

Analysis of problems with the enactment and progress of the 'Serious Accident Punishment Act.'

- Focusing on the components of the bill and the critical factors following its implementation

Young Beom Kim¹⁺

¹Department of Crisisonomy, Chungbuk National University, 1 Chungdae-ro, Seowon-Gu, Cheongju, Chungbuk, Korea

A B S T R A C T

As serious accidents in which workers die constantly occur due to insufficient safety management systems at industrial sites, the "Critical Disaster Penalty Act" has been enacted and implemented as a policy to practically prevent them. Despite the existence of similar laws, this law was enacted to establish a preventive system for accidents by strongly criminalizing the management manager of the company in the event of a serious industrial accident. However, there are complaints in the business community that corporate activities are shrinking due to the high level of punishment and confusion due to unclear responsibility, while negative opinions in the labor community that the prospects for improvement are dark due to light punishment. In order to satisfy these opinions smoothly, in-depth follow-up measures should be taken to ensure the effectiveness of the industrial accident prevention policy, such as clarifying the scope and obligation of responsibility, reorganizing laws to make realistic punishment regulations, and inducing employers to invest boldly in accident prevention.

Key words: Critical disasters, industrial accident prevention, Prevention in advance, safety and health measures

1. Introduction

The 'Act on Punishment of Serious Accidents, Etc.' (abbreviated as the Serious Accident Punishment Act) was enacted to prevent serious industrial accidents caused by the company's organizational culture or lack of safety management system and to secure the right to safety of workers, employees, and general citizens. and is being implemented.

In addition to the current highest level, the Industrial Safety and Health Act, an unprecedented law was enacted in the world (Yonhap News; 2022), the UK's Corporate Negligence Act, which became the model for the "Critical Disaster Penalty Act", only stipulates fines for corporations. But Korea's Serious Accident Punishment Act stipulates penalties, fines, and punitive compensation for those in charge of management.

There was a common opinion among experts that industrial accidents could never be reduced by strengthening punishment for business managers alone, and although it was proven and recognized in the cases of safety-related advanced countries,

there are many things that are not quite clear, lacking in-depth realistic consideration. see. Discussion or consideration of the systemic blocking device against adverse side effects and ambiguity resulting from the strengthening and implementation of preventive administration capabilities, such as securing the professionalism of the administrative system for industrial safety management that can produce a practical preventive effect rather than punishment, is an urgent priority. It feels like the bill was enacted in consideration of only the political situation without it (Lim WT; 2021).

In the first place, the Act on the Punishment of Serious Accidents proposed by the National Assembly only had a justifiable theory that it was for the life and safety of the people and workers. In light of whether it is a law or a legal law, it is possible to find an irrationality that deviated from the basic principles of law enactment. In addition, despite the fact that there was a sufficient period of preparation for response of one year from the enactment of this Act to its enforcement, the discussion and follow-

up of the ambiguous content of the Act and the expected inadequacy and subsequent revision were not made. Concerns are growing.

Although it has only been about 5 months since this law was fully implemented after the grace period, the expected practical preventive effect is not showing, while the fact that the company's manager has no choice but to become a potential criminal and a lot of confusion such as an explosion of lawsuits. In particular, in the case of small businesses, where most of the fatal accidents occur, there is concern that they will be in a difficult business environment due to the financial and litigation costs required to deal with the accident, and adverse effects of business deterioration is also occurring (Lim WT; 2021).

On the other hand, if there is a business industry that creates a counter-reward profit in which management is revitalized, on the other hand, besides small businesses that are contracting due to financial difficulties due to the enforcement of this law, the irrationality of economic and social polarization caused by inequality factors cannot be overlooked. Therefore, we analyze the purpose of enacting the Act on the Punishment of Serious Disasters, which places the highest priority on respect for human life, and the principle of enactment of the Act from an ethical point of view. After examining various problems such as negative side effects, we intend to review and analyze suggestions for improvement and policy aspects that have been drawn up to correct and supplement them.

