

The Improvement Study of the Serious Accidents Punishment Act

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A B S T R A C T

The Serious accidents punishment act¹ is a law that focuses on the punishmentism created by the demands of the site because serious industrial accidents do not decrease, and the same deaths continue to occur at the site. However, there are many problems because the law was made in a hurry without sufficient discussion and research. The contents of the obligation to secure safety and health in relation to other laws and the regulations on the offender are not clear, the level of punishment is quite high, which does not meet the legislative purpose of preventing industrial accidents, and the application of less than 5 workers is excluded. Security legislation considering this seems to be needed.

Key words: The Serious accidents punishment act; Serious accidents; Serious Industrial accidents; Industrial Safety and Health Act

1. Introduction

Since the 1970s, the scale of industrial accidents has gradually increased as the Korean economy has grown highly due to industrial development. Looking at the current status of industrial accidents in Korea at the time, the number of disasters in 1970 was 37,752 and 693 deaths from industrial accidents increased to 113,375 and 1,273 in 1980. Against this backdrop, Industrial Safety and Health Act was established in 1981. The above two laws stipulate the basic obligations of employers and workers to prevent industrial accidents, and in particular, the Industrial Safety and Health Act stipulates the employer's obligation to take safety and health measures and imposes a "up to 2 years in prison or a fine of 10 million won." What is important here is that the level of punishment is low, so the question of the legal effectiveness of the Industrial Safety and Health Act is constantly being raised.

While various discussions have been held on the effectiveness of these laws, it is pointed out that this should be strengthened in relation to the level of punishment. Accordingly, the government has proposed a policy direction to expand the subject of responsibility and establish new penal provisions or increase legal sentences for violations of its obligations, but despite several revisions to the Industrial Safety and Health Act, Korea is still considered to have a significantly high industrial accident rate.

Furthermore, in the practice in charge of criminal trials, the Industrial Safety and Health Act, which does not have a lower limit on legal punishment, is not based on the upper limit of legal punishment, and questions about its effectiveness.

In response to the demand for strengthening the level of punishment, The Serious Accidents Punishment Act was recently enacted. The Serious Accidents Punishment Act was discussed by Kim Mi-sook, the mother of Kim Yong-kyun, a non-regular worker who died while working at a Taean thermal power plant, on August 26, 2020, under the title of "The Serious Accidents Punishment Act" at 9:30 a.m. on September 22. And it passed the National Assembly on January 8, 2021, and took effect on January 27, 2022. This includes strengthening the level of punishment set by the existing Industrial Safety and Health Act, and it is more noteworthy because the lower limit of the statutory sentence of "at least one year" is set for serious accidents that cause deaths in violation of the duty to secure safety and health. However, workplaces with less than five employees will be excluded from the punishment, and workplaces with less than 50 employees will be suspended from applying the law for two years after the promulgation, which will be applied from 2024.

It seems that the discussion period until this law was made was short, and it was urgently made to show results centered on punishment. At the time of enforcement, there are situations in which businesses with less than 50 employees are suspended

from applying the law for two years, so I would like to study problems and solutions to this.

There is also another issue of redundancy and improvement of the legal framework between the Serious Accidents punishment act and the Industrial Safety and Health Act. In addition, the need to review cases related to overseas The Serious Accidents punishment action and reflect implications has been raised.

Therefore, this study aims to summarize the current status and characteristics of domestic industrial accidents. Second, we will compare and analyze the legal system between Korea's The Serious Accidents Punishment Act and the Industrial Safety and Health Act, and third, review cases related to the overseas The Serious Accidents Punishment Act and derive implications. Fourth, based on this, I would like to present an improvement plan for The Serious Accidents punishment action. The Serious Accidents Punishment Act is divided into a major industrial accident and a major civil accident, and this study aims to approach by limiting the scope of research focusing on a major industrial accident.

2. Current Status and Characteristics of Industrial Disasters in Korea

2.1 Definition and Status of Industrial and Critical Disasters

The term "industrial accident" means a person who provides labor dies, injures, or causes disease due to construction, facilities, raw materials, gas, steam, dust, etc. related to his/her work, or other work under subparagraph 1 of Article 2 of the Industrial Safety and Health Act. On the other hand, "serious accidents" refer to disasters prescribed by the Ordinance of the Ministry of Employment and Labor as cases of severe or multiple disasters such as death during industrial accidents under subparagraph 2 of Article 2 of the Industrial Safety and Health Act. In other words, industrial accidents are a comprehensive concept that encompasses deaths, injuries, and diseases that occur in various work-related tasks and work processes, while Serious Accidents can be viewed as a concept limited to cases of severe disaster.

According to statistics on the status of industrial accidents by the Ministry of Employment and Labor, 2,080 deaths were reported as of 2021, of which 882 died from work accidents and 1,252 died from work diseases. The recent trend in the mortality rate (the number of deaths per 10,000 workers) has continued to decline since 2012.

<Table1> Recent Industrial Accident Statistics

Sortation	2021.1~12	The same period last year
Disaster rate	0.63	0.57
- Accident accident rate	0.53	0.49
- The incidence of disease	0.11	0.08
The death rate per 10,000 people	1.07	1.09
- Accidental mortality per 10,000 people	0.43	0.46
-Disease mortality per 10,000 people	0.65	0.62
The number of casualties	122,713	108,379
- Number of accident casualties	102,278	92,383

- Number of people affected by disease	20,435	15,996
The death toll	2,080	2,062
- Accidental death toll	828	882
- The number of disease deaths	1,252	1,180
Number of workers	19,378,565	18,974,513

Industrial Accident Analysis of, Ministry of Employment and Labor.

