

# A Study on the Implications and Major Issues of the Amended 「Act on Dissection and Preservation of Corpses」\*

---

\* This paper is a translation of an article published in Volume 5, Number 2 of 「Bio, Ethics and Policy」.

---

**Seunghyun Cha<sup>1</sup>, Inkyoung Park<sup>2</sup>, Sujin Baik<sup>3</sup>**

<sup>1</sup> Researcher, Korea National Institutes for Bioethics Policy; <sup>2</sup> Senior Researcher, Korea National Institutes for Bioethics Policy; <sup>3</sup> *Corresponding Author*: Chief Researcher, Korea National Institutes for Bioethics Policy. E-mail: [sujin100@nibp.kr](mailto:sujin100@nibp.kr)

---

## Abstract

The amended Act on Dissection and Preservation of Corpses was implemented on April 8, 2021. The biggest change is the shift of the research scope from “education and research in medicine” to “research on medicine and biomedicine.” In addition, it set up a system that allows parts of a corpse to be collected, preserved and provided for the purpose of research in the case of institutions, including not only medical schools but also general hospitals, by obtaining permission after fulfilling all requirements under the relevant laws.

Indeed, the amended Corpse Dissection Act requires that plans to pursue research using a part(s) of a corpse be subject to deliberation by an Institutional Review Board (hereinafter, IRB) prior to the commencement of the research. However, the contents of research using a part(s) of a corpse can in fact be the same as research using human-derived materials in accordance with the Bioethics Act with the exception of the fact of survival of the donor who is the subject of the research, etc. Therefore, when the IRB deliberates on research using human-derived materials in accordance with Item 1 of Clause 3 of Article 10 of the Bioethics Act, deliberation details or standards other than issues on the safety of the research subjects, etc. cannot be different. In addition, it is required to obtain the informed consent of the bereaved family at the time of research using a part(s) of a corpse. The Bioethics Act, which deals with corresponding issues, emphasizes and obligates respect for voluntary

consent based on the autonomy of the donor of human-derived materials. Although it is also appropriate for informed consent in accordance with the Corpse Dissection Act to be obtained based on the intention of the donor expressed during his/her life, it is disappointing that it relies on the consent of the bereaved family. Accordingly, the direction of clarifying that the self-decision-making right of the donor has the utmost priority in principle, and if this is not possible, acknowledging the consent of the bereaved family could be reviewed as an exception.

Furthermore, the establishment of requisites for the approval of corpse dissection as well as the collection, preservation and provision of parts of corpses by the institution providing parts of corpses for approved research safely and ethically in accordance with this Act in this amendment of the Corpse Dissection Act could be deemed highly significant. Since the use of corpses and parts of corpses is expanding, it is also necessary to appropriately establish a means of respectable treatment of those who consented to donation and their bereaved families within the scope of not compromising their noble intentions. Therefore, appropriate systems will need to be put in place to support the deceased and their bereaved families with funeral arrangements that are in accordance with their wishes and dignity, rather than direct payments.

### **Keywords**

Act on Dissection and Preservation of Corpses, corpse, parts of a corpse, provision of parts of a corpse for research, human body resources and bioethics

## **1. Introduction**

The amended Act on Dissection and Preservation of Corpses (hereinafter, the “Corpse Dissection Act”) was implemented on April 8, 2021. The key change in the amendment of the Corpse Dissection Act is that the scope of research for the use of corpses and parts of corpses was expanded from “investigation of the cause of the death and pathological and anatomical research” in the fields of anatomy and forensic medicine to “research in medicine and biomedicine.” This reflects the social demand for the need for the use of corpses and parts of corpses for research purposes since various fields of research on the mechanisms, diagnosis and treatment of diseases, including brain neuroscience, are increasingly progressing.

The government has been paying attention to neuroscience and brain research as

academic areas that will lead the era of the Fourth Industrial Revolution, and established and operated the Korean Brain Bank Network<sup>1</sup> under the Brain Research Promotion Act with the Ministry of Science and ICT playing the key role as early as 2014. The Ministry of Health and Welfare has also been pursuing a brain banking project<sup>2</sup> since 2016 in accordance with the Comprehensive National Dementia Management Plan. However, since the Corpse Dissection Act was centered around the donation of corpses for medical school-based dissection practicum at the time, it was difficult for researchers from non-medical institutions to acquire actual brains for brain research. To solve these problems, the Partial Amendment Bill for the Brain Research Promotion Act<sup>3</sup> was proposed in 2018 to institutionalize the operation of a brain bank that is licensed to collect, preserve and sell parts of a corpse. However, while examining the relationship with the Corpse Dissection Act or the [Bioethics and Safety Act] (hereinafter referred to as the "Bioethics Act"), the corresponding bill expired and was discarded. By reflecting such requests, the Partial Amendment Bill for the Brain Research Promotion Act was proposed again in 2019 and the amendment of the Corpse Dissection Act was passed<sup>4</sup> in 2020. This provides a legal basis and management system for collecting, storing and providing parts of corpses for comprehensive medical research.

The key amendments to the Corpse Dissection Act can be summarized as follows. First of all, as mentioned earlier, the purpose clause of the Act was amended<sup>5</sup> to expand the use of parts of corpses for research purposes. As a result, unlike the existing limited handling and management of corpses at medical schools, a comprehensive and systematic management structure became necessary. For this purpose, standards and procedures for

---

1 <https://kbbn.kbri.re.kr/portal/page/main/home>

2 Ministry of Health and Welfare, [The Third Comprehensive Dementia Management Plan ('16~'20)], 2015. 2. [http://www.mohw.go.kr/react/jb/sjb030301vw.jsp?PAR\\_MENU\\_ID=03&MENU\\_ID=0319&CONT\\_SEQ=330876&page=1](http://www.mohw.go.kr/react/jb/sjb030301vw.jsp?PAR_MENU_ID=03&MENU_ID=0319&CONT_SEQ=330876&page=1)

3 It specifies that the Ministry of Science and ICT is in charge of securing and selling corpse-derived brain research resources notwithstanding the Corpse Dissection Act, and that ethical and social issues will be deliberated through the establishment of the Brain and Nerve Ethics Committee under the Ministry of Science and ICT. Partial Amendment Bill for the Brain Research Promotion Act (presented by Joo Ho-young, a member of the National Assembly). [https://likms.assembly.go.kr/bill/billDetail.do?billId=PRC\\_W1X8C0L3Z3G0I1Z8W0G8F001C5H4S9](https://likms.assembly.go.kr/bill/billDetail.do?billId=PRC_W1X8C0L3Z3G0I1Z8W0G8F001C5H4S9)