2. Purpose and scope of analysis

2.1 Purpose of the analysis of law enforcement problems

In the aftermath of the enactment and enforcement of the Serious Accident Punishment Act, the current managers of each company and those concerned with safety management at the workplace are likely to be in a situation where morale is greatly reduced along with anxiety. When a serious industrial accident occurs, everyone from the business manager to the safety manager can become a criminal, but there are concerns and skepticism about whether active economic activities and production activities at business sites can be actively carried out.

If so, what are the shortcomings and what are the regrets that cause these concerns? Here, it is necessary to observe and think deeply about the enactment process of this law, the application of the law-making principle, and the side effects resulting from it.

Many experts, especially safety-related experts and legal experts, emphasize the irrationality of the

system of this law and the principles and components of the law, and some experts even mention violations of the Constitution, raising controversy. However, it is true that even a person who lacks professionalism can see something is missing and even feel a bit uneasy.

When enacting laws to manage crises, the most basic application element, that is, the fundamental element that becomes the purpose and goal of legislation, is 'protection of human life'. This can be said to be the source of crisis management that places human dignity as the highest value. Indeed, the ultimate goal of this law is to include the will to respect human dignity and work, and whether the basic elements to guarantee respect for life in the process of enacting the law are satisfied. I feel the need to review the justification for this (Lim JB; 2020).

Therefore, in this study, problems were derived through jurisprudence analysis on whether the basic elements of the crisis management law were considered in the enactment of the Act on the Punishment of Serious Disasters, and whether rational principles were applied to the purpose and purpose of the legislation, and After reviewing and analyzing factors such as irrationality and inefficiency, expected side effects and critical inequality, if so, what processes should be supplemented and which factors should be applied and considered to provide the enforcement conditions that meet the purpose of the enactment of this Act. We would like to suggest a framework for a desirable crisis management law.

In addition, it is necessary to prevent trial and error by pre-detecting derivative irrational factors that are likely to occur during the enforcement and application of this Act and devising supplementary measures to prevent trial and error, and to analyze and remove social inequality factors and obstacles to active business activities. By doing so, we would like to discover and suggest a policy for a more complete legal system.

2.2 Scope of legal criticism and problem analysis

We believe that workers' safety and health are the ultimate values of society regardless of ideology. Looking at the purpose and process of the enactment of this law, all political circles with one voice urged the enactment of a law to punish those in charge of corporations and governments in the event of a major disaster, and that they shared the same goal in pursuing the safety of workers. This can be said to be very encouraging (Son IC; 2020).

The problem is the way. The argument for enacting the Serious Accident Punishment Act was based on the premise that 'employers will thoroughly take safety and health-related measures even if they are

afraid of punishment'. If the punishment is strengthened, business managers, etc. can pay more attention to safety and health measures than before.

However, industrial accidents do not occur solely through negligence on the part of business managers. Occasionally, an industrial accident is caused by the negligence of workers, and sometimes due to unusual weather conditions such as heat waves or mechanical defects. In particular, the insensitivity to safety that is prevalent in Korea's industrial sites often ignores safety by stating the so-called 'logic of the field', which says, "When do you finish your work while keeping everything you have to do," no matter how much the head office or the best management emphasizes safety. In this context, I don't think it's possible to just impose severe penalties on business owners or managers. This is the reason why we agree with the purpose of the Act on the Punishment of Serious Disasters, but view it as inappropriate from the point of view of methodological and scope.

If so, it is necessary to shed light on the results of the UK industrial accident reduction cause analysis before deciding how to approach the scope of critical analysis judged from the methodological aspect. The UK suggested that the cause of the decrease in industrial accidents was the UK's 'Corporate Manslaughter Act', which was a model for Korea at the time of enactment of this law. lost. Rather than punishing the follow-up drug visit, a proactive and systematic prevention system, including safety education, was more effective (Kim DH; 2021).