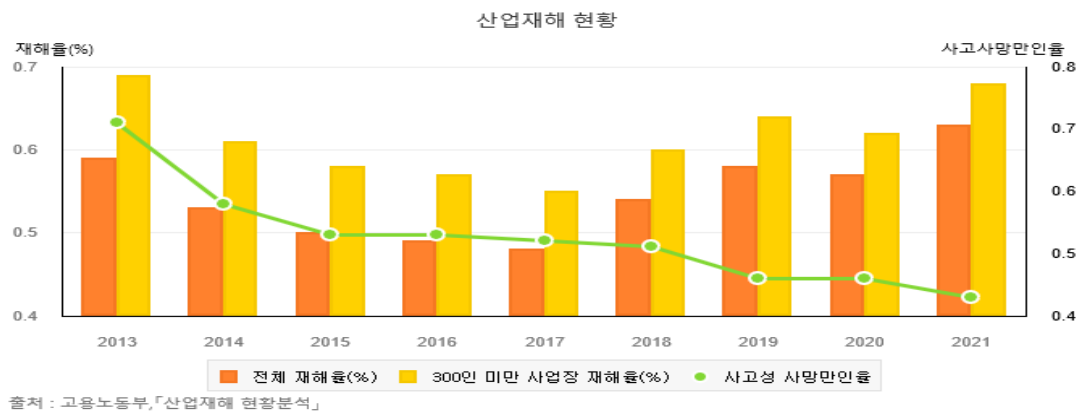
Overall, however, Korea's accidental mortality rate (2021, 0.43) is about three to ten times higher than that of Japan (2019, 0.14) or Germany (2018, 0.14) and the UK (2019, 0.03) in Europe (Ministry of Employment and Labor, 2021).

<Table2> Comparison of Accidental Mortality per 10,000 people by major countries

Sortation	Korea('21)	Japan('19)	Germany('18)	the United States('19)	UK('19)
Accidental Mortality per 10,000 people	0.43	0.14	0.14	0.37	0.03

Ministry of Employment and Labor (2021), Trends in industrial accidents

<Figure1> Industrial accident status



<Table3> Trend of industrial accidents in the last 10 years(2013~2021)

	2013	2014	2015	2016	2017	2018	2019	2020	2021
Overall disaster rate	0.59	0.53	0.50	0.49	0.48	0.54	0.58	0.57	0.63
Year-on-year disaster rate increase/decrease rate	0.0	-10.2	-5.7	-2.0	-2.0	12.5	7.4	-1.7	10.5
Disaster rate for workplaces with less	0.69	0.61	0.58	0.57	0.55	0.60	0.64	0.62	0.68

than 300 employees									
Disaster rate increase/decrease rate									
for workplaces with less than 300 employees compared to the previous year	-1.4	-11.6	-4.9	-1.7	-3.5	9.1	6.7	-3.1	9.7
Accidental Mortality per 10,000 people	0.71	0.58	0.53	0.53	0.52	0.51	0.46	0.46	0.43
Accidental Mortality per 10,000 people year-on-year	-2.7	-18.3	-8.6	0.0	-1.9	-1.9	-9.8	0.0	-6.5
the death toll	1,929	1,850	1,810	1,777	1,957	2,142	2,020	2,062	2,080
year-on-year death rate	3.5	-4.1	-2.2	-1.8	10.1	9.5	-5.7	2.1	0.9
occupational number of sick people	7,627	7,678	7,919	7,876	9,183	11,473	15,195	15,996	20,435
the year-on-year rate of increase or decrease in the number of disease patients	2.1	0.7	3.1	-0.5	16.6	24.9	32.4	5.3	27.8

Sources: Ministry of Employment and Labor, Industrial Accident Analysis

In addition, the above table shows that the accident rate at workplaces with less than 300 employees has been increasing and decreasing since 2004, and the accident rate at workplaces with less than 300 employees was 0.68% as of the end of December 2021, up 0.06% from the same period last year.

The overall disaster-related indicators increased from 1998 to 2004 due to increased manufacturing operational rates and construction orders due to economic recovery, eased safety and health regulations, expanded application of Industrial Safety and Health Act in 2003 and changed employment environment. However, it has been on the decline since 2004 due to the effects of financial technology support projects such as clean projects for manufacturing sites with less than 50 employees since 2001 and measures to prevent fatal accidents conducted since 2004.

Due to changes in the industrial structure and employment environment, disaster-causing factors such as non-regular workers, foreigners and elderly women, and large companies' subcontracting to small businesses are expected to continue to increase. It is necessary to develop effective prevention policy projects for industrial vulnerable groups, such as intensive management of disaster risk, to maximize disaster reduction effects of prevention projects by redefining roles and functions among disaster prevention agencies.

2.2 Characteristics of Industrial Accidents

The fundamental cause of industrial accidents today and the biggest first characteristic are due to excessive cost-cutting efforts (Kwon Hyuk,

2021). In particular, the risk of industrial accidents is becoming more advanced today in the indiscriminate serial subcontracting structure and the relationship between top and bottom. The purpose of this outsourcing is mainly to reduce costs. As a result, there is an exact proportional relationship between the increase in the risk of industrial accidents and the advancement of cost-cutting efforts (Kwon Hyuk, 2021).

Second, the remarkable characteristic of domestic industrial accidents is that they originated from not following the principles. For example, looking at the collapse of the Namyangju subway construction site at around 7:20 a.m. on June 1, 2016, it was caused by a typical failure to comply with the principle. Although it is mandatory to comply with the Disaster Prevention Safety Rules prepared by the Ministry of Employment and Labor because it has high heat of more than 3,000 degrees and thousands of sparks are spread out during welding and welding, there were no gas leakage alarms and vents. As a result, four workers were killed and 10 injured. This was a disaster that turned a blind eye to safety rules. In addition, such a sample was also the case of building collapse and falling accidents related to the construction industry. The accident occurred while demolishing the building without iron support or supervision. In addition, the failure to comply with the 'top-down demolition principle' is also the cause of industrial accidents. Experts say that in the case of building collapse or falling accidents, it was an industrial accident that could have been avoided if the safety rules of the building were followed well.

