyeon-ho, Choi Won-seok, Lee Yeong-han, A Casestudy on the Impact of the Introduction of International Accounting Standards on the Accounting and Taxation in Public-Private Partnership Projects: Focusing on BTL Projects, the Journal of Accounting, Vol. 20, No. 2, 2011, p. 596.

Section 3. Analysis and Suggestions

1. Analysis on the Social Infrastructure policies and legislation

To recap the major achievements of social infrastructure policies so far pursued and the legislation in support of those policies, in the period of the 1st Comprehensive National Territorial Development Plan (1972-1981), anywhere in the country became reachable in one day through the construction of Honam, Yeongdong, Namhae and other Highways, the Subway Line No. 1 opened in the Seoul Metropolitan area,⁶⁸⁾ and the Southeastern

68) Expansion and paving of major arteries also progressed considerably, and the road

Coast Industrial Complexes was constructed. In the period of the 2nd Comprehensive National Territorial Development Plan (1982-1991), the transport system was established through the construction of the Olympic Motorway, Jungbu Motorway, Seoul Subway Line No. 3 and No. 4, and the Busan Subway system, and the construction of nuclear power plants in Yeonggwang and Uljin was highly successful. Despite these achievements, however, a shortage of social infrastructure, such as roads, railroads and harbors, due to the economic expansion caused a rise in distribution costs, thus weakening the country's international competitiveness.⁶⁹⁾

In the period of the 3rd Comprehensive National Territorial Development Plan (1992-2001), in light of the recognition that investment in social infrastructure should be expanded, a new industrial complex was constructed along the West Coast area, and the Southern part of the SeoulSinuiju Railway was successfully reconstructed under the inter-Korean agreement. In this period, in order to resolve the shortage of financial resources needed for expansion of social infrastructure, the private capital inducement system was introduced, and the Promotion of Private Capital into Social Overhead Capital Investment Act was enacted in 1994 to provide a legal basis for the inducement of private capital.⁷⁰⁾ A largescale private investment was expected

pavement ratio rose from 4.2% in 1971 to 66.5% in 1989. The electric rail extension rapidly progressed as well, increasing from 415.58 km in 1976 to 524.4 km in 1988. (Yang Ji-cheong, *Land Development and SOC Investment for the 2000s*, Construction Economy, 1991, 5, p.43).

69) Wang Se-jong, *Ibid*, 2005, p.1.

70) Even in the early 1990s, there was some legal basis for inducing private capital in public-private partnership under the Toll Road Act, the Harbor Act, the Railroad Act, etc., but the relevant provisions were overly general and proclamatory, lacking concrete grounds for guaranteed profitability or actual effect. As such, there had been only a few instances of public-private partnership projects, such as those for the Railway Administration's railway stations.

after the enactment of the Act, but due to the foreign exchange crisis that suddenly erupted in 1997, the Korean economy went through an unexpected economic slump. Also due to some issues in the law, it failed to attract proactive investment from the private sector.

Accordingly, the contents of the Act were wholly amended on December 31, 1998, with the title of the Act changed to the Act on Private Participation in Infrastructure, to address the previous legal issue, diversify the methods of public-private partnerships in social infrastructure investment,⁷¹⁾ guarantee fixed profit rates, expand government support⁷²⁾ and adopt other proactive inducement systems. As a result of the enactment of this Act, interest in public-private partnership projects sharply rose in the financial sector, and the improved financing environment led to increased private investment.

In the period of the 4th Comprehensive National Territorial Plan (2000-2020), investment in social infrastructure continued, but the increase in welfare expenditure, etc. constrained the continued financing by the government. In order to vitalize investment in social infrastructure by foreign capital and private capital, the government revised the Act on January 27, 2005 and changed its title to the Act on Public-Private Partnerships in Infrastructure. Under this Act, the objects of public-private partnerships were expanded from

71) Previously, in the case of major facilities, the only recognized methods were either a method by which the ownership reverted to the State, etc. and the concessionaire only had the operation rights or a method by which the concessionaire had the ownership of the relevant facilities upon the completion of the social infrastructure facilities. However, the revised Act also recognizes a method by which upon completion of construction, the concessionaire has the ownership of the facilities for a specified period and the ownership is transferred to the State or a local government after the expiry of that period. Also added to the list of available methods is the one that the competent authority presents in a basic plan for a public-private partnership project.