From this point of view, it appears that the establishment of a preventive system, the key keyword of this bill, is stipulated, whether there are any problems in the legal system, and there are many unclear and ambiguous regulations. It will also be necessary to review what should be done, whether the mandatory regulations of the manager are in conflict with the principle of responsibility, and what is causing confusion due to overlapping with the Occupational Safety and Health Act.

In addition, issues that conflict with the basic principles of the law, such as the principle of excessive prohibition, which are asserted by some experts, and the points that deviate from the principle of equality and balance of crimes, along with various side effects, irrationality, and adverse benefits that may occur during the enforcement of the law Inequality, etc. is also within the scope of the study, and a comprehensive and broad analysis is attempted.

3. Review of problems with the legal enactment conditions

3.1 Principles of legislation and issues of equity

Approaching this Act on the Punishment of Serious Accidents from the point of view that it is a special law that aims to aggravate the punishment of business owners and corporations, it is more applicable than the current Occupational Safety and Health Act, although it is necessary to strictly stipulate the subject and components of punishment. This broader and more comprehensive obligation is laid down. However, in order to impose more severe punishment than the existing law, the Occupational Safety and Health Act, detailed normative grounds must be met. It is judged to be a law that is in violation of the principle of equality, which is the basic principle (Lim WT; 2021), and it is thought that there are not a few parts that have lost legitimacy and balance because there is no normative basis for stronger punishment than the existing related laws (Jeong JW; 2021).

More specifically, the meaning of 'severe accident' stipulated in the Act on Punishment of Serious Accidents is a concept borrowed similarly to the provisions of the Occupational Safety and Health Act, such as the occurrence of one or more deaths due to industrial accidents. This means that the normative basis for more severe punishment is insufficient. In addition, it cannot be said that the mandatory provisions of the business manager set forth in the Serious Accident Punishment Act are also more severe than the mandatory provisions of the Occupational Safety and Health Act (Lim WT; 2021).

In addition, it can be said that it is inconsistent with the equity of the criminal law system to punish a business owner or business manager who has the responsibility of state supervision (if there is negligence) more heavily than the person who violates the law just because the manager is in charge of corporate management. However, the application period has been deferred for workplaces with fewer than 50 employees, but there are many voices of concern about the deferral measures for businesses with fewer than 50 employees, which account for 81% of fatal accidents (Jungang ilbo; 2022). The issue of equity in punishment, in which only the management managers of the primary subcontractors are punished, while not punishing the management managers of subcontractors with less than 50 employees who violate the law, also needs to be addressed.

3.2 Review of legislative purpose

As a basic element in the legislative process, it is also important to review whether reasonable principles are applied that are consistent with the purpose and purpose of the legislation. It is necessary to examine whether the principle of excessive prohibition is applied by broadly expressing the principle of proportionality among the principles. This is a

measure to determine whether the level of punishment is appropriate as a means to achieve the purpose of preventing serious accidents under the premise of implementing the principle that a reasonable proportional relationship must be established between the degree of national infringement and the realization of the public interest by controlling the deviation or abuse of administrative discretionary acts.

Looking at the sentence, which is a means of punishment for industrial accidents in the form of basic negligence, the lower limit of imprisonment in case of a fatal accident, which can be combined with a fixed-term imprisonment of at least one year and a fine of not more than 1 billion won, still violates the principle of excessive prohibition. have the potential to become Imposition of the lower limit of imprisonment is a punishment imposed on criminal acts that fall under the Criminal Act. Considering that in the case of occupational negligence and death (Article 268 of the Criminal Act) of the Criminal Act applied in case of a serious accident, the penalty is not more than 5 years imprisonment or a fine not exceeding 20 million won. Considering the possibility of criticism, the opinion is that it feels excessive. However, the opinion that excessively intensifying punishment is not justified in terms of the legal system, no matter how much the purpose is to raise the awareness of business owners and business managers about safety in order to prevent fatal accidents dominant.