4 This bill seeks to revitalize disease research and contribute to public health by allowing corpse tissues to be provided to others for research purposes and establishing a management system, including the establishment of a dedicated agency for the management of these issues. A Bill to Amend the Act on the Dissection and Preservation of Corpses (presented by Kim Sang-hee, a member of the National Assembly). [https://likms.assembly.go.kr/bill/billDetail.do?billId=PRC\\_C1Y9C0R1Y3R0M1B5W2K3R3V2V1G2P5](https://likms.assembly.go.kr/bill/billDetail.do?billId=PRC_C1Y9C0R1Y3R0M1B5W2K3R3V2V1G2P5)

5 In Article 1 of the Corpse Dissection Act, it is stipulated that "this Act aims to establish issues related to the dissection, preservation and research of corpses in order to improve public health by investigating the cause of death and conducting pathological and anatomical research appropriately, and to contribute to education and research in medical science and biomedical sciences," thereby expanding the categories of research purposes that were previously limited to "medical education and research" to "research in medical and biomedical sciences."

the consent of the bereaved family for research were established (Article 9-3 of the Act). In addition, a person who intends to conduct research by using part of a corpse must prepare a research protocol before starting the research and undergo a review by the institutional bioethics committee (institutional review board, hereinafter IRB) in accordance with Article 10 of the Bioethics Act (Article 9-2 of the Act). Obviously, when conducting research using part of a corpse, it is intended to prevent misuse by restricting its use for purposes other than research (Article 9-7 of the Act). Another important amendment is that in order to systematically manage corpses and parts of corpses, medical schools and general hospitals must obtain permission in accordance with Clause 1 of Article 9-4 of the Act for the purpose of providing parts of corpses for research. Therefore, the subordinate legislation of the Corpse Dissection Act aims to harmonize these major amendments with the amended purpose of the Act by considering the reality of individual researchers and the operational status of different medical schools and general hospitals within the scope delegated by the Act.

Therefore, this paper will review the major amendments to the Act, including the expansion of the categories of use for research purposes, deliberation and consent for research using parts of a corpse, the role of institutions that provide parts of a corpse for research and the permit requirements necessary for proper operation, and support and respect for those who consent to the dissection of a corpse, as well as analyze the associated issues and implications. Furthermore, for the smooth implementation of the amended Corpse Dissection Act, measures to manage the quality of some providers of corpses for research purposes will be proposed, an integrated public management system for corpses and parts of corpses will be established, and respect and support for consenting persons will be provided along with the designation of a dedicated organization for this purpose.

## 2. Main contents and controversial issues of the amended Act

### A. Deliberation and consent for research using parts of a corpse

The Korean legal system has separate laws for each of the purposes of transplantation, treatment and research, etc. even if it is concerned with the use of the same human body or a part of one, thereby differently stipulating and requiring consent for each of the purposes of use. Under the [Organ Transplantation Act (hereinafter referred to as the “Act”), a donor can express a wish to donate, but in the case of a brain-dead person, regardless of his or her autonomy, donation is possible only with the consent of his/her family. Although the comprehensive amendment of the Bioethics Act in 2012 provides a

comprehensive definition of human-derived material<sup>6</sup> and stipulates that voluntary written consent with sufficient explanation must be obtained directly from the donor, this presupposes the use of human-derived components, excluding organs, for research purposes. Since the Bioethics Act does not specifically mention whether the donor of the human-derived material should be alive or dead at the time of the use of the human-derived material, it cannot be said that the materials derived from a dead person are excluded from the definition of human-derived material. However, there is also a view that it is unclear whether taking part of a dead person is included in the definition of human-derived material.<sup>7</sup> In addition, although the Bioethics Act corresponds to the basic law related to research, the application of the Corpse Dissection Act takes precedence when it comes to the use of corpses and parts of corpses. Therefore, situations in which it is difficult to determine the applicable law in the actual field have occurred. For example, in the case of a brain bank, if part of the tissue removed after surgery on a living patient is donated, it can be collected and stored by a human-derived material researcher or a human-derived material bank because consent is required under the Bioethics Act. On the other hand, if it is tissue or a whole brain that can only be obtained after death, this can only be performed under the Corpse Dissection Act. However, with the amendment of the Corpse Dissection Act, it is now possible to donate parts of a corpse for “research in medicine and biomedicine” under the Corpse Dissection Act, and to collect and store them accordingly, thereby easing the burden of making a decision on the applicable law on the part of those who must comply with this Act.

In the event of conducting research using part of a corpse pursuant to Article 9-2 of the amended Corpse Dissection Act, the corresponding researcher must undergo IRB deliberation under Article 10 of the Bioethics Act for the research protocol prior to conducting the research. The IRB deliberates the feasibility of conducting the research by examining whether the part of the corpse to be used in the research has been legally obtained and whether the proposed research is ethically and scientifically valid. This is the same purpose for which the Bioethics Act requires IRB deliberation of research involving the use of human-derived materials research purposes. The IRB is an organization established and operated by the institution to which the researcher is affiliated to ensure bioethics and safety in human subject research and human-derived material research in

---

<sup>6</sup> Human-derived materials under Clause 11 of Article 2 of the Bioethics Act refers to the materials composing human body such as tissues, cells, blood and body fluids collected or taken from the human body, or serum, plasma, chromosomes, DNA (deoxyribonucleic acid), RNA (ribonucleic acid) and proteins separated from them.

<sup>7</sup> National Bioethics Policy Institute, *Trends in the legal system for the management and use of human-derived materials*, 2018-03, p.36; Choi, Min-Young “Use of human-derived materials and criminal legal regulation,” *Medical Jurisprudence* vol.19 no.3, 2018, pp.30-32.

accordance with the Bioethics Act. The IRB reviews the ethical and scientific validity of the research protocol in accordance with Item 1 of Clause 3 of Article 10 of the Bioethics Act<sup>8</sup> and deliberates on issues related to bioethics and safety, such as the legality of consent, safety of research subjects or human-derived material donors, and protection of personal information. From the perspective of ensuring bioethics and safety, the survival of the human-derived material donor may not be an important consideration at the time of IRB deliberation. However, from the perspective of the legal interest of protecting research subjects, deliberations on measures for the protection of personal information may differ between the use of personal information with human-derived materials taken from living people and the use of parts of a corpse derived from a dead person and information of the donor. This is because the use of parts of a corpse and their information is necessary to protect the honor of the dead person, the personality of the donor during his/her life, and the interests of the bereaved family, but it cannot be considered to have the same degree of protection benefits as the protection of information of a living person. In addition, those pursuing research by using part of a corpse in accordance with Article 9-3 of the amended Corpse Dissection Act must obtain the consent of the bereaved family before commencing the research.<sup>9</sup> Even prior to the amendment, separate written consent was required for dissection and preservation, and consent had been obtained in certain cases

---

8 Article 10 (Establishment and functions of Institutional Review Board) ③The IRB shall conduct each of the following tasks.