72) In order to strengthen financial support, the provisions are provided for giving a basis for establishing a SOC investment and finance company by domestic and foreign financial institutions for the purpose of investment, etc. in social infrastructure.

mostly industrial infrastructure to infrastructure for living, such as education, medical, welfare and cultural facilities. These facilities are difficult for the concessionaire to operate and manage directly, and it is difficult to guarantee the recovery of invested funds at fixed profit rates. For these reasons, projects for these facilities are based on the mode by which they are leased to the government.⁷³⁾ This type of approach contributed toward the enhanced quality of life for the people by revitalizing investment in education, welfare and cultural facilities.

2. Suggestions for Creation of Social Infrastructure

(1) Vitalization of public-private partnership

The methods of public-private partnership projects so far executed in Korea fail to escape the government-led approach. In the process of providing social infrastructure serving the great public interest, it is possible to take advantage of the creativity and efficiency of the private sector, and the government may disperse responsibilities for risks to be borne by the public sector and efficiently use limited resources.⁷⁴⁾

However, there is a lack of communication between the government and private corporations in social infrastructure investment, and the principle of competition is yet to be introduced to the selection process for a negotiation partner. The government evaluates the written proposals submitted by

73) In this Build-Transfer-Lease model, the concessionaire is responsible for financing and constructing facilities, and the government is responsible for operating the said facilities. The private investment is recovered through the government's revenues generated by collecting rental fees from the facilities and gaining profits from any other supplementary businesses.

74) Wang Se-Jong, Ibid, 2005, p.17.

prospective concessionaires and selects the concessionaire with the highest points, and the rest of the process consists of consultation between the concessionaire and the government, reducing room for the third party participation. Projects based on this type of implementation procedures tend to have the reduced public benefit and efficiency and lessen the efficacy of national land planning. Therefore, a legal device should be put in place in the Public-Private Partnerships Act by which to maximize the creativity and efficiency through fair competition among business operators interested in public-private partnership.⁷⁵⁾

(2) Strengthening the public interest

Public-private partnership in social infrastructure utilizes private capital instead of government funding, and the State or a local government provides many preferential treatments. For instance, a concessionaire may receive various financial favors, such as subsidies, long-term loans, reduction or exemption of charges or expenses, and of taxes (Article 53 and 54 of the Public-Private Partnerships Act).

In addition, in cases it is difficult for a concessionaire to supply or operate social infrastructure for unavoiab

reasons, the concessionaire of a revertible facility may request the State or a local government to buy out the relevant facility.⁷⁶⁾

75) Kim Gwang-su, *Ibid*, 2009, p. 178.

76) Article 39 of the Enforcement Decree of the Public-Private Partnership Act stipulates the grounds for recognition of buyout right, under which the concessionaire of a revertible facility may request the State or local government to buyout the relevant facility (including supplementary facilities) in the following cases: (1) natural disasters, war, and other cases of force majeure by which construction is suspended for six months or longer or the total project cost increases by not less than 50 percent; (2) natural disasters, war, and other cases of force majeure by which the operation of the

As such, in connection with public-private partnership, it is most important to reach a harmony between the profitmaking sought by private business operators and the public interest pursued by the State or a local government. With respect to ensuring the public interest, Article 7 (2) of the Public-Private Partnerships Act provides that the plan shall be conducive to the creativity and efficiency of the private sector while ensuring the function of infrastructure facilities in serving the public interest. Article 45 of the same Act prescribes that the competent authority may supervise matters related to the public-private partnership project of a concessionaire and issue orders necessary for such supervision. Further, in cases the concessionaire violates the legal duties under Article 45, the competent authority may suspend or alter infrastructure facilities works, remodel, alter or restore the original state of any facilities or things thereof, or take any other necessary dispositions to the violator.

Despite these regulatory measures against the concessionaires of social infrastructure, discontented voices are still loudly heard. Some argue for proactive participation of the private sector in the expansion of social infrastructure, and others are critical of the high risk of market failure, posting that private participation may lead to insufficient or low quality supply of infrastructure. However, in the case of developing countries where there are serious investment shortages and inefficiency issues caused by government failures, it is widely believed that public-private partnership should be

facility is suspended for six months or longer, or where the repair cost or reconstruction costs exceed 50 percent of the total project cost originally planned; (3) where the construction or operation of the facility has been suspended for six months or longer because the State or a local government has failed to perform its duty under the concession agreement for a year or longer after receiving the notification of the cause for the performance of its duties, or where the duties are simply not performed without any justifiable ground; and (4) where a cause determined by the concession agreement occurs, as the competent authority deems it reasonable to recognize the buyout right of the concessionaire.

proactively vitalized to expand social infrastructure.⁷⁷⁾

(3) Support system for public-private partnership in social infrastructure

The support system for public-private partnership in social infrastructure are divided into legal support policies for creating favorable investment conditions and financial support policies for which government expenditure increases or revenue reductions can be expected. The legal support policies include legal fiction of authorization and permission, etc., land expropriations, allowance of supplementary businesses, recognition of management and operation rights as property rights, limitations placed on the investment ratios and voting rights of the public sector. The financial support policies include the gratuitous use of national or public properties, credit guaranteed through the Infrastructure Credit Guarantee Fund⁷⁸⁾, subsidy payments, buyout claims, and reductions or exemptions of various charges or taxes.