Third, when analyzing the distribution of fatal accidents by industry, the industrial accident rate of workplaces with less than 50 employees is 0.86%

of them, which is remarkably high at 0.59% based on the total workplaces, making industrial accident management a serious problem (Jo Kyu-sik, 2015).

Fourth, the causes of industrial accidents are multidimensional, and in particular, the causes of occurrence vary widely depending on the type of business and the nature of the work.

Fifth, in general, industrial accidents are characterized by not only partial injuries or weak occupational diseases, but also large accidents that lead to direct worker deaths or permanent physical disability. Even if it did not lead to death, permanent physical disability causes loss of labor capacity and immediate disconnection of labor relations, leading to a livelihood crisis. In addition, there are cases in which occupational diseases are caused by insufficient work environment, overwork, lack of exercise, and work posture overlap, and even in this case, it often leads to long-term death. Even if the main cause of the disease is not directly related to work, it can be seen that there is a significant causal or correlation between work and disease considering the context, at least if work overwork overlaps with the main cause of the disease. Sixth, the damage caused by industrial accidents is mainly concentrated on the socially vulnerable, and social polarization can be increased, so proactive preventive measures and mitigation measures for industrial accidents are urgently needed (Jo Kyu-sik, 2015).

Seventh, there is a tendency to cover up the occurrence of industrial accidents. In general, companies tend to reduce the number of industrial accidents for the purpose of maintaining external creditworthiness.

Lastly, due to administrative regulations and punishment requirements, it is undeniable that the economic logic of cost reduction has raised the value of money above human value and neglected the safety management of industrial sites, which is characterized by insufficient legal regulations and punishment requirements.

3. Background and comparison of The Serious Accidents Punishment Act and Industrial Safety and Health Act

3.1 Key points in The Serious Accidents Punishment Act

The provisions of the Serious Accident Penalty Act consist of chapters 1 to 4, and Articles 1 to 16. Chapter 1 General Provisions Purpose and Definitions Chapter 2 In the case of serious industrial accidents, the scope of application, the obligation to secure safety/health, punishment and punishment regulations for employers/management managers, etc Chapter 3 In the event of a serious civil accident, the employer/management manager's obligation to secure safety/health, punishment and punishment regulations, Chapter 4 Supplementary Provisions include notification of criminal confirmation, publication of the occurrence of a serious industrial accident, liability for damages, and support/reporting to the government's business owners, etc.

<Table4> Article Composition of the Serious Disaster Penalty Act

Provision		Specific details
Chapter 1 General Provisions	Article 1	Purpose
	Article 2	Definition
Chapter 2 Serious Industrial accidents	Article 3	A range of application.
	Article 4	Obligation to secure safety and health of business owners and management managers, etc
	Article 5	Obligation to secure safety and health in relation to contract, service, entrustment, etc
	Article 6	Punishment of Serious Industrial Accidents business owners and management managers

	Article 7	Serious Industrial Accidents' Penal Provisions
	Article 8	Taking Health and Safety Education
Chapter 3 a serious civil disaster	Article 9	Obligation to secure safety and health of business owners and management managers, etc
	Article 10	Punishment of business owners and management managers of serious civil disasters
	Article 11	the penal provisions for serious civil disasters
Chapter 4 supplementary rule	Article 12	Notification of the fact that the punishment
	Article 13	Announcement of the occurrence of Serious Industrial Accidents
	Article 14	Special Provisions on Proceedings
	Article 16	Liability for damages
	Article 17	Government support and reporting to business owners, etc

Source: A Study on the Improvements of Korea's Criminal Punishment Law for Severe Accidents, Ahn, Yohan(2021)

The purpose of The Serious Accidents Punishment Act is to specify the legislative purpose in Article 1 of this Act as follows, which is quite specific. First, in terms of the contents and process of the work of serious disasters, it is limited to the operation of businesses or businesses, public facilities, and public transportation fisheries, or the handling of raw materials or products harmful to the human body. Second, in terms of the cause of damage and the content of the victimization, the occurrence of human casualties due to the violation of the obligation to take safety and health measures is limited. Third, the law stipulates punishment for business owners, management managers, public officials, and corporations in terms of the law stipulating punishment regulations for the cause of damage. It can be seen that the punishment targets are relatively comprehensive in that they include not only private business owners and management managers, but also public officials and general corporations. The ultimate purpose of the proposed law is 'prevention of major disasters' and 'protection of life and body', and 'punishment' is a means of achieving this purpose (Ahn Yo-hwan, 2021).

<Table5> The purpose of The Serious Accidents punishment action

“The purpose of this Act is to prevent serious accidents and protect the lives and bodies of citizens and workers by stipu-

lating punishment of business owners, management managers, public officials, and corporations who violate safety and health measures while operating businesses, public facilities, and public transportation

Source: The Serious Accidents Punishment Act Article 1.