1. Deliberation on issues corresponding to each of the following items:
  - A. Ethical and scientific validity of the research protocol
  - B. Whether consent has been obtained from research subjects, etc. in accordance with due process
  - C. Issues related to the safety of research subjects
  - D. Measures to protect the personal information of research subjects
  - E. Other issues related to bioethics and safety at the institution

9 Article 9-3 (Consent of the bereaved family for research using parts of a corpse) ① A person who intends to conduct research using parts of a corpse or an organization that intends to collect, preserve and provide parts of a corpse for research purposes by having acquired permission under Clause 1 of Article 9-4 shall obtain the consent of the bereaved family. However, this shall not apply in any of the following cases:

1. When there is a will pursuant to Article 1060 of the [Civil Code] stating that the person consents to research using part of his or her corpse
2. When there is a consent in the form of a handwritten document signed and sealed by the person expressing his or her intention to consent to research using a part of his or her corpse, his or her name, and the date.

② Consent in accordance with the Item ① above shall be in writing and include the following details:

1. The purpose of the research that will use the part of the corpse
2. Issues on the protection and processing of information that can identify an individual, such as name and resident registration number, etc. (hereinafter referred to as “identification information”)
3. Issues on the provision of parts of the corpse (limited to the provision of a part of a corpse by an organization approved under Clause 1 of Article 9-4)
4. Issues on the preservation, management and disposal of parts of a corpse
5. The method of withdrawing consent, method of disposing of a part of a corpse upon withdrawal of consent, rights of the person who gave consent and other issues prescribed by an Order of the Ministry of Health and Welfare

by using statutory forms despite the lack of delegation. However, there have been ongoing issues regarding the lack of clarity in the specific consent contents and procedures. Therefore, in order to comply with the legislative intent of the amended Corpse Dissection Act, it is necessary to establish subordinate legislation applicable to the relevant field to receive donations with consent for the use of corpses and parts of corpses for comprehensive research purposes and to use them appropriately for research. In particular, unlike the Corpse Dissection Act before its amendment, where dissection for education and research on the structure of the human body centered on medical schools was the main reason for donation, it is important to explain to the donors and obtain their consent to secure corpses and parts of corpses that can in fact be used comprehensively for various medical and scientific studies. To conduct the consent process ethically, it is most important to fully explain the issues that the consenting person should consider when they make a decision to consent. For this purpose, it is desirable to establish subordinate legislation to provide fundamental explanations of the purpose of the donation, such as dissection, preservation, research and provision, as well as the protection and processing of information about the dead person when used, the scope and method of provision, and the method of withdrawing consent and the treatment accordingly. Furthermore, it is important to ensure that donor consent is fully explained and the scope of use determined by the donor is made clear so that there is no controversy. Therefore, it is necessary to legislate a unified consent form so that the scope and content of consent can be clearly confirmed by sufficient explanation. Of course, there are limitations to legislating a consent form for dissection and preservation because there is no explicit basis for delegation under the law, and if it is proposed as a statutory form, it may be less flexible in responding to individual situations. However, considering the fact that consent forms were legislated and used without delegation regulations before the amendment and the purpose of the amendment, a statutory form containing the essential points that need to be explained can be used in the field to minimize the scope of use and confusion in the consent process.

## **B. System of approving institutions that provide parts of corpses**

In order to provide part of a corpse for research under Clause 1 of Article 9-4 of the amended Act, a medical school or general hospital must have the facilities, equipment and personnel specified by Presidential Decree and obtain permission from the Minister of Health and Welfare. Considering biosafety such as infection, it is important to have the appropriate facilities, equipment and manpower to become an institution that collects, preserves and provides parts of corpses for research purposes. However, it may be pointed

out that overly stringent standards may hinder the establishment of infrastructure in a situation where donations of corpses for research purposes are not active. Therefore, it is necessary to consider the demand for research purposes, but to set the standards for facilities, equipment and personnel at a level where the actual management can be delegated to the relevant organization. A similar example in Korea is the criteria for authorizing the establishment of human-derived material banks under the Bioethics Act. However, since the range of human-derived materials that can be collected and stored in a human-derived material bank under the Bioethics Act is very diverse and wide, and there is no direct regulation on collection, only equipment and facilities that are essential for the “collection and preservation” of human-derived materials are stipulated as minimum permit standards by checking the institution’s operation plan according to the purpose of establishing the bank.<sup>10</sup> [The Act on the Safety and Management of Human Tissues] (hereinafter referred to as the “Human Tissue Act”) also stipulates facility, equipment, and personnel standards for each license applicant (medical institutions, nonprofit corporations established for the primary purpose of conducting business related to human tissues, tissue processing companies, and tissue importers) to ensure the safe and appropriate supply and management of human tissues. In addition, detailed standards such as equipment required for each facility (tissue collection room, tissue processing and processing room, diagnostic examination medicine room, corpse room, tissue storage room, and record storage room) are also set by law.<sup>11</sup> On the other hand, the [Act on the Promotion of Collection, Management and

---

**10** Enforcement Order of the Bioethics Act [Appendix 1] Facilities, equipment, and personnel standards for permission to open a human-derived materials bank

1. In the event of collecting and preserving human-derived materials and genetic information, and epidemiological and clinical information related thereto

A. Facility standards

- 1) Information management room
- 2) Human-derived materials processing room
- 3) Human-derived materials storage room
- 4) In the event of culturing and storing cells, cell culture room

B. Equipment Standards

- 1) Refrigerator
- 2) Freezer
- 3) Deep freezer
- 4) Centrifuge
- 5) Sterilizers
- 6) Computerized equipment, data systems
- 7) Liquid nitrogen tank (corresponds only in the event of storing cells)

**11** Enforcement Order of the Human Tissue Act [Appendix 1] Facilities, equipment, personnel standards and quality control system of tissue banks, etc.

B. Detailed standards for equipment required for each facility, etc.

- 1) Tissue collection room (operating room)
  - a) Be equipped with air purification equipment that can supply clean air that is free of dust and germs to prevent tissue infection.
  - b) The interior walls shall be kept free of moisture and equipped with necessary facilities for

Use of Pathogen Resources] (hereinafter referred to as the "Pathogen Resources Act") may designate specialized pathogen resource banks to effectively collect, manage and use pathogen resources by field. However, unlike the Human Tissue Act, the Pathogen Resources Act stipulates criteria for facility designation, but only generalized facility requirements, and grants discretion to the designee to review and determine the details according to the characteristics of pathogen resources by field when reviewing the designation.<sup>12</sup> Therefore,

---

drainage.