Despite all these various government support systems, clear principles and standards to decide on the size and content of government support is yet to be established, leading to confusion in the process of carrying out public-private partnership projects.⁷⁹⁾ Therefore, there is a need for discussing whether to introduce the Public Sector Comparator (PSC) method by which the ceiling on the size of government support is set through comparison between

77) Wang Se-Jong, Ibid, 2005, p.15.

78) The Korea infrastructure credit guarantee is a system established to support the concessionaire of a public-private partnership project by guaranteeing the credit of the concessionaire with a certificate of credit guarantee in lieu of a security when the concessionaire seeks loans from financial institutions to finance business operation so that the concessionaire may smoothly secure financing.

79) Kim Heung-su, *A Study on the Risk Distribution and Government Support System for the Public-Private Partnership Projects*, Construction Industry Trends, Construction Economy Research Institute of Korea Research Paper, 2001, p.2.

the government-funded project approach and the public-private partnership project approach,⁸⁰⁾ as well as a need for discussing the subsidy payment system that has the greatest impact on the improvement of project profitability among various government support systems and that directly burdens the government with regard to the application of specific standards and models for the system.⁸¹⁾

80) Developing a Model Transaction for PPI Project in Korean Model 2, PICKO/KRIHS, 2001, p5.

81) Choi Seung-pil, Ibid, 2010, p.312.

Chapter 5. Suggestions from Korea's National Land Development Legislation

Section 1. Current situations of National Land Development in Developing Countries

This study is not concerned with a specific country, and in order to supplement insufficient standardized data on the current situations of national land development in developing countries, the content of the survey conducted by the Korea Research Institute for Human Settlements on the assessment of current situations of national land planning systems in developing countries and on the areas for which support is desired.⁸²⁾ According to this survey, urban plans are being formulated in most countries, but higher-level national land plans and regional lands are not.⁸³⁾ Countries that do draw up their national land plans can be divided into two groups: one in which planning is done by individual laws and the other in which planning is included in their national economic development plans.⁸⁴⁾

With respect to the planning body, the central governments play the central role in planning, and financial resources for the installation, operation and

82) The survey questionnaire consists of a total of 32 questions, which are divided into the following sections: country and personal information, evaluation of the planning system of his/her own country, evaluation of Korea's planning system, and areas where support is desired. For more information on the questionnaire and the coding data based on the survey results, see Jeong Jin-gyu, *et al.*, A Study on the Cooperation Schemes for the Advancement of Spatial Planning System in Developing Countries, Korea Research Institute for Human Settlements, Research Paper, 2009, Appendix 4.

83) Of the countries surveyed, there are five countries that do not formulate a national land plan: Nigeria, Kenya, Iraq, Laos and Cambodia. And there are seven countries that do not formulate regional plan: Nigeria, Kenya, Iraq, Laos, Guatemala, Uganda and Tanzania.

84) Jeong Jin-gyu, *et al.*, *Ibid*, 2009, p. 41.

management of social infrastructure are funded by the government, with low levels of investment by the private sector. In public-private partnerships in social infrastructure, it is shown that foreign participation is lower than domestic one.⁸⁵⁾ The level of adjustment for relevant legislation and statistical database, and the level of budgetary funding for planning are also evaluated as somewhat low.⁸⁶⁾

The issues with spatial planning systems in developing countries, classified by element of planning systems can be summarized as follows.

<Table 9> Summary of issues with spatial planning systems in developing countries

Categories	Issues
Plan formulation	Lacking in national land plan and other higher-level plan formulation
Planning body	Lacking in participation by foreigners, private business operators, and citizens Quantitative and qualitative shortage of experts in local governments
Planning tools	Shortage of institutional basis for spatial planning, such as laws and guidelines Shortage of technological basis such as statistical DB and GIS
Overall assessment	Inadequate environment in regional planning (expert personnel and finances, etc.)
Comparison by economic levels	More inadequate in the poorest countries
Comparison by region	No apparent differences

Sources: Jeong Jin-gyu, et al., *Ibid.*, p. 47, requoted from the Summary of Issues of Spatial Planning Systems in Developing Countries.

85) 高阪宏行, 村山祐司, Kim Eung-nam, et al. (trans), *GIS Geography*, Donghwa Tech., 2006, p. 83.