On the other hand, the opinion of the majority of the labor community, including Rep. Lee Tan-hee, who was the representative at the time of enactment of this law, said that the draft bill passed the plenary session with many key contents deleted during the deliberation process of the National Assembly and was only a 'half law'. In fact, the sentence imposed by the court is punished with a sentence that is too low compared to the people's legal appraisal, and instead of improving, the same situation is repeated. It points to the imbalanced state that suffers from harsh punishment for not having a business unit (less than 1 billion won for business owners, less than 5 billion won for corporations) (Lee TH; 2022).

This conflicts with the opinion that punishment is excessive in light of the principle of excessive prohibition in consideration of equity with other similar laws as a means to achieve the purpose of accident prevention. Amid the tense confrontation, the government suggested an opinion to revise the law in a way that would meet international standards (Hankyoreh; 2022).

3.3 Relevance of conflicts with similar laws

As fatal accidents recurred in the field of industry, there was a strong demand from the labor commu-

nity to legislate measures to prevent industrial accidents and strengthen punishment. In 2018, as a casualty worker (Kim Yong-gyun, 24) died in an industrial accident at the Taean Thermal Power Plant, the revision of the Occupational Safety and Health Act, which strengthened the duty and responsibility to prevent accidents, was quickly proposed, and as of January 16, 2020, the amended law (aka 'Kim Yong-gyun Act') is being fully implemented.

In the midst of this, when the Enactment of the Serious Accident Punishment Act was promoted with a focus on strengthening the punishment of business owners and managers in case of a serious accident due to negligence, the problem of overlapping application and confusion with the existing Occupational Safety and Health Act was raised. The opinion is that there is a high possibility that the City Occupational Safety and Health Act and the Serious Accident Punishment Act will be applied at the same time, causing great confusion. Specifically, when a serious accident occurs at the workplace, the Labor Inspector of the Ministry of Employment and Labor investigates whether the Occupational Safety and Health Act has been violated, and the prosecutor's office conducts a duplicate investigation on whether the Serious Accident Punishment Act has been violated. As such, it is argued that if different institutions apply different laws to the same matter, confusion in the legal system is expected to occur (Lim WT; 2021).

In addition, if the general police, who have no expertise in industrial safety, are in charge of the management, they will have no choice but to focus on the investigation centered on punishment rather than identifying the cause of the accident. problems will arise. The result of the conflict of law application caused by such overlap may create irrationality that goes against the direction of increasing the effectiveness of the prevention of industrial accidents, the purpose of which this law was enacted.

4. Analysis of Transitional Efficacy according to Law Enforcement

4.1 The problem of anti-purpose side effects

In spite of the existence of strong similar laws in force in the past, as the punishment for serious disasters, which strengthens the punishment, is implemented to prepare more fundamental and effective accident prevention measures, each company and business site deeply recognizes the importance and prepares for it. It is expected that there will be some positive effect of the enactment of this law as they are paying attention to their efforts (Lee MG; 2021).

At the same time, it can be said that the awareness of business owners about the importance of accident prevention has been significantly improved as

the business owner or manager who has the most important influence on the prevention of industrial accidents at the workplace is subject to punishment.

Only when the degree of actual responsibility and the scope of intentional judgment, which are the criteria for judging whether or not there is a problem, are clear, the purpose of this Act will be smoothly achieved without confusion in the process of implementing the law. In addition, when an accident occurs, it is feared that safety accidents at the site will become even worse if the management responsible is punished without figuring out the cause and causal relationship, resulting in exclusion from management (KISA; 2022).

Criminal liability for industrial accidents is established only when the intention of the employer is recognized. Punishment can only be enforced only when intention is acknowledged, even if it is inadmissible, such as neglecting a situation in which danger exists, and it is possible only when the problematic behavior is the cause and leads to the occurrence of a disaster. In addition, liability for negligence for not fulfilling the duty of care is separately stipulated in the criminal law for occupational negligence and casualty, but the criterion for determining whether the intention is intentional is always a problem.

A business owner or manager means the representative director of a corporation or a person who is in such a position, and includes the heads of central administrative agencies and local governments. It is premised on the premise that they are directly and collectively responsible for safety and health measures. In most cases, on-site managers who oversee safety and health measures are appointed separately at work sites, and business managers, etc.