- c) Be equipped with cooling, heating, and lighting facilities
- d) Be equipped with surgical clothing, bandage materials, surgical mechanical equipment, medical gas, disinfection equipment, and sterilization and washing facilities.
- 2) Tissue processing/processing room
  - a) The floor should be treated with water-resistant concrete, etc. and ensure good drainage.
  - b) Interior walls should be made of water-resistant materials up to 1.5 meters from the floor and be light-colored or painted with antibacterial paint.
  - c) Be equipped with the necessary facilities for tissue treatment and processing, such as a workbench (which must be free of bacteria), a fracture machine, and a freeze-dryer.
  - d) Equipment and items in direct contact with tissues should be made of water-resistant materials, easily washable, and disinfected and sterilized with hot water, steam, or disinfectants.
  - e) Be equipped with ventilation facilities to ventilate odors, harmful gases, smoke, steam, etc.
  - f) Be equipped with necessary machinery, equipment, etc. to process each type of tissue
- 3) Deleted <2017. 3. 20.> (1)
- 4) Diagnostic examination room
  - a) In the case of a nonprofit corporation established with the main purpose of conducting business related to medical institutions or organizations: Equip the equipment necessary for blood tests and microbiological tests. However, if these tests are performed by referring to an organization that falls under the following classification, it may not be equipped with the equipment necessary for these tests.
    - (1) Nucleic acid amplification test (NAT) during blood tests: A medical institution with equipment capable of performing a nucleic acid amplification test, the Korean Red Cross under the [Korean Red Cross Organization Act], or an institution designated and notified by the Minister of Food and Drug Safety.
    - (2) Blood tests or microbiological tests other than nucleic acid amplification tests: Medical institutions with equipment capable of performing the tests.
  - b) For tissue processors and tissue importers: Have the necessary equipment for microbiological testing. However, microbiological tests must be performed at a facility that has the facilities and equipment to perform microbiological tests.
- 5) Morgue
  - Be equipped with refrigeration and disinfection facilities to prevent decomposition.
- 6) Tissue storage room
  - Be equipped with facility to store and manage tissues in a hygienic and safe manner, and with necessary refrigeration and freezing equipment.
- 7) Record storage room
  - Be equipped with facilities such as bookshelves to store and manage records.

- 12 Article 7 of the Pathogen Resources Act (Designation and operation of specialized banks for pathogen resources) ① The criteria for the designation of specialized banks for pathogen resources (hereinafter referred to as "specialized banks") pursuant to the preceding Clause 1 of Article 9 of the Act are as follows:
- 1. Standards for facility and equipment: All of the following criteria must be met
    - A. Research facilities with rating higher than Grade 2 according to Appendix 1 of the [Enforcement Order of the Act on Transnational Movement of Genetically Modified Organisms, etc.]
    - B. Storage facilities and related equipment capable of managing pathogen resources of 1,000 strains or more

it is necessary to establish the permit criteria for institutions that intend to provide parts of corpses by comprehensively considering whether the institution is a medical school or a general hospital, and the level of processing expertise and management of the parts of corpses that the provider intends to collect, store and use. If the subordinate legislation considers the basic capabilities of each institution and provides the criteria, it will be possible for the institution to make appropriate preparations for the actual permit application, and it may be advantageous to secure the initial infrastructure. Regarding personnel standards, the Bioethics Act stipulates that a human-derived material bank must have an information security officer and at least two researchers for resource management and research.<sup>13</sup> The Pathogen Resources Act also requires pathogen resource banks by field to have resource management experts, safety management personnel, information system personnel, and safety personnel.<sup>14</sup> The Human Tissue Act requires that a human tissue bank be licensed as a human tissue bank to have a director, an administrator, a person in charge of tissue handling, a quality manager, and an administrator.<sup>15</sup>

In consideration of the discussions regarding the amendment of the Corpse Dissection Act and the purpose of the amendment, it is important for some providers of corpses

- 
- C. An online work processing system that can handle the tasks in each of the Items of Clause 2 of Article 9 of the Act
  - D. Facilities and equipment for the safe management of and prevention of harm by the pathogen resources
  - E. Other facilities and equipment that the director of the KCDC recognizes as particularly necessary for the management of pathogen resources.
- 13 Enforcement Order of the Bioethics Act [Appendix 1] Standards for facilities, equipment and personnel for authorization to open a human derived materials bank (related to Clause 1 of Article 16)
- C. Personnel standards
    - 1) At least one person in charge of information management and security
    - 2) At least two researchers for the management and research of human genetic material (human genetic material and genetic information obtained from human genetic material, as follows).
- 14 Article 7 (Designation and operation of specialized pathogen resource banks) ① The criteria for designating specialized pathogen resource banks (hereinafter referred to as “specialized banks”) pursuant to the preface to Clause 1 of Article 9 of the Act are as follows.
2. Personnel standards: All of the following criteria must be met
- A. At least 1 professional staff member who holds a master’s degree or doctoral degree in a pathogen resource-related field and is dedicated to pathogen resource-related work
  - B. At least one person in charge of safety management for pathogen resources
  - C. At least one person in charge of information system work on pathogen resources
  - D. Other personnel recognized by the director of the Korea Centers for Disease Control and Prevention as particularly necessary for the management of pathogen resources.
- 15 Enforcement Order of the Human Tissue Act [Appendix 1] Facilities, equipment, personnel standards, and quality management system of tissue banks (related to Article 8)
2. Personnel standards
- There shall be at least one person each in charge of the tissue bank, a medical manager (limited to a person qualified as a doctor or dentist), a person in charge of tissue handling, a person in charge of quality control, and an administrator. However, the person in charge of tissue handling may also serve as an administrator, and the medical manager of a tissue bank that is a nonprofit corporation established for the primary purpose of conducting business related to medical institutions or organizations may also serve as the head of the tissue bank.

to establish facility standards in consideration of risks such as infection when handling corpses and parts of corpses, and to describe the detailed standards of equipment that must be equipped for each facility according to local conditions. In particular, since parts of corpses will be provided to an unspecified number of researchers for research purposes, it is necessary to focus on safety by ensuring that the autopsy room, examination room, corpse room (morgue), and storage room for parts of corpses are each classified as Class 2 or higher<sup>16</sup> for the safety management of high-risk pathogen handling facilities in accordance with the Enforcement Order of the [Act on Prevention and Control of Infectious Diseases] (hereinafter referred to as the "Infectious Disease Prevention Act") and are accordingly equipped with safety management measures. In addition, while spaces such as offices and consultation rooms may be essential for administrative purposes, such as fully informed consent and procedures for donating or providing parts of a corpse, it may be possible to consider the burden on the institution applying for the permit and allow it to be used as a shared space if it already has a facility at a medical school or general hospital.