In any law, the definition provisions have an important meaning, and they do not limit the definition of a serious accident to an industrial accident, but have an extended concept and scope of application, including civil accidents. Therefore, the definition of a serious industrial accident is contained in No. 2 and the definition of a serious civil accident in No. 3 (Ahn Yo-hwan, 2021). This study focuses on serious industrial accidents. In accordance with Article 2 No. 1 of the Industrial Safety and Health Act, 1 or more deaths occur, 2 or more injuries requiring treatment due to the same accident, and 3 or more occupational diseases (Presidential Decree) occur within a year. This definition has a different aspect from the definition in the Industrial Safety and Health Act. Serious Industrial Accidents overlap with industrial accidents or serial accidents that were regulated under the existing Industrial Safety and Health Act, but they stipulate other independent concepts of the Industrial Safety and Health Act in terms of prisoners or their requirements (Jin-young, 2021).

The main scope of application of serious industrial accidents is limited to business owners or management managers of businesses or workplaces with five or more regular workers. It appears that business owners/management managers of businesses/businesses with less than 5 employees are excluded from the disaster and punishment regulations. However, according to Article 1 (1) of the Supplementary Provisions, this Act took effect on January 27, 2022, one year after the promulgation, but for private businesses or businesses with less than 50 full-time workers, it will take effect on January 27, 2024, the day three years have passed since the promulgation.

Article 2 Subparagraphs 7 and 8 and 9 of this Act define workers, business owners, management managers, etc., who are the subjects of this Act. In particular, in relation to the scope of workers, not only workers under the Labor Standards Act, but also those who provide labor for the purpose of performing the project regardless of the type of contract are stipulated and the subject is expanded. In relation to the scope of the management manager, etc., it can be seen that the subject has been expanded, including the head of the central administrative agency as well as the person in charge of safety and health affairs.

The obligation to secure safety and health for the prevention of Serious Industrial Accidents includes the following. 1) Measures concerning the establishment and implementation of the safety and health management system, such as manpower and budget necessary for disaster prevention, 2) Measures concerning the establishment and implementation of measures to prevent recurrence in the event of a disaster; 3) Measures concerning the implementation of matters ordered by central administrative agencies and local governments to improve, correct, etc. in accordance with relevant statutes; 4) These are management measures necessary for the performance of obligations under safety and health-related laws. The details of the measures concerning the safety and health management system, such as the management and budget management for disaster prevention, and the management measures for the performance of the implementation are expected to be finalized by the Presidential Decree.

Next, looking at the contents of the obligation to secure safety and health in relation to contracts, services, consignment, etc., the obligation to secure safety and health is imposed on the principal that actually controls, operates, and manages even when contracting, entrusting, etc. to a third party. In such cases, the employer, management manager, etc. shall take measures to prevent the occurrence of serial industrial accidents to third-party workers pursuant to Article 5. As with the

mandatory regulations on Serious Industrial Accidents discussed above, the scope of the "business owner or management manager" is reduced and does not include individual business owners and management managers in businesses or workplaces with less than five full-time workers.

Finally, in the case of a serious industrial accident caused by a violation of the duty to secure safety and health, the punishment and punishment regulations are: 1) In the case of one or more deaths, imprisonment for at least one year or a fine of not more than 1 billion won; 2) It stipulates that two or more injured people who need treatment for more than six months in the same accident or three or more occupational diseases designated by the president, such as acute addiction, can be sentenced to up to seven years in prison or fined up to 100 million won.

3.2 Highlights of the Industrial Safety and Health Act

The entire provisions of the Industrial Safety and Health Act are stipulated in Chapters 1 to 12, and Articles 1 to 175. Specifically, Chapter 1 General Rules stipulate the purpose, definition, scope of application, government responsibilities, and employer/worker obligations. Chapter 2 Safety and Health Management System, Chapter 3 Safety and Health Education, Chapter 4 Hazard and Prevention Measures, Chapter 5 Prevention of Industrial Accidents in Contracts, Chapter 6 Measures for Hazardous and Dangerous Machines, Chapter 7 Health Management of Workers, Chapter 9 Industrial Safety Instructors, Chapter 10, Labor Supervisors, etc., Chapter 11, Supplementary Provisions, and Chapter 12 Penal Provisions.

The purpose of the Industrial Safety and Health Act is to specify the legislative purpose in Article 1 of this Act as follows. Unlike The Serious Accidents punishment act, it can be seen that it is quite comprehensive. The core composition consists of four purposes: 1) establishing standards for industrial safety and health, 2) clarifying the location of responsibility, 3) preventing industrial accidents and creating a pleasant working environment, and 4) maintaining and promoting the safety and health of labor providers.

<Table6> Purpose of the Industrial Safety and Health Act

"The purpose of this Act is to maintain and promote the safety and health of persons who provide labor by establishing standards for industrial safety and health, clarifying the location of their responsibilities, preventing industrial accidents and creating a pleasant working environment"
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Source: Article 1 of the Industrial Safety and Health Act.

Under the Industrial Safety and Health Act, "Serious accidents" are defined as disasters prescribed by the Ordinance of the Ministry of Employment and Labor when the degree of disasters

such as death occurs or a number of casualties occurs. Specifically, the scope of Serious Accidents is specified as 1) one or more deaths, 2) two or more injuries requiring medical care for more than 3 months at the same time, and 3) 10 or more injuries/occupational diseases at the same time.

The Industrial Safety and Health Act stipulates that the scope of application is applied to all businesses, so unlike The Serious Accidents Punishment Act, which basically limits the scope of application, it is universally and widely applied. However, it is additionally stipulated that all or part of this Act may not be applied to class projects/works prescribed by Presidential Decree in consideration of the degree of harmful risk, type of business, and regular workers at workplaces. For example, Articles 29 to 30 are excluded for workplaces with less than 50 full-time workers, and Chapter 2, Sections 1, 2, 3, 47, 49, 50, and 159 are excluded depending on the number of full-time workers.