86) Yoon Ji-hyeon, *Strategies for Korea's Public Development Aid to the Urban Sector in Developing Countries*, Graduate School of Urban Sciences, University of Seoul, Master's Thesis, Aug. 2010, p. 17.

According to the questionnaire survey of experts in developing countries on the areas desired to be supported for the advance of their countries' national land planning systems, preference is shown in the order of: GIS building at 24%, legal reform at 19%, strengthening education at 18%, and improving financial policies at 13%. When compared by economic levels, the areas desired to be supported are very similar among middlelow income countries and low income countries, but in the poorest countries, areas related to finance such as financial policy improvement and vitalization of public-private partnership are more desired than average.⁸⁷⁾

To review the current situations of the support by international organizations and advanced countries for building national land planning systems in developing countries, the World Bank and the Asian Development Bank, etc. are operating various forms of programs such as one that builds cooperation systems centering on technological and financial support for advancing spatial planning capacity in developing countries.⁸⁸⁾ Advanced countries like Japan, the United States, France and Germany are also carrying out various support activities through cooperation with their countries' international cooperation agencies and financial institutions.⁸⁹⁾ In the case of Korea, the KOICA is conducting projects supporting the capacity building related to national land planning systems, centering around Southeast Asian countries such as Cambodia and Vietnam. Most of the support projects involve

87) Jeong Jin-gyu, *et al.*, Ibid, 2009, p. 48.

88) The World Bank adopts traditional support methods such as technical support and training. The latest projects the World Bank has carried out include: construction of a sustainable transport system in Xi'an, China; provision of development funds to an urban development project in Ho Chi Minh City, Vietnam; competitiveness enhancement programs for local governments in Indonesia; and sustainable transport alternatives for policy improvement, etc. The Asia Development Bank provides technical and financial support needed for solutions to urban problems.

89) Jeong Jin-gyu, *et al.*, Ibid, 2009, p. 79.

development masterplan projects for new cities or specific industrial complexes and feasibility assessments prior to investment in infrastructure.⁹⁰⁾

The KOICA is presenting Korea's development experience as a development model for developing countries and carrying out diverse support activities, but is revealing its limitations due to the lack of systematic study in Korea's land development experience and its replicability and the lack of practical concreteness. In particular, there is a gap between desired areas of support in land planning systems and the support projects implemented so far, failing to meet the diverse demand for support for educating expert personnel, improving legal systems and creating infrastructure and other topics.

Therefore, it is believed that based on the research in Korea's national land development policies by economic growth stage, evolution of legislation and national land development plans, presenting suggestions or points for consideration when establishing national land development legislation for building social infrastructure will have great significance in the expansion of human and institutional development capacity in developing countries.

Section 2. Suggestions from Korea's Land Development Legislation

1. Premises for Presenting Suggestions

(1) Securing the legitimacy of the legal system

To reiterate the evolutionary process of Korea's national land development legislation, before the Framework Act on the National Land, planning laws

90) Kang Myeong-gu, Gwon Dae-han, Kim Bo-min, *et al.*, *Significance and Policy Tasks of Land and Urban Planning and Development in International Development Cooperation: Land Development Support to Underdeveloped Countries*, Korea Planners Association Information Bulletin Urban Info., 358, p. 6-10.

and regulatory laws were enacted for the efficient execution of plans and the utilization, management and preservation of national land, with the Act on Comprehensive Plans for Construction in the National Territory at the top. And because each agency pursued enactment of different laws needed for the formulation of national land plans and development projects, many disparate laws were implemented, thus leading to many issues caused by contradictions and overlapping among the laws in the legal system as well as in the implementation systems of national land plans. As such, the Act on Comprehensive Plans for Construction in the National Territory was reconstituted with a new system and content into the Framework Act on the National Land enacted in 2002 to reorganize the national land planning system and to strengthen inter-plan harmony and interconnectivity. Further, the Urban Planning Act and the Act on the Utilization and Management of the National Territory were repealed and merged into the National Land Planning and Utilization Act. However, this readjustment through the consolidation of individual laws and supplementation of the legal system fell short of resolving the issues such as the need to harmonize land use under individual laws and the comprehensive national land plan system, and the planning authority of local governments.⁹¹⁾

Therefore, at the stage of newly formulating comprehensive and systematic national land development planning and related legislation, systematic and specific examination of legislation cases of other countries is needed.