In order to smoothly anchor the system while taking into account the burden on the field, it will be necessary to stipulate only the minimum number of dedicated personnel necessary for the smooth performance and management of related tasks such as the provision of part of a corpse, such as a person in charge, a person in charge of diagnosis, a person in charge of collection processing and management of a corpse and part of a corpse, a person in charge of consent and follow-up management of donors, and a person in charge of administrative affairs such as consultation contact for the purpose of research. In particular, the Brain Bank Ethics Guidelines (ブレインバンク倫理指針) of the Japan Society of Neuropathology and Biological Psychiatry and the Code of Conduct of the European Commission-funded Brain Network Europe Consortium (hereinafter, BNE Consortium) limit diagnosticians to "pathologists" for the purpose of ensuring the safety of the provision. However, it is also necessary to consider the current voices in the field, such as the purpose of the law amendment, infrastructure expansion, and difficulties in

<sup>16</sup> Enforcement Order of the Infectious Diseases Prevention Act [Appendix 1 to 4].  
Classification of safety management level of high-risk pathogen handling facilities and subject of permit or notification thereof (in relation to Clause 1 of Article 19-2)

| Ratings | Details of facility handling high-risk pathogens   | Whether permit or report is needed |
|---------|--|------------------------------------|
| Grade 2 | Facility that handles high-risk pathogens or conducts experiments using pathogens that can cause severe but treatable diseases when humans are infected        | Report                             |
| Grade 3 | Facility that handles or conducts experiments with high-risk pathogens that can cause severe but treatable diseases when humans are infected                   | Permit                             |
| Grade 4 | Facilities that handle or conduct experiments with high-risk pathogens where, if humans are infected, can cause a disease that is fatal and difficult to treat | Permit                             |

supplying adequate manpower at the beginning of implementation. Therefore, if it is necessary to provide a corpse for research in a specific field, such as brain disease, it may be possible to consider how to balance the needs of the field by specifying an exception in a subordinate law that allows a specialist other than a pathologist who is recognized by the person in charge as having appropriate experience in autopsy diagnosis, such as undergoing training in pathology diagnosis.

### **C. Respect for corpses and those consenting to their donation**

Although Article 17 of the Corpse Dissection Act provided for respectful treatment of corpses and Article 17.2 of the Act provided for those who consented to the dissection of a corpse prior to the amendment of the Act, the purpose and scope of the use of corpses has been expanded through this amendment, and those who consented to the provision of research and research using parts of a corpse have also been subject to respectful treatment. Clause 1 of Article 17-2 of the Corpse Dissection Act stipulates that the state shall provide appropriate respect and support to persons who consent to the dissection of their corpse after their death, and their families and the bereaved families who have authorized the dissection of a corpse (“family” or “bereaved family” shall apply to Clause 6 of Article 4 of the Organ Transplantation Act) in consideration of the state’s commitment to the development of medical science. Therefore, the state may provide respect and support to those who consent to the dissection of the corpse within the scope of its discretion.

Clause 1 of Article 32 of the Organ Transplantation Act and Article 26 of the Enforcement Regulations of the same Act also stipulate that the state may pay funeral and medical expenses to donors of organs and their families or bereaved families within the scope of the budget. In addition, support and respectful treatment projects such as memorial and commemorative events, establishment of memorial parks or sculptures to disseminate a life-sharing culture, counseling and self-help groups can be carried out. In this regard, the Anti-Corruption and Civil Rights Commission recommended that the Ministry of Health and Welfare improve the organ donation system by preparing a plan to enhance the effectiveness of the system last March. The corresponding recommendation was to expand the scope of donor support, memorialization and respectful treatment projects from the state to local governments, and to provide specialized personnel to alleviate the inconvenience and anxiety of the bereaved families of organ donors by assisting them with funeral procedures and psychological recovery, and to facilitate correspondence between donors (including bereaved families) and transplant recipients upon request.<sup>17</sup>

---

<sup>17</sup> Press release by the Anti-Corruption and Civil Rights Commission, “Fortifying respectful treatment

The Human Tissue Act also stipulates that in order to promote tissue donation and transplantation, the national government and local governments shall carry out projects and promote policies within the scope of their budgets, conduct publicity, indicate the intention to donate on licenses, etc.<sup>18</sup> As with these examples of similar legislation, subordinate legislation may be needed so that the state can support some practical respectful treatment measures, such as support for post-mortem procedures, commemorative events, and education and promotion to raise awareness of donation.

### 3. Key issues of the amended subordinate laws and operational issues to be considered

#### A. Appropriate consent for the donation of corpses for comprehensive research purposes

##### 1) Enactment of a law on consent for the dissection, preservation, research and provision of corpses, etc.

As examined above, the Corpse Dissection Act allowed the donation of a corpse with the consent of the bereaved family prior to its amendment, but the scope of the bereaved family's decision and the actual entity that managed the corpse with their consent were not clear. In addition, although it was not a mandate, a dissection consent form and a preservation consent form were legislated for obtaining and managing consent. The Corpse Dissection Act, which came into effect on April 8, 2021, not only expanded the scope of access to parts of a corpse with consent, but also added licensed providers of parts of a corpse other than medical schools as new entities to manage the corpse, and researchers

---

of organ donors and their bereaved families" [https://www.acrc.go.kr/acrc/board.do?command=searchDetail&menuId=05050102&method=searchDetailViewInc&boardNum=86488&currPageNo=1&confId=4&conConfId=4&conTabId=0&conSearchCol=BOARD\\_TITLE&conSearchText=%C0%E5%B1%E2%B1%E2%CF5%0%DA%B9%D7+%C0%AF%B0%A1%CF%B7+%BF%B9%BF%EC+%B0%AD%CF%AD%B5%CF%B4%D9&conSearchSort=A.BOARD\\_REG\\_DATE+DESC%2C+BOARD\\_NUM+DESC](https://www.acrc.go.kr/acrc/board.do?command=searchDetail&menuId=05050102&method=searchDetailViewInc&boardNum=86488&currPageNo=1&confId=4&conConfId=4&conTabId=0&conSearchCol=BOARD_TITLE&conSearchText=%C0%E5%B1%E2%B1%E2%CF5%0%DA%B9%D7+%C0%AF%B0%A1%CF%B7+%BF%B9%BF%EC+%B0%AD%CF%AD%B5%CF%B4%D9&conSearchSort=A.BOARD_REG_DATE+DESC%2C+BOARD_NUM+DESC)

<sup>18</sup> Article 27 of the Human Tissue Act (Support for Tissue Donation) ① The state and local governments shall, within the scope of their budgets, carry out the following projects to promote tissue donation and transplantation:

1. Establish and promote support policies for tissue donation
2. Support for publicity on tissue donation and transplantation
3. Indication of tissue donor willingness (limited to those who have registered as tissue donor willingness pursuant to Item 1 of Clause 2 of Article 7, as indicated on certificates such as driver's licenses issued by the state and local governments).