The Industrial Safety and Health Act stipulates the government (Article 4), employer (Article 5), and worker (Article 6) as mandatory subjects, and most of the obligations are attributed to the employer (Jo Kyu-sik, 2015). Workers subject to human protection under the Industrial Safety and Health Act are those who provide work for wages in businesses/workplaces defined by the Labor Standards Act, but the issue of recognition of worker character arises due to the confirmation of the labor law status of non-regular workers (Jo Kyu-sik, 2015). However, due to the revision of the Industrial Safety and Health Act on May 26, 2020, the obligation of the employer under the Industrial Safety and Health Act is also imposed on those who receive labor from special type workers and intermediaries for collection and delivery of goods. In addition, Articles 77 through 78 of this Act stipulate safety and health measures for special type workers/delivery workers.

The Industrial Safety and Health Act specifically stipulates the establishment of a safety and health management system, preparation and compliance of safety and health management regulations, safety and health education, measures to prevent hazards and risks, and prevention of contracts and construction. Looking at the punishment and punishment regulations under the Industrial Safety and Health Act, first of all, according to Article 167 of this Act, workers are punished by imprisonment for not more than 7 years or a fine of not more than 100 million won. In addition, Articles 168 to 172 stipulate penalties for workers who have not died, but for violations of their obligations to take safety and health measures, they are fined at least 5 million won to imprisonment for up to 5 years or 50 million won.

3.3 Comparison and implications between The Serious Accidents Punishment Act and Industrial Safety and Health Act

3.3.1 legal comparison

The Serious Accidents Punishment Act and the Industrial Safety and Health Act are compared. First of all, in terms of the composition of the article, The Serious Accidents Punishment Act basically has a criminal legal character with the content of crime and punishment, and consists of only 16 articles in four chapters, making it a very simple law. On the other hand, the Industrial Safety and Health Act consists of 175 articles in 12 chapters and is characterized by a fairly universal and comprehensive definition.

Secondly, for the purposes of the law, In the case of the Serious Accidents punishment act, the means of achieving the objective of preventing Serious Accidents, protecting life/physical protection, and punishing the person who caused personal injury are specified In the case of the Industrial Safety and Health Act, four comprehensive regulations are stipulated, such as establishing industrial safety/health standards and clarifying whereabouts of responsibility, and there are regulations on punishment and punishment, but the general purpose is to improve labor providers' safety and health.

Third, if you compare the definitions for medium-sized industrial accidents, The Serious Accidents Punishment Act comprehensively views the concept of critical disasters with Industrial Accidents and civil disasters The Industrial Safety and Health Act is approached differently as it defines Serial Accidents only for Serial Industrial Accidents. The two laws commonly stipulate serious accidents according to the number of deaths/injuries/occupational diseases. The occurrence of one or more deaths is commonly regarded as serious accidents. On the other hand, with regard to the regulations on injured and occupational diseases, whether or not the same accident is treated for more than 6 months in the case of the Severe Accident Penalty Act, in the case of occupational diseases, the degree of damage even in the same accident is specified by specifying the period within one year as the same harmful factor, it has a characteristic that occupational disease patients over a mid- to long-term period are clearly defined by specifying the number of disease patients (three) among workers within one year. In the Industrial Safety and Health Act, the period is not specified, and it is defined as Serious Accidents by considering only the number of injured/diseased people and the duration of treatment. Fourth, comparing the main scope of application of the law, The Serious Accidents Punish-

ment Act is limited to business owners and management managers with 5 or more full-time workers. The Industrial Safety and Health Act is applied to all businesses and is universally applied. However, in the case of The Serious Accidents Punishment Act, less than 50 full-time workers are enforced three years after the promulgation of the law, and in the case of the Industrial Safety and Health Act, the number of full-time workers (less than 50 / less than 5 workers) is different for each workplace. Fifth, compared with the obligation to secure safety and health, the establishment of a safety and health management system between the Serious Accident Penalty Act and the Industrial Safety and Health Act, measures to manage the fulfillment of obligations, safety and health education, and prevention of related industrial accidents. However, in the case of the Severe Disaster Penalty Act, the establishment/implementation of measures to prevent recurrence of disasters, and the implementation of government/local government improvement/correction matters are emphasized and differentiated.

Finally, when comparing punishment and punishment regulations, the Serious Accidents Punishment Act stipulates imprisonment for at least one year or a fine of not more than 1 billion won, and the Industrial Safety and Health Act stipulates imprisonment for not more than 7 years or not more than 100 million won. The Serious Accidents Punishment Act has relatively no upper limit on prison sentences, and fines can be up to 10 times. The Serious Accidents Punishment Act applies significantly stronger punishment and punishment regulations than the existing Industrial Safety and Health Act with imprisonment of not more than 7 years or fines of not more than 100 million won. On the other hand, the Industrial Safety and Health Act stipulates imprisonment for up to 5 years and fines of up to 50 million won, indicating that the level of sentencing is low.

<Table7> Comparison between The Serious Accidents Punishment Act and Industrial Safety and Health Act

Sortation	The Serious accidents punishment act	Industrial Safety and Health Act
Composition of provisions	4 chapters, 16 articles	12 chapters, 175 articles
purpose	“The purpose of this Act is to prevent serious accidents and protect the lives and bodies of citizens and workers by stipulating punishment of business owners, management managers, public officials, and corporations who violate safety and health measures while operating businesses, public facilities, and public transportation	"The purpose of this Act is to maintain and promote the safety and health of persons who provide labor by establishing standards for industrial safety and health, clarifying the location of their responsibilities, preventing industrial accidents and creating a pleasant