Delegate authority for safety and health measures to site managers. This is because, as a business manager, etc., who must run the entire business, it may not be enough to check the safety situation of all work sites, and it may have the opposite effect due to the lack of professionalism. It may be very difficult for the management manager to acknowledge the intentionality of an industrial accident, since the manager, etc., only receives a report on the situation of the business site, and it is difficult to know in detail whether safety measures are being properly implemented at every moment. Nevertheless, the Serious Disaster Punishment Act collectively imposes safety and health measures on business managers, etc., and imposes criminal penalties for violations, so there is a strong possibility that it will violate the requirements of intention (Kim DH; 2021).

This is a serious accident as it is a limiting factor in safety and health precautionary measures, such as the management manager, etc., who have the will to come up with industrial accident prevention measures, but have no choice but to delegate to the

on-site manager due to the ambiguity of the scope of activities when preparing for specific implementation and preparation. There are concerns about the side effects that can lead to results contrary to the purpose of the legislation of prevention.

4.2 Dysfunction of business activities

As for the arbitration law, which focuses on the punishment of corporate managers, the company complains about raising the level of punishment without any normative basis and accusing the business owners of criminals, while the labor circles have been removed from the deliberation process and the level of punishment for weakened business owners. In the event of an accident, they express their blatant dissatisfaction with the fact that it is a half law and a tattered law, citing the difficulty of determining whether the manager is intentional or not and finding the actual responsibility (Lee GW; 2021).

In such an atmosphere of stark opposition, this law eventually fell into a law for punishment rather than prevention of accidents. Criminal punishment for the violation of the duty itself was not planned at all, but only when serious accidents occurred. As criminal punishment is imposed only in certain cases, it has the irrationality of creating only the logic that 'the Serious Accident Punishment Act does not apply unless a serious accident does not occur'.

In addition, there is also a problem that the managers are given excessive responsibility and fear that they may be punished even for accidents caused by workers' negligence, which eventually reduces the will of active management (Dailian; 2022).

This puts a burden on the subcontractor up to the obligation to take safety and health measures for workers of the subcontractor, and hesitant to expand the business or reduce the contract to subcontract due to the fear that the subcontractor will be punished if an industrial accident occurs at the subcontractor. It is linked to the problem of a significant decrease in order receipts, and to make matters worse, it has the worst impact on the domestic business environment, along with three laws and labor laws related to corporate regulations that were enacted and revised at the same time. There is also a great concern that the acceleration of hollowing out of the domestic industry is predicted by heightening the atmosphere of Koreans' avoidance of domestic investment (FKI; 2021).

4.3 Diagnosis of adverse benefits and unfairness

Although the Serious Accident Punishment Act was enforced, the safety and health negligence of companies has not changed, and workers are still

dying at industrial sites. There were deaths or injuries due to landslides and building collapses, falls, and explosions, and dozens of workers were acutely poisoned by hazardous chemicals. All are subject to investigation under this law. After the Serious Accident Punishment Act was enacted, some law firms are said to incite fear and raise their income with the death of workers as collateral. Similarly, there is criticism that the media pours out reports that only represent the position of the management without proper verification. In the solemnity that the Act on Punishment of Serious Accidents was created only after many workers were killed or injured, the idea of making money by shaking it up should be considered a sin and should be avoided (Kim GI; 2022).

Along with the enforcement of the Serious Accident Punishment Act, each company is working hard to devise strategies to escape punishment in its own way. This means that strategies to avoid punishment are given priority over measures to prevent industrial accidents.

Some large law firms in Korea are responding quickly, such as expanding and reorganizing their existing law firm organizations in line with the enforcement of the Serious Disaster Punishment Act.

As most law firms, such as operating legal consulting, use the enforcement of the Severe Accident Punishment Act as a golden opportunity to increase profits, the function and demand of the law firm are increasing rapidly, and the atmosphere is getting busier. It can be said that it is an irony that bad luck that occurred on one side of society leads to negative effects on the other side.