(2) Legislation based on the rule of law

National land development projects take long time from planning to completion, require massive capital input and have a wide range of develop-

91) Lim Hyeon, *Trends in Land Planning Legislation*, Ilkam Law Review, 2011, 20, p. 232.

ment, causing fundamental changes to residents of the development area and the natural environment. In particular, residents living in the development area face land expropriation, restrictions on dwelling, business activities, exercise of property rights and land use, etc. If the infringement on the residents' private interest outweighs the public interest to be gained by the national land plan and legislation, legislators should apply stricter standards. Therefore, the legislators should take more careful approach and keep the constraint on the basic rights to the minimum extent necessary in accordance with the principle of proportionality and the principle of less restrictive alternative.⁹²⁾

(3) Legislation based on the principle of sustainable growth

Natinal land planning and the consequent development bring about great changes to the exisiting spatial structure, natural environment and natural conditions. In the process of Korea's land development, a considerable degree of destruction of the natural environment and environmental degradation was experienced in the name of national land development. In particular, national land development from the 1960s through the 1980s was carried out at the price of destruction of the natural environment.⁹³⁾ Thereafter, as reckless development destroyed the living environment of the people and wreaked irrecoverable havoc on the ecosystem, sustainable land development was established as the basic principle of policymaking and legislation.⁹⁴⁾

92) Mun Jae-Wan, *Media Law*, Nulbom, 2008, p. 36.

93) Kim In, Lee Gi-seok, *et al.*, *Policy Tasks of Land Development for the 21st Century*, Korea Research Institute for Human Settlements Research Paper, 1996, p. 44.

94) The Framework Act on the National Land prescribes that management of national land shall be conducted in an environment-friendly manner (Article 5 of the Act). As such, the State and local governments shall, in formulating and executing the plans or projects for the national land, take account beforehand of any impacts on the natural and living environments, and ensure that any adverse impacts on the environments may be

Although it may seem as if land development and environmental protection cannot go hand in hand, it is only through land development based on harmony between development and the environment that the quality of life for the people can be improved. However, when considering that it is virtually impossible to recover the natural environment and ecosystem destroyed in the process of implementing land development projects and that natural disasters and other negative consequences that may befall in the wake of these destructions tend to go beyond the range of predictability in most cases, it is of utmost importance to seek alternatives that allow harmony between development and the environment in the process of formulating national land development plans and legislation.⁹⁵⁾

(4) Legislation that includes assessment systems

The national land planning legislation is one of the planning legislation and aims at the sound development of national land and the improvement of the quality of life for the people by prescribing matters necessary for the formulation and implementation of comprehensive national land plans. As such, laws related to national land development and plans are once legislated and implemented, their impact on most people and the entire country can be widely felt for a long time, requiring the accuracy of prediction by the legislators all the more.⁹⁶⁾

minimized (Article 5 (1) of the Act). In addition, the State and local governments shall formulate a comprehensive plan for land utilization in order to prevent any disorderly development of the national land and to smoothly supply lands required for the citizens' living, and shall systematically manage any space of the national land in pursuance of the said plan (Article 5 (2) of the Act).

95) Choi Yun-cheol, *Ibid*, 2003, p. 65.

96) In particular, in the process of expanding SOC and providing facilities, etc., instances do occur where the basic rights of the citizens are directly restricted. Of course, a

However, due to the lengthening of project periods and the massiveness of development scale, it is harder for the legislators to make accurate predictions for the national land development. Various internal and external factors that can transpire in the implementation period of the development plan carried out over a long period of time, making the prediction by the legislators all the more difficult. Therefore, the legislators ought to adjust laws by carrying out the impact analysis during the legislation process, parallel assessment and post evaluations.⁹⁷⁾

2. Formulation of National Land Development Principles

Comprehensive National Territorial Plan has been established and carried out in Korea at an interval of about a decade, and its basic principles of land development have changed in step with the stage of the state's socioeconomic development, degree of urbanization and historical background. The development principles, i.e., policy principles presented in the four Comprehensive National Territorial Plans have served as guidelines for policy objectives, reflecting the values and ideas that change in accordance with the trend and demand of the time. In the case of developing countries, the principles of land development should be set to suit the conditions of the time and socioeconomic and political peculiarities in which each country finds itself, and effective policy contents should be set to realize them.

broader scope of discretionary power is allowed for legislators in the execution of the government's economic development plans and economic policies, but even in these cases, the principle of proportionality shall be adhered to (Constitutional Court Ruling, Sep. 29, 2011. Heonma 1083).

97) Choi Yun-cheol, *A Study on Legislators' Obligations for Improving Legislation in Germany*, Public Law Review, 2003, 31(3), p. 365.