<p>Definition (Serious Industrial accidents)</p>	<p>Serious accidents = Major industries + civil disasters Serious Industrial Accidents: 1) One or more deaths, 2) Two or more injuries requiring treatment for more than 6 months due to the same accident, and 3) Three or more occupational diseases due to the same harmful factors</p>	<p>Serious Accidents: Severe or multiple casualties, such as death, occur during industrial accidents 1) One or more deaths occurred, 2) two or more injuries requiring medical care for more than 3 months, and 3) 10 or more injuries/occupational diseases at the same time</p>
<p>A range of application.</p>	<p>Employers and management managers of businesses/businesses with at least five full-time workers (provided, however, that the city shall implement three years after the promulgation of the Act)</p>	<p>All projects (except for provisions for workplaces according to the number of full-time workers (less than 50/5))</p>
<p>Obligation to secure safety/health</p>	<p>1) Establishment/implementation of safety and health management system 2) Establishment/implementation of disaster prevention measures 3) The improvement/implementation of the central/local government 4) Measures for Management of Obligation Performance 5) Ensuring safety/health related to contracting, etc</p>	<p>1) Establishment of safety and health management system 2) Preparation/compliance of safety and health management regulations 3) Implementation of health and safety education 4) Measures to prevent harm and danger 5) Prevention of industrial accidents such as contract/construction industry</p>

<p>A punishment/double punishment rule</p>	<p>1)Deaths: imprisonment for more than one year or a fine of not more than one billion won</p> <p>2)Two or more injured persons who need treatment for at least six months of the same accident or three or more persons with occupational diseases of the same harmful factor: imprisonment for not more than seven years or a fine of not more than 100 million won</p>	<p>1)Imprisonment for not more than seven years or a fine of not more than 100 million won;</p> <p>2)Violation of various safety/health measures obligations: a fine of at least 5 million to a maximum of 5 years in prison or a fine of not more than 50 million won</p>
<p>Characteristics</p>	<p>Specific regulations</p> <p>The criminal nature of the employer/management officer's obligations and reinforced punishment and punishment regulations</p>	<p>Universal and comprehensive regulations</p> <p>General purpose provisions such as establishment of industrial safety/health standards and maintenance and promotion of safety/health of labor providers</p>

3.3.2 Problems with The Serious Accidents Punishment Act

Existing Serious Accidents were punished for violating the Industrial Safety and Health Act in the event of death or injury of workers or occupational diseases, but the sentencing level was low, which did not actually lead to recurrence and improvement of work environment safety. It was virtually impossible to punish diesel CEOs and executives of large companies, and it was difficult to define clear responsibilities for employers and management managers. Accordingly, with the introduction of The Serious Accidents Punishment Act, it is possible to directly punish individual business owners/corporations for management

managers, which aims to secure workers' and citizens' safety rights and increase the level of preventing serious accidents (Kwon Oh-sung, 2022).

However, The Serious Accidents punishment act still has various problems and issues for the following reasons. First, it violates the principle of criminal justice, which is the grand principle of criminal law, because the concept of "management manager" or the specific content of the obligation to secure safety and health stipulated by The Serious Accidents Punishment Act, centered on the management and some legal practitioners (Kwon Oh-sung, 2022). In other words, the direct responsibility for the task related to the obligation to secure safety/health under the Serious Accidents Punishment Act is not punished in the event of Serious Accidents, while management managers such as unrelated directors can be punished. In

this respect, in order to reduce controversy over the interpretation of management managers, it is necessary to clarify the contents and scope of their obligations, such as regulations on management managers and the establishment of safety and health managers. Second, in terms of punishment sentencing for employers, the statutory sentence is too excessive to violate the principle of responsibility (Kwon Oh-sung, 2022). Kim Jin-young (2021) In addition, it is pointed out that imposing an explicit duty to secure safety/health and imposing criminal responsibility on managers is excessive regulation or punishment for corporate management. The Serious Accidents punishment act, a special law of the Industrial Safety and Health Act, should be higher than the level of punishment of the Industrial Safety and Health Act, but the problem is that it does not specify sufficient normative grounds for breach and death. Ahn Yo-hwan (2021) In addition, it was pointed out in the management community that the legal punishment of this law was too serious compared to the legal punishment of similar types of crimes, so it was necessary to review whether the legitimacy and balance were lost in the punishment

system. Third, in terms of coverage, The Serious Accidents Punishment Act excludes businesses/businesses with less than 5 full-time workers and is suspended for 3 years for businesses with less than 50 employees. Looking at the current status of Industrial Accidents by actual workplace size, the proportion of those with less than 10 deaths is very high (Kim Jinyoung, 2022). In this respect, the labor community is protesting against the exclusion of small businesses where most accidents occur, and measures should be considered to expand the scope of application and change the obligations of each workplace to meet the original goal of reducing serious accidents (Kim Jin-young, 2022). Based on the number of casualties, the proportion of workplaces with less than 50 employees was about 80% and the death toll was about 70%, and workplaces with less than 10 employees were high at 48.4% and 33.9%, respectively. Ahn Yo-hwan (2021) presented statistics from the Ministry of Employment and Labor (1998-2019) and pointed out that 439 out of an average of 2,225 deaths occurred with less than five businesses, so it is necessary to check the feasibility of this law (Lee Geun-woo, 2021).

<Table8> Industrial accidents by workplace size between 2015 and March 2020

Sortation	~9	10~29	30~49	50~99	100~
the number of	245,664	116,320	41,232	35,404	69,344
casualties	48.4%	22.9%	8.1%	7.0%	13.7%
the death toll	3,480	1,854	829	946	3,159
	33.9%	18.1%	8.1%	9.2%	30.8%

Source: Kim, Jin-Young(2021:61).

Lastly, there are contents related to duplication and conflict in the Industrial Safety and Health Act and the specific punishment and punishment regulations, so it is necessary to clarify such as the special law.