However, not all companies rely on law firms. For small and medium-sized enterprises (SMEs) with weak financial power, law firms are a distant country. Under these circumstances, companies with good financial power avoid punishment through law firms, while 'SMEs' have no choice but to become criminals due to lack of legal response, so-called 'No money - Guilty Law', another nickname was created.

The Critical Accident Punishment Act, which has only raised the level of punishment in the absence of a normative basis, and criticized the so-called 'rags law' because the location and scope of responsibility for accidents are vague, is difficult for business managers to detect illegality and punishment. Even in the event of a disaster, it is impossible to accurately predict whether a person is guilty or innocent, so it has even been nicknamed 'How to Walk on the Prison Wall'.

In this situation, some companies are creating expedients and unfairness without hesitation to avoid liability. It is also producing the problem of mobilizing a 'trick' to receive punishment instead of a disaster.

4.4 Ambiguity and irrationality of the standards for applying the law

When an employer subcontracts (subcontracts) to a third party, if the principal company is responsible for actual control, operation, and management of the subcontractor, it is obliged to take safety and health measures against the subcontractor, and in violation of this, If a serious accident occurs at a subcontractor, the owner of the subcontractor will be subject to criminal punishment (Articles 5 and 6 of the Act).

If the client has a level of expertise equivalent to or higher than that of the contractor and takes the lead in the overall construction, the main contractor will be responsible. Since there are very few cases, the original office is not obligated to take responsibility in the event of an accident (NAVER EK; 2022).

As such, there is a lot of confusion due to the vague judgment of the scope and standards for actually governing, operating, and managing the corporation, and there is also a lot of potential for the problem of lack of equity between companies. In addition, in the event of a major accident at a subcontractor, it is closely related to the construction, so if the main contractor is held liable, the subcontractor who is directly responsible for the accident will receive a light punishment, whereas the manager of the subcontractor with only supervisory responsibility is much more severe. As a result of being punished, the irrationality of not having proportionality between actions and responsibilities arises (Song JY; 2022).

In addition, in Article 2, No. 9 of the Act, 'management manager' is defined as 'a person who has the authority and responsibility to represent and manage the business or a person in charge of safety and health related tasks'. The division of the person in charge is ambiguous and unclear, so there is a lot of confusion in the classification of the person in charge of serious accidents, and the duties of the manager are too comprehensive (Lim WT. Son IC; 2021).

5. Improvement opinions and policy suggestions

“What is the most precious thing in the world?” No one will deny that the best answer to this question is 'My life'. As a part of the crisis management process (Lee JE; 2018) that strives to realize human dignity, the 'Severe Accident Punishment Act', which is implemented to protect the most precious life of human beings, even if it feels a bit excessive, the purpose of life protection In order to realize it, I think it would be better if it was excessive.

So far, in the process of enacting the Act on the Punishment of Serious Disasters, we have looked at the fact that a lot of confusion and side effects are expected in legal and practical terms with respect to the criticism of the application of the principles of the law and the transitional problems resulting from the implementation. The problem is that, although the law imposes aggravated punishment on corporations and corporations, many of the contents, including mandatory provisions, are comprehensive and vague.

Although there is an opinion that it is the responsibility of the management manager already stipulated in the Act on the Punishment of Serious Disasters to check whether safety and health measures are in place at the workplace and to take countermeasures if there is a problem (Kim SR; 2022), the responsibility of the manager through discussion of subordinate statutes Obligations should be clearly defined so that practical prevention activities rather than punishment can be effectively carried out by making an effort to make the unclear parts such as regulations as detailed as possible (Lim WT; 2021).

The Serious Accident Punishment Act is not a law for punishment, but a law for accident prevention. If this Act is intended to prevent serious accidents in advance, the laws should be revised in a direction to impose administrative regulations and reasonable punishments for violations of the management responsibility for safety and health, rather than focusing on responsibility for the consequences of accidents. , this Act should be reorganized so that it conforms to the legislative purpose by supplementing the Act with contents clarifying the managerial officer who has the authority and responsibility to effectively represent the company and manage the business (Kwon OS; 2022).