② The state and local governments may provide necessary support to the registrar, tissue donation support organization, tissue bank, or tissue donor within the scope of the budget.

using parts of a corpse can also be entities to obtain and manage consent.

In the United Kingdom, the Human Tissue Act (hereinafter, HT Act) and its respective codes of practice also stipulate consent procedures for the donation and storage of corpses, but rather than stipulating the form of consent or specific consent items, the HT Act establishes the issues that the consent holder should consider when giving consent<sup>19</sup> and allows the consent holder to provide the necessary information and obtain consent in some cases.<sup>20</sup> In other words, the UK establishes the circumstances in which consent is required and the basic information required in those circumstances, but does not stipulate specific consent items for flexible consent acquisition according to individual circumstances.

On the other hand, the Ethical Guidelines for Brain Banking provided by the Japan Society of Neuropathology and Biological Psychiatry provides a fairly detailed list of items that must be explained to consenting individuals and for which consent must be obtained. In the corresponding Guidelines, researchers are required to verbally explain the purpose of the research, the fact that the donation is free of charge, the protection and disclosure of information, and other issues required by the national research ethics guidelines or the ethics review board of each institution before the research, and to obtain written consent.<sup>21</sup> This method is more faithful to protecting the rights of donors in that it can

---

<sup>19</sup> Issues to be considered by the person giving consent include 1) honest, clear and objective information, 2) the opportunity to speak with someone they feel they can ask questions to, 3) a reasonable (sufficient) amount of time to make a decision, 4) an individualized meeting to discuss the consent, if applicable and 5) right to access support, if needed or desired.

<sup>20</sup> HTA [Code of Practice A Guiding Principles and the Fundamental Principle of Consent] 2020 2020<https://www.hta.gov.uk/sites/default/files/HTA%20Code%20of%20Practice%20A%20-%20Guiding%20principles%20and%20the%20fundamental%20principle%20of%20consent%201.pdf>

<sup>21</sup> IV-1 B Procedure for obtaining prior consent from the bereaved family, etc. 3. When obtaining consent for the provision of the organization, etc. from the bereaved family members, etc., the following contents and issues shall be explained verbally using written materials, and consent shall be obtained in writing.

- ① The significance and overview of the brain bank (including contact information)
- ② If the donor registers his/her intention to provide, the purpose of vital registration and the contents of the vital registration
- ③ The fact that the provision of tissues, etc. is optional and that they will not be subject to any adverse action if they do not agree to provide them
- ④ Issues concerning the withdrawal of consent
  - That consent to provide tissue can be withdrawn at any time before it is used for research.
  - How to withdraw consent
  - Policies regarding the handling of tissues, etc. in the event of withdrawal
- ⑤ Scope of tissues to be provided, methods of collection and handling of tissues, etc.
- ⑥ Contents of information to be provided and methods of obtaining it
- ⑦ Disposal policy for tissues, etc.
- ⑧ Policy on the use, supply, and transfer of tissues, etc.
- ⑨ Examples of anticipated uses
- ⑩ Issues concerning gratuitousness of provision and exclusive rights to tissues, etc.
- ⑪ Source of supply policy (e.g., that research used by the provided organization has been ethically reviewed and approved)

provide all the information that should be provided to donors, but it may be difficult to obtain consent that reflects the circumstances of the institution or research.

Article 9-3 of the Corpse Dissection Act also stipulates the outline of consent when part of a corpse is to be used for research purposes, but it does not stipulate any details such as a separate consent procedure, or provide for delegation. However, Article 3 of the Enforcement Rules of the Corpse Dissection Act provides a statutory form of consent that a researcher or authorized provider must obtain in order to use or provide part of a corpse for research. This "Consent to Provide Parts of a Corpse for Anatomical Preservation Research" form is available to researchers and organizations that provide parts of a corpse for research purposes, and medical schools that have previously received donations of corpses for dissection and preservation.

The consent form is also available to bereaved family members and individuals. It provides information about the deceased and the scope and content of their consent in detail so that they can directly indicate the scope of their consent after sufficient explanation. In particular, the existing dissection consent form and the preservation consent form, which required consent by describing the specimen parts to be preserved, have been improved to allow the user to decide whether to consent to dissection, the purpose of standard preservation, and the scope of preservation, including all or part of the corpse. In addition, to ensure that the consent is fully explained as required by law and to respect the consent holder's choice as much as possible, the consent holder decides on the preservation period for providing part of the donated corpse, the field and scope of the provision, and whether to include identifying information about the deceased in the provision.

It is difficult for a provider to decide whether to provide part of the corpse or to include the deceased's information along with the part of the corpse based on a consent form that does not clearly indicate the scope of consent without a prescribed form. Therefore, it can be deemed to be a reasonable regulation to legislate and provide a consent form for the smooth consent and efficient use within the scope of consent by a licensed provider.

## 2) Bereaved family consent and personal consent

The Corpse Dissection Act stipulates that a person who intends to conduct research using

---

⑫ Protection of personal information, etc.

⑬ Policies on the disclosure of information obtained by analysis of organizations, etc. (about the possibility and limitations of disclosure in the event that information on the health of bereaved families is obtained by accident, etc.)