4. Case Analysis and Implications of The Serious accidents punishment act in Foreign Countries

4.1 Similar laws in the UK : Corporate Manslaughter and Corporate Homicide Act (CMCHA)

The law stipulates that "the way in which an organization's activities are managed or organized refers to a person's death, and when the organization seriously violates the relevant duty of care owed to the deceased", CMCHA is recognized. It is the same as the crime of personal negligence under the previous case law in that it requires a causal relationship with death and there must be a serious violation of the duty of consideration. The related duty of consideration refers to the obligations of the organization under the law of negativity under the case law. The related duty of consideration refers to the following obligations of an organization under the law of illegality under the case law in relation to the organization to which this Act applies. The obligations of an organization to a person who provides services to its workers or other persons or organizations working for the organization, duties held as occupants of the

building, supply of goods or services by the organization, construction, repair by the organization, to perform other activities on a commercial basis in relation to the use and maintenance of factories, means of transportation, and others, and the obligation of an organization to an individual responsible for its safety, on the grounds of paragraph 2. In employment relations, the duty of consideration under the tort of negligence is distinguished from the duty under the Occupational Safety and Health Act. However, both obligations overlap to a considerable extent. In addition, the obligations under the Occupational Safety and Health Act, which an organization owes to a group of individuals, affect the characteristics and level of the related duty of care, and what is reasonable in the duty of care is affected by the organization being required to do through enforcement of the law.

A serious violation of the duty of consideration refers to "the organization's actions are far below the level reasonably expected in the situation." The judgment as to whether the violation is a serious violation is entirely made by the jury. The 2007 CMCHA presents factors that jurors are obliged to consider when making these judgments. The jury should consider whether the evidence proves that the organization has failed to comply with the health and safety legislation relating to the alleged violation and, if so, how serious the failure to comply is. Next, the 2007 CMCHA presents factors that can be considered by jurors. It is the extent to which there is demonstrated to be an attitude, policy, institution or accepted practice within the organization that encourages or creates tolerance for previous noncompliance, and the Occupational Safety and Health Guidelines relating to these violations. Although the interpretation of such serious violations is based on the law of negligence under the case law, it can be seen that compliance with the relevant Occupational Safety and Health Act and the related company's culture are a key factor in the establishment of CMCHA.

4.2. Similar laws in Australia: Work Health and Safety Act(NSW)

In Australia, the area of industrial safety is governed by each state, not by the federation. Currently, four states in Australia have workplaces and manslaughter laws. The Australian state of Queensland introduced the 2011 Labor Health and Safety Act on workplace and manslaughter and implemented it in October 2017. Under this law, a business owner, including a corporation, is NSW when the worker dies (or is injured and later dies) in the course of his work, and the employer

is negligent in the worker's death. Business owners who are NSW individuals face up to 20 years in prison and a fine of 100,000 units for corporations. As an individual, a director also falls under NSW when a worker dies while performing his or her duties lead to the death of the worker and the director is culpable for the death of the worker due to the act. Here, the employer's director is recognized for negligence if the act falls from the expected level to avoid the risk to life, and the act contributes significantly to death. As an individual, directors are sentenced to up to 20 years in prison if they commit this crime. Victoria, Australia, revised the Occupational Health and Safety Act 2004 (hereinafter referred to as the "Victoria Occupational Safety and Health Act") and has been implementing workplace and manslaughter crimes since July 1, 2020. The Victoria Occupational Safety and Health Act stipulates that both employers and executives are guilty of negligence, violating the employer's obligations under the Occupational Safety and Health Act, and causing the death of others. If the employer is convicted of negligence and negligence, the employer, who is a natural person, faces up to 25 years in prison. When determining whether there was a negligence, which is a requirement for manslaughter, with the workplace, it is based on whether the act falls far short of the degree of attention that a reasonable person would have taken in the environment in which it was performed. Unlike the UK's violation of the duty of consideration under the case law, Victoria and Queensland require a violation of the duty of safety and health measures under the Occupational Safety and Health Act. Unlike the UK, which targets corporations only, negligence and homicide crimes in Victoria and Queensland businesses target both corporations and corporate executives. And Queensland and Victoria are based on the standards of the case law of criminal negligence.

4.3 A Study on the Improvement of The Serious accidents punishment act in Foreign Countries

Compared with the corporate manslaughter laws in the UK and Australia, it can be seen that the basic targets of punishment are different. In the two states of the United Kingdom and Australia, the mandatory subjects are the corporation itself, and in the latter case, the executives of the corporation are targeted. On the other hand, in the case of Korea, management managers, etc. are punished, and corporations or institutions are punished only by double punishment regulations. This difference is due to the difference in Korea's criminal policies on corporate punishment. In Korea, corporations are not subject to punishment unless it is a punishment regulation, but Britain

and Australia have long been directly subject to punishment for corporations. Next, there is also a difference in the requirements for punishment for Serious Accidents. It can be seen that Korea's The Serious Accidents Punishment Act does not make violations of obligations under the Industrial Safety and Health Act a direct requirement for punishment. On the other hand, as seen above, violations of the obligations of the Industrial Safety and Health Act in the UK or Australia are a direct requirement for the establishment of corporate manslaughter. Unlike Australia and the UK, Korea's The Serious Accidents Punishment Act imposes separate obligations on management managers and others, and such violations of obligations are a requirement for legal punishment, which may lead to differences in punishment. First of all, there is a violation of obligations under the Occupational Safety and Health Act in Australia or the United Kingdom, and if a death occurs due to this, some of the requirements for punishment are met. However, this is not the case in Korea's The Serious Accidents Punishment Act. Even if there is a violation of the obligations of the Industrial Safety and Health Act and this results in serial accidents, theoretically, the requirements of the Serious Accidents punishment act have not been met. This is because the obligation of the Industrial Safety and Health Act in Korea is separate from the obligation to secure safety and health of The Serious Accidents Punishment Act, and serial accidents must have occurred due to a violation of the obligation to secure safety and health.