The purpose of the legislation is to create an opportunity to raise awareness of safety measures at work sites by strengthening punishment, and the rate of deaths at construction sites has not changed even after the law enters into force. This means that strengthening punishment for corporate representatives is not the only thing to do, so it is urgent to develop a policy that focuses on preventing safety accidents so that safety prevention measures are needed from a prior perspective, such as repeated safety awareness education for both employers and workers (Lim ST; 2022).

In addition, if the subcontractor has actual control, operation, and management responsibilities over the subcontractor, the Ministry of Employment and Labor may be subordinated until the subcontractor has substantial authority or possibility to take safety and health measures against the subcontractor. position that there is. In the sense that this not only places an unnecessary burden on the company, but may also cause confusion in the transaction relationship, the Occupational Safety and Health Act

should supplement the law in a way that imposes obligations only on the business owner or manager of a company that is obligated to take safety and health measures. It would be desirable to avoid confusion about standards (Jeong W; 2022).

Rather than focusing on legal response and evasion of responsibility after an accident, the company puts the highest priority on the safety value in the actual workplace, secures manpower and budget, and reorganizes the safety organization so that the safety and health system currently in operation can function properly. Rather, it should do its best to establish a safety and health management system that thoroughly analyzes the characteristics of the company's industry and risk factors for each business site and conducts effective risk assessment and improvement activities on a regular basis (Lim WT; 2021).

In addition, if the government has a company that is considering the establishment of a separate organization (management responsible executive) to prepare for an accident, it is much more economical in terms of financial management efficiency and, In order to positively accept and implement the logic that the confidence from the employees will be increased, motivating the effort to prevent accidents, and the effect of increasing productivity by boosting morale will be expanded, that is, think in the concept of investment rather than cost. It is also suggested to actively develop a policy to improve awareness of just corporate management, such as encouraging a bold budget for prevention.

6. Conclusion

The importance of safety and health measures in industrial settings cannot be overemphasized. If the methods for preventing industrial accidents are biased only toward strengthening punishments against employers, it is difficult to achieve the intended purpose. Those who deny the need for a punishment-oriented Severe Accident Punishment Act are arguing that the will of companies to strengthen accident prevention is sufficient even with the existing criminal law on negligence and death and the recently strengthened Occupational Safety and Health Act. Accordingly, it can be said that the awareness of business owners and the like has increased. However, a more fundamental solution lies in the establishment of an industrial accident prevention system. When an accident occurs at an industrial site, the atmosphere of the field should be dramatically improved through a policy that allows periodic awareness education and on-site guidance in advance, rather than taking special supervision only then (Kim DH; 2021).

However, as we have seen so far, since the enactment and enforcement of the Serious Disaster Punishment Act is expected to incur considerable social costs as there is not a small amount of contention, it is necessary to focus all of our capabilities on the establishment of a preventive system rather than such exhaustive and ex post measures. I think you need to focus. Regarding the mandatory provisions of the manager, the current Occupational Safety and Health Act requires employers' autonomy and the Serious Accident Punishment Act calls for concreteness (Lim YS; 2022).

In addition, serious industrial accidents and civil accidents at industrial sites and multi-use facilities can be prevented only by constantly monitoring and supervising risk factors with interest from the local community. The idea that when an accident occurs, if there is a strong punishment for the business owner, such as a follow-up visit, he will take care of preventing the accident.

Law and punishment alone will not change the world. If corporate activities are shaken and contracted due to excessive criminal punishment, it is more important to reorganize the laws and impose heavy fines repeatedly whenever a violation occurs through continuous and repeated preventive inspections, thereby burdening the economy. I also wondered if it would be a more effective disaster prevention policy than the expected increase in worker dissatisfaction and a decrease in the effectiveness of accident prevention measures when the actual criminal trial was concluded with an insufficient judgment according to the Accident Punishment Act (Lee GW; 2021).