At present, urbanization in the wake of industrialization is rapidly occurring in most developing countries, at a speed faster than that of advanced countries, within a shorter timeframe, and the concentration of population and industry on cities give rise to problems in housing, water supply and sewer systems, transport, environment, reckless development in urban areas.⁹⁸⁾ Therefore, when drawing up land development and urban plans and enacting legislation, the sound development of national land and the enhancement of quality of life for the people should be set as the highest principle of development.

However, policies for realizing the principles of land development can be pursued in accordance with the demand of the time. For instance, at a point when stable economic growth is called for, balanced regional development can be set as the principle of national land development, thereby curbing the excessive concentration of population and industry and realizing the balanced development of regions. In addition, sustainable development should be pursued to preserve the natural environment and improve quality of life for the people in creating the living environment.

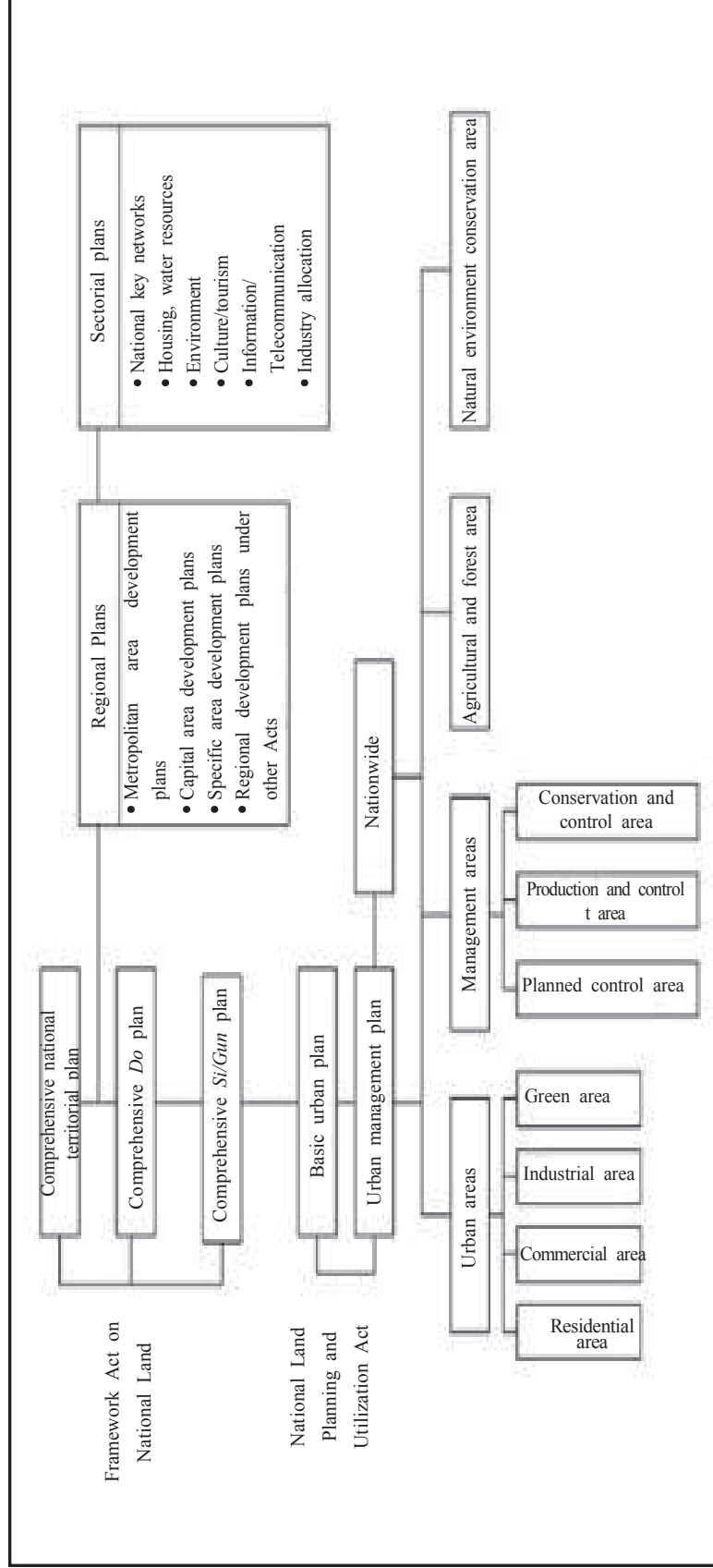
3. Establishment of National Land Planning System

Korea's Framework Act on the National Land integrates the spatial planning system in a layered structure, classifying land plans into a comprehensive national land plan, a comprehensive *Do* plan, a comprehensive *Si/Gun* plan, a regional plan, and a sectoral plan. The comprehensive national land plan forms the basis for the *Do* comprehensive plan as its higher plan, and the *Do* comprehensive plan forms the basis for the *Si/Gun* comprehensive

98) Kang Myeong-gu, Gwon Dae-han, Kim Bo-min, *et al.*, *Ibid*, p. 4.

plan for areas under the jurisdiction of the relevant *Do* as its higher plan. With respect to urban planning, it is prescribed by the Urban Planning Act, rather than by the Framework Act on the National Land, but urban planning takes an important position in the hierarchy of national land planning system from the comprehensive national land plan to the comprehensive *Do* plan to the comprehensive *Si/Gun* plan, as well as for the utilization of national land space and the realization of policy objectives for the national land planning.