5. Conclusion and Improvement of The Serious Accidents Punishment Act

5.1 Research summary

First, this study summarizes the current status and characteristics of industrial accidents in Korea. Second, the legal system between Korea's The Serious Accidents Punishment Act and the Industrial Safety and Health Act was compared and analyzed, and the problems and issues of The Serious Accidents Punishment Act were derived. Third, it is intended to review cases related to the overseas The Serious Accidents punishment action and derive implications. Fourth, based on this, the ultimate goal was to suggest ways to improve The Serious Accidents punishment act.

As a result of the comparison between The Serious Accidents Punishment Act and the Industrial Safety and Health Act, first of all, The Serious Accidents Punishment Act is a very simple law consisting of only 16 articles in 4 chapters. On the other hand, the Industrial Safety and Health Act consisted of 175 articles in 12 chapters and was characterized by being quite universal

and comprehensive. Second, for the purpose of the law, The Serious Accidents Punishment Act stipulated the means of achieving the purpose of punishment, while the Industrial Safety and Health Act stipulated four comprehensive general purposes: establishing industrial safety/health standards and clarifying responsibility. Third, comparing the definition of a serious (industrial) accident, The Serious Accidents Punishment Act comprehensively viewed the concept of Serious Accidents and Civil Accidents, while the Industrial Safety and Health Act defined Serious Accidents only. Fourth, due to the main scope of application, the Severe Accident Penalty Act was limited to business owners and management managers of businesses/businesses with five or more full-time workers, while the Industrial Safety Act was applied to all businesses. Fifth, in terms of the obligation to secure safety and health, the establishment of a safety and health management system between The Serious Accidents Punishment Act and the Industrial Safety and Health Act, measures to manage the fulfillment of obligations, safety and health education, and prevention of related industrial accidents. However, in the case of The Serious Accidents Punishment Act, the establishment/implementation of disaster recurrence prevention measures and the implementation of government/local government improvement/correction matters were emphasized. Finally, in comparison with the punishment and punishment regulations, the Serious Accidents Punishment Act stipulated that the Industrial Safety and Health Act was at odds with 7 years or less, and the Serious Accidents Punishment Act was relatively limited to 10 years. The Serious Accidents Punishment Act also applied significantly stronger punishment and punishment regulations compared to the existing Industrial Safety and Health Act, while the Industrial Safety and Health Act had a lower level of sentencing. It was organized into three problems and issues of The Serious Accidents Punishment Act. First, the details of the concept of "Management Officer" or the obligation to secure safety and health, centered on the management and some legal practitioners, are ambiguous. Second, in terms of punishment sentencing for employers, the statutory sentence is too excessive and violates the principle of responsibility. Third, looking at the current status of industrial accidents by actual workplace size, the proportion of workplaces with less than 50 casualties and deaths is very high, and small workplaces with less than 5 employees are excluded from the Serious Accidents Punishment Act. Fourth, it is a problem of duplication and conflict in the provisions of the Industrial Safety and Health Act.

Therefore, in the direction of improvement of The Serious Accidents Punishment Act, 1) supplementary legislation of special characteristics in relation to the Industrial Safety and Health Act or criminal law, 2) expansion of support targets such as deletion of business exclusion regulations with less than 5 employees, and 3) clear regulations on safety and health.

5.2 A Study on the Improvement of The Serious Accidents Punishment Act

First, in order to ultimately improve the problems of the related legal system of The Serious Accidents Punishment Act, supplementary legislation is needed to interpret this law as a special law in relation to the Industrial Safety Act or the Criminal Act. In situations where superiority and inferiority relations between other laws may be problematic, it should be applied first in serious industrial accidents. Second, it is necessary to remove regulations that exclude workplaces with less than 5 employees in serious industrial accidents, and to improve legislation to mandate government support for small businesses with weak safety management capabilities. It is not equal for other laws to apply to workers in large companies and workers in small businesses. Third, in order to remove the arbitrary interpretation of the duty to secure safety and health and to further specify the contents, it is necessary to delegate specific matters of the "establishment and implementation of measures to prevent recurrence in the event of a disaster" to the Presidential Decree. This clause is stigmatized as the Law Firm Welfare Act, and in fact, large companies are currently requesting law firms to avoid punishment. Finally, for violations of obligations by management managers, etc., the sentence is stipulated as imprisonment for at least one year or a fine of not more than 1 billion won upon death. It was difficult to apply it to companies even with the Industrial Safety and Health Act, which had been implemented before, but it is questionable whether it can be applied when Serial Industrial Accidents occur in reality. Since this law obliges companies to have a safety system and punishes them if they violate it, it should be greater than the expected profit if they fail to comply with the fine. Considering that it is desirable for the law to be applied mainly to large companies, the upper limit of the fine should be

higher than it is now, so that it has a practical subordinate effect on companies. Of course, the government should mandate support for workplaces with less than five employees as written above. Conversely, I don't think it needs to be an excessively high sentence for management managers. It is not because the responsibility is low, but because they have been virtually punished so far, they are "definitely" punishing the lower limit of the sentence rather than the high sentence. If it is common for management managers to have "certain" criminal responsibility when a worker dies or is injured due to the lack of a safety system, the effect will be great, even if the sentence is not as much as the criminal law sentence. In particular, if there are repeated cases in which prison sentences are sentenced, rather than fines and probation, the preventive effect on safety accidents will be even greater.

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