⑭ Methods and contacts for disclosing information

⑮ Other issues required by the national research ethics guidelines or the ethics review committee of each institution.

part of a corpse or an organization that intends to collect, preserve, and provide part of a corpse for research purposes with permission under Article 9(4)(1) must obtain the consent of the bereaved family. However, Clause 1 of Article 9-3 exceptionally stipulates that the consent of the bereaved family does not need to be obtained if the intention to consent to research using part of the corpse can be confirmed through a document that confirms the person's will or expression of intention. Such laws seem to be organized with a focus on the idea that the bereaved family is the main consenting authority for research using parts of a corpse and focus on posthumous donation. In this regard, the Supreme Court of Korea previously ruled that bodily remains of a person are passed to the person holding rituals to honor the dead as corporeal object that can be buried, managed, sacrificed or used as offering, and that the bodily remains of the decedent's own body are passed to the person holding rituals to honor the dead since such remains correspond to property for these rituals.<sup>22</sup> In addition, according to the conventional majority theory<sup>23</sup> that a corpse is subject to ownership because it has lost its capacity, the authority to dispose of a corpse belongs to the bereaved family. Therefore, it cannot be said that it is unreasonable for the legislation to assume that the authority to consent to research also belongs to the bereaved family.

However, with the development of biotechnology and medical trends that require the collection of large amounts of information, various types of research can be conducted using parts of corpses that are different from conventional research. For example, in research involving the collection of health information during life, such as brain research, and the banking of brain tissue after death, it will be necessary to obtain consent for the donation decision and research during the person's lifetime. In consideration of this, the amended subordinate legislation provides that the "Consent to Anatomize, Preserve, Research, and Provide a Corpse" form can be used to provide consent even in the case of a living donation by the donor's own will.

Since respecting the autonomy of the donor is a basic principle of consent, it is necessary to consider revising the legal text to establish the basic subject of consent as the donor himself/herself in the future, so that living donation for research is the basis, and posthumous consent of the bereaved family is also possible in the absence of the donor's consent.

### **3) Consent to donate before the enforcement of Annex 2 and the Act**

---

<sup>22</sup> Supreme Court of Korea, Nov. 20, 2008, Adjudication No. 2007 DA 27670, en banc ruling [corporeal handing over, etc.]

<sup>23</sup> For the conventional majority and opposing theories, refer to [Yoo, Ji-hong, "Examining the Civil Law Status of Human Corpses Based on Advanced Biomedical Science," *Bioethics Policy Research* vol.8 no.2, 2014, p.145].

When reviewing on the basis of the autonomy of the donor, there are cases where a person who is currently alive has given consent for research on human-derived materials or donation of human-derived materials based on the Bioethics Act in the event of his or her death. Regarding consent, Article 2<sup>24</sup> of the Supplementary Regulations to the Corpse Dissection Act, as currently amended, provides that part of a corpse that has already been used in research using a corpse prior to the enactment of the Act may continue to be used for research without consent pursuant to the amended provisions of Article 9-3, but the provision is limited. Accordingly, in the case of the three consortiums (Samsung Medical Center, Seoul National University Hospital and Pusan National University Hospital) that promoted a project to establish a brain tissue bank from patients with dementia and other diseases before the amendment of the Corpse Dissection Act, it may be controversial whether they fall under the proviso if they have received voluntary consent from the parties to include the donation with sufficient explanation in accordance with the Bioethics Act, but have not yet used it for research.

However, it is reasonable to assume that the intent of the Addendum is both to imply that it would be inappropriate to use all parts of a donated corpse when comprehensive consent to use and provide it for research purposes has not been obtained in accordance with the amendments to the Act, and to imply that it would not be unlawful to use parts of a corpse already donated for research, even if it is not comprehensive consent under the amended Act. Therefore, rather than interpreting the Bioethics Act as requiring that consent under the Corpse Dissection Act be obtained before using part of a corpse for research purposes, it seems more appropriate to view the Bioethics Act as requiring that human-derived material that has been consented to under the Bioethics Act be used under the Bioethics Act. That is, if voluntary consent was obtained from the donor prior to the enactment of the Act after full explanation of the research, that consent should be respectful treatment. Therefore, even if research is not already underway at the time of enactment, it is appropriate to review existing consent to ensure that it was obtained in accordance with the standards and procedures for lawful consent under the Bioethics Act.

## **B. Institutional quality control for partial provision of corpses for research purposes**

The biggest change under the amended Corpse Dissection Act is that, as discussed in the

---

<sup>24</sup> Article 2 (Transitional Measures for Research Using Corpses) of the Corpse Dissection Act. Part of a corpse already used in research using corpses prior to the enactment of this Act may continue to be used for research without the need for consent pursuant to the amendments to Article 9-3. However, this shall not apply if they are provided to another person.

introduction, it is now possible to use corpses and provide them to third parties for various medical and life science research purposes, rather than the relatively limited medical research centered on medical schools, such as structural research and specimen preservation. Accordingly, the Corpse Dissection Act stipulates that the Minister of Health and Welfare shall authorize a provider organization that meets the applicable standards, taking into account the requirements of the institution that can receive part of a corpse and use it within the lawful scope of handling and providing it.

Biological materials derived from human beings contain genetic material that could potentially identify a specific subject, regardless of whether the subject is alive or dead. Therefore, the purpose and content of the research, as well as the use of the results, may in some cases pose unforeseen risks or ethical issues for the subject and his or her family. Therefore, the scope of available research, as well as the individual researcher, and the impact of the processing and use of the results must be considered, thereby making clear the scope of consensual uses and their safe and ethical management important. In addition, if part of a corpse is to be obtained and used in research, it must be safely managed to make sure that appropriate derivatives are obtained, taking into account the purpose of the research. Accordingly, in addition to the standards for a human-derived material bank under the Bioethics Act, an organization that intends to provide parts of a corpse needs to have facilities, equipment, personnel, and procedures to ensure the proper handling of the parts of corpses that can be safely and ethically provided from the donated corpse, including the collection and preservation of the parts.

In the United Kingdom, the Human Tissue Authority (HTA), established under the HT Act, licenses organizations that meet certain standards to receive brain or body donations and performs a role in managing and inspecting these organizations. In other words, only organizations that are licensed by the HTA can receive donations and perform post-mortem examinations and anatomical examinations. The licensing standards for autopsy institutions,<sup>25</sup> anatomical institutions<sup>26</sup> and research institutions<sup>27</sup> set the basic direction to evaluate four items, namely, 1) consent, 2) governance and quality management, 3) follow-up, and 4) facilities and equipment, and the details of the standards can be determined by the licensing agency. In addition, the Health and Safety Executive (HSE) provides separate guidance for managing infection risks when handling corpses in Manag-

---

25 HTA [Code B: Post-mortem Examination Licensing Standards and Guidance] 2020. <https://content.hta.gov.uk/sites/default/files/2020-11/Code%20B.pdf> (Search date: 21.9.6)

26 HTA [Code C: Anatomical Examination Licensing Standards and Guidance] 2016. <https://content.hta.gov.uk/sites/default/files/2020-11/Code%20C.pdf> (Search date: 21.9.6)