By promoting a more efficient and effective accident prevention policy as described above, it deeply instills in employers the awareness that “violating regulations will incur greater costs than complying with regulations.” It is expected that a trustworthy society will be created in which human dignity is justly realized by granting “the right not to die while working”.

References

- Kwon Oh-seong (2022). Current Status and Tasks (Dissertation) of the Revision of the Serious Accident Punishment Act, Labor Research Institute.
- Kim Kwang-il (2022). Limitations and Future Tasks of the Serious Disaster Punishment Act, Safety Journal (4.11 Opinion).
- Kim Dong-hyun (2021). Problems of the Serious Accident Punishment Act, Labor Law (jurisprudence & legal report).
- Kim Seong-ryong (2022). The law on punishment of serious accidents is ambiguous, so will it be followed? Contradictory, The Hankyoreh (News).
- Korea Industrial Safety Association (2022). In half of the industry, the Severe Accident Punishment Act is ineffective, Safety Journal (Opinion).
- Dailian (2022). Criticism of the serious accident punishment law in the food and catering industry, Dailian (Reported on 1.24).
- Son Ik-chan (2020). Why the Enactment of the Serious Accident Punishment Act is Necessary, Korea Federation of Trade Unions (Korean Federation of Trade Unions, Monthly Vol. 562).
- Son Ik-chan (2021). What do you think: Consignment of inspection work, Maeil Labor News (8.20 opinion).
- Song Ji-yong (2022). Review of the constitutionality of the Act on the Punishment of Serious Accidents, etc., MK News (4.11 thesis report).
- Yonhap News (2022). The punishment level of the Serious Disaster Punishment Act is higher than that of overseas cases, Yonhap News (fact check).
- Lee Geun-woo (2021). Critical Review of the Progress of the Serious Accident Punishment Act and Enacted Act (Thesis), Criminal Policy (Vol. 32).
- Lee Myoung-goo (2021). Truth and Falsehood of the Act on Punishment of Serious Disasters, Korea Land Daily (11.22 Opinion).
- Lee Jae-eun (2018). Crisisonomy (Book 2), Seoul: Daeyoung Munhwasa.
- Lee Tan-hee (2022). Supplementary Tasks and Expected Effects of the Serious Disaster Punishment Act (Bill Explanatory Data), National Assembly Secretariat.
- Lim Seung-taek (2022). After the enforcement of the Serious Accident Punishment Act, e-Suwon News (5.18 Legal Column).
- Lim Young-seop (2022). Responsibility of the disaster control business owner, Hankyoreh Shimbum (6.6 column).
- Lim Woo-taek (2021). Problems and improvement directions of Enactment of the Serious Disaster Punishment Act, Safety Environment Insight.
- Lim Woo-taek (2022). What do you think: Supplementation of the Enforcement Decree is inevitable, Maeil Labor News (8.20).
- Lim Jae-beom (2020). Enactment of the Act on Punishment of Serious Accidents to Practice Respect for Labor, Korea Federation of Trade Unions (Monthly Vol. 562).
- The Federation of Korean Industries (2021). Five Problems Caused by the Serious Disaster Punishment Act (1.6 Press Release).
- Jeong Won (2022). I want to know about the Serious Disaster Punishment Act, e-Korea Economic Daily (2.25 Opinion Column).
- Jeong Jin-woo (2021). Discussion on the improvement of the Act on the Punishment of Serious Disasters (KEF), Specialized Construction Newspaper (Reported on 8.12).
- JoongAng ilbo (2022). Controversy over exceptions and deferrals of the Serious Disaster Punishment Act (Reported on 1.27).
- Hankyoreh Shimbum (2022). A preview of the revision of the Act on the Punishment of Serious Disasters by Deok-soo Han (5.26, Political News).

NAVER Encyclopedia of Knowledge (2022). Hankyung
Economic Terminology: Explanation of the Act
on Punishment of Serious Accidents.