<Table 10> National land planning system under the current national land development legislation



Sources: Choi Eun-suk, Harmony of Private and Public Interests under the Urban Planning Act, Department of Law, Sungshin Women's University, h.D. Thesis, 2007, quoted from the table on p. 10.

France, Japan and the Netherlands also have a layered land planning system with a national plan, regional plan and plans structured under them, specifically prescribing the inter-plan relationship in the framework law for national land development, though their terms and types of legislation vary from those in Korea.⁹⁹⁾ On the other hand, Britain, the United States, Germany and most other major advanced countries do not draw up the comprehensive national land plan at the central or federal government, which instead sets the basic policies and direction for land utilization in connection with environmental preservation, and specific planning objectives and implementation strategies are dealt with in regional plans or urban plans formulated by state or provincial governments. The latter type of legislation is similar to the legal system where instead of formulating the national land plan for the entire country, the central government's economic development plan or national land development policy sets the direction and policy objectives, and spatial planning for the utilization of national land is prescribed by urban plans drawn up by local governments. Therefore, it is desirable for developing countries to select a model that suits the socioeconomic conditions of each country through comparative analysis of two types of legislation models mentioned above.

4. Strengthening the Efficacy of National Land Plans

In Korea, Chapter III of the Framework Act on the National Land (efficient promotion of national land plan) prescribes matters concerning

99) The land plan in France is divided into a nationwide plan, known as the National Plan for the Management of the Territory (SNADT), and a regional plan, known as the Regional Plan for the Management and Development of the Territory (SRADT). The regional plan takes into account the basic direction of the national plan and shall not contradict sectoral plans (Park Yang-Ho., et al., A Collection of Basic Research Material for the Establishment of the Framework Act on the National Land, Korea Research Institute for Human Settlements, 2001, p. 132).

formulation and assessment of implementation schedule, consolidation of comprehensive national land plan, adjustments of plans, adjustments of disposition, etc. as to national land plan, and financial measures, etc. This Act makes it mandatory to formulate an implementation schedule for comprehensive national land plan as a means of efficient execution of national land plans,¹⁰⁰⁾ and the Act stipulates a periodic assessment system to review the implementation results.

In accordance with these provisions, the Minister of Land, Transport and Maritime Affairs makes an overall review of the comprehensive national land plan every five years by taking account of the outcomes of assessment for the implementation results of the comprehensive national land plan and the changes in social and economic conditions, and if deemed necessary, he/she may upgrade the said plan. In cases where different land plans are contradictory to each other or not in conformity with the comprehensive national land plan, the Minister of Land, Transport and Maritime Affairs may coordinate such plans, thereby strengthening the coordination among land plans and projects and enhancing the consistency and efficacy of the land plans.

The means of strengthening land planning described above is a common feature shared by France, Germany, Japan and other countries in their framework laws on national land and their government policies that set basic direction for land development and adjustment,¹⁰¹⁾ and by periodically analyzing

100) To formulate an implementation schedule, the head of a central administrative agency and the head of a local government shall reflect the contents of the comprehensive national land plan in the policies and plans related to his/her competent duties, and formulate an implementation schedule by competence and submit such schedule to the Minister of Land, Transport and Maritime Affairs. (Article 18 of the Framework Act on the National Land).

101) For more information on the means of strengthening the effectiveness of basic land laws of major countries, see Park Yang-ho, *et al.*, A Collection of Basic Research Material for the Establishment of the Framework Act on the National Land, p. 134, <Table X-4>

and examining the current implementation situation of the land plans and by revising and supplementing the land plans, the limitations of comprehensive national land plans can be overcome. This may provide an important point of reference for developing countries in their legislation process.

5. Construction of National Information System

In response to the new land policy environment represented by the advent of knowledge and information society, a national land information system should be expanded to build and utilize human geographical information related to national land for a more rational formulation and execution of national land plans. In Korea, national land surveys began to be conducted under the Act on Comprehensive Plans for Construction in the National Territory,¹⁰²⁾ and the national land surveys may be classified into a periodic survey and a non-periodic survey.¹⁰³⁾

Matters related to the efficient implementation of national land survey should be made to be based on the Framework Act on the National Land or the basic policies on the national land development and adjustment in order to support the formulation of national land plans and the drawing up

Comparison of basic land laws in foreign countries.

102) The national land surveys are used as basic material for formulating a range of plans such as economic plans and social plans, as well as national land plans. To avoid duplication, the Ministry of Construction and Transportation has published and distributed copies of the overview of national land surveys since 1962. At present, the Ministry of Land, Transport and Maritime Affairs are publishing them in the form of an annual report on national land.

103) The periodic survey is the survey that is conducted annually to make use of findings from the survey to formulate and implement policies and plans of the national land, and the non-periodic survey is the survey that is conducted on a specific region or a specific sector, etc. that is deemed necessary to be surveyed by the Minister of Land, Transport and Maritime Affairs (Article 10 (2) of the Enforcement Decree of the Framework Act on the National Land).

of related reports by constructing an information system comprehensively covering the existing information on the utilization of national land and the current situations of social infrastructure, land environment, and regional development to organize basic data on national land.

Presumably, a report on the formulation of national land plans and policies may contain the following matters: (1) formulation and management of the national land plan; (2) policies promoted and those intended to be promoted for planning and utilizing the national land; (3) current status of regional developments and major policies; (4) current status of social infrastructure; (5) current status of utilization of the national land resources; (6) current status of the national land environments and major policies; (7) current status of the land utilization by specific-use area, and trends of the land transactions; and (8) other important matters for the plan for and utilization of national land(Article 24 of the Framework Act on the National Land).

Chapter 6. Conclusion

This study aims to present suggestions from Korea's land development legislation by sharing Korea's experience with developing countries through surveying and analyzing Korea's land development policies and legislation formulated in accordance with the country's economic growth.

Korea's land development and adjustment in a modern sense began in earnest from the 1960s. Institutionally, the Act on Comprehensive Plans for Construction in the National Territory, enacted in 1963, became the mother law of four Comprehensive National Territorial Plans which have been formulated and carried out at an interval of about a decade. At present, the 4th Comprehensive National Territorial Plan Corrective Plan (2011-2020) is being implemented. These plans vary considerably in their basic principles and implementation strategies by the stage of economic growth, and the legislation process to resolve various problems caused by the implementation of land policies has paved the way for creating the basis for sustainable development across today's economy and society. Therefore, Korea's land development experience presents suggestions that can prove significant in connection with developing countries' efforts to create social infrastructure supporting economic growth and to resolve the problems caused by industrialization and urbanization, such as housing, water supply and sewer systems, transport, environment and reckless development, etc.

Accordingly, based on the analysis of Korea's land development policies and legislation formulated in accordance with its economic growth, matters to be considered when developing countries are newly establishing or supplementing policies and legislation on national land development and adjustment are presented below, taking into account the contents of the

survey on the current situations of spatial planning systems in developing countries and on the areas where support is desired.

First, to the extent that land development legislation is a type of planning law formulated to produce certain desired impacts on the future based on the predictions of legislators, the accuracy of the legislators' predictions are all the more required. As such, the legislators should strive to make their predictions more reliable by taking a range of socioeconomic factors into account.

Second, given that national land planning and the consequent projects bring about great changes to the existing spatial structure, natural environment and ecosystems, sustainable land development based on the harmony of development and preservation should be established as the basic principle for the formulation of national land plans and the adjustment of the legal system.

Third, national land development projects take long time from planning to completion and have a wide range of development, so they are likely to restrict the basic rights of the residents of the development area. Therefore, in accordance with the principle of proportionality and the principle of less restrictive alternative, the public interest of the land development and the private interest of the residents infringed upon by the development should be measured comparatively, and strict standards should be applied in the legislation process.

Fourth, with respect to the composition of land planning systems, whereas Korea, France, Japan and the Netherlands have a layered land planning system with a national plan, regional plan and plans structured under them, Britain, the United States, Germany and most other major advanced countries do not draw up the nationwide land plan at the central or federal government. Instead, their central governments set the basic policies and direction

for land and resources utilization and environmental preservation, and regional plans or urban plans are formulated by provincial governments. Land planning systems in developing countries are similar to the latter type of system, and it is desirable for each country to have a land planning system that suits its own socioeconomic conditions.

Finally, formulation of an implementation schedule for the comprehensive national land plan should be made mandatory as a means of strengthening national land planning, and a periodic assessment system to review the implementation results should be included in the relevant policies and legislation.

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