27 HTA [Code E: Research Standards and guidance] 2016. <https://content.hta.gov.uk/sites/default/files/2020-11/Code%20E.pdf> (Search date: 21.9.6)

ing Infection Risks when Handling the Deceased (2018).<sup>28</sup>

In Japan, the Japanese Society of Neuropathology and Biological Psychiatry's Ethical Guidelines for Brain Banks stipulates that brain banks should be equipped with facilities such as autopsy rooms, pathology laboratories, and corpse rooms, and that pathologists should participate in autopsies.<sup>29</sup> In addition, the Code of Ethics of the EU BNE Consortium requires that autopsies be performed only in dedicated buildings of designated medical or forensic medical institutions, and that they be equipped with appropriate equipment.<sup>30</sup> It also requires that the facility where the autopsy is performed meets health and safety standards and is sufficiently equipped and staffed to collect and preserve biological material for further diagnostic testing and research purposes during and immediately after the autopsy.<sup>31</sup> In particular, a neuropathologist or histopathologist is required to perform the autopsy and diagnosis.<sup>32</sup>

Item 2 of Clause 2 of Article 3 and Appendix 1 of the Enforcement Order of the Corpse Dissection Act stipulate the equipment and manpower standards for the facilities of some providers of corpses for research. First, the required facilities of some providers of corpses for research must be equipped with safety measures that are at least Grade 2 (Grades 2, 3 or 4) of the safety management grade standard for high-risk pathogen handling facilities according to the Enforcement Order of the Infectious Disease Prevention Act. This should not be an excessive barrier to authorization, considering the criteria such as laboratory safety rating and the functional aspects of the organization that collects and provides part of the corpse.

In addition, as mentioned above, it is not excessive in light of the importance of safety to stipulate that the person in charge of diagnosis must be a pathologist, in principle, to ensure the quality control of some providers of corpses for research. However, it is impossible not to consider the operational reality of brain banks, etc., currently in operation. Therefore, by stipulating an exemption provision that, "if necessary to provide corpses for research in specific fields such as brain diseases, specialists other than pathologists who are recognized by the person in charge as having appropriate experience in autopsy diagnosis, such as undergoing training in pathology diagnosis, may be used as diagnosticians," it can be said that a reasonable regulatory line has been established that balances reality and regulatory purposes.

As mentioned above, the Code of Ethics of the European Consortium of Brain

---

<sup>28</sup> <https://www.hse.gov.uk/pubns/books/hsg283.htm>

<sup>29</sup> 日本神経病理学会・日本生物学的精神医学会 ブレインバンク倫理指針 (September 26, 2015) II-1.

<sup>30</sup> Article 11-2 of the Code of Conduct of the Brain Network Europe Consortium.

<sup>31</sup> Article 11-2 of the Code of Conduct of the Brain Network Europe Consortium.

<sup>32</sup> Article 10-3 of the Code of Conduct of the Brain Network Europe Consortium.

Networks also requires a neuropathologist or histopathologist for autopsy and diagnosis. In the United Kingdom, although there is no separate staffing standard as a requirement for licensure, the guidance on facilities, equipment and staffing standards for infection risk management in autopsy laboratories mentions the need for a pathologist at the time of conducting an autopsy. In light of these overseas regulations, it would be more appropriate for future amendments to remove the exemptions and set licensing standards in a way that emphasizes the main regulatory purpose of the Corpse Dissection Act, which is quality control.

### **C. Appropriate respectful treatment for the corpse and the bereaved family who decides to donate the corpse**

The Organ Donation Act and the Human Tissue Act, which are similar legislative examples, also specify payment of funeral expenses, and brain banks currently in operation support funeral procedures and funeral expenses, and the Corpse Dissection Act also has provisions to support post-mortem procedures in consideration of the fact that medical schools accept corpse donations to support proper handling procedures for corpses after anatomical practice and medical research. However, the Istanbul Declaration on Organ Trafficking and Transplantation, issued in 2008 by the World Society for Transplantation and the World Society of Nephrology, states that “organ trafficking violates the principles of equity, justice and respect for human dignity and should be prohibited.”<sup>33</sup> In this context, the payment of funeral expenses under the organ donation laws, etc. has been criticized as a violation of the principle of free donation. Particularly for non-donors and bereaved families, there is a clear limit to securing the legal legitimacy of state financial support, except as a means to an end of encouraging donation.<sup>34</sup> However, support for the funeral process, rather than the payment of funeral expenses, can be seen as a minimal respectful treatment for donors in Korean funeral culture, and it cannot be said that the provision of such support alone violates the principle of free donation. Therefore, it is important to consider how the support is provided after death.

In the UK, the HTA requires that staff be educated to respect the wishes of the deceased or next of kin as to how the body should be handled and to carry out their duties accordingly. It also requires that a system be established to record and identify any

---

<sup>33</sup> <https://www.mykst.org/>

<sup>34</sup> Kim Hyun-Cheol, “A Review of the Organ Donation Support System under the Organ Transplantation Act,” *Ewha Womans University Law Review* vol.20 no.3, March 2016, pp.236-238.

preserved body parts, and that there are procedures in place to provide information to the bereaved family. However, in the case of some donations other than body donations, such as brains and their tissues, we do not provide separate funeral procedures and return the body to the bereaved family to prepare for the funeral so as not to interfere with the funeral procedures of the original donor. In the case of body donation, unless the bereaved family wishes to receive the body for burial, the body is cremated and the funeral process is carried out. In addition, medical schools hold memorial events for donors on Thanksgiving Day, etc.<sup>35</sup>

In the United States, organ and tissue donors are not directly compensated for their donation, as the government does not provide funeral arrangements and requires the bereaved family to pay for funeral expenses.<sup>36</sup> The U.S. is also trying to increase donation rates by creating a culture of social recognition rather than direct rewards. In Part H. Organ Transplants, Subchapter II. General Powers and Duties, Chapter 6A. Public Health, Title 42. The Public Health and Welfare, and United States Code,<sup>37</sup> the Secretary of Health and Human Services is directed to assist in the development of programs to raise awareness and promote public donation and to develop information and education programs for allied health professionals. It also stipulates that the Secretary may pay subsidies to each state to carry out the program. In addition, Public Law 110-413 provides for the awarding of a medal to an organ donor or the bereaved family of a donor to ensure that donation is viewed as an act of respectful treatment and to encourage donation in accordance with the Stephanie Tubbs Jones Gift of Life Medal Act of (2008).<sup>38</sup> Through Power2Save, the American Society of Transplantation (AST) is putting in efforts to secure funding for transplant research and raise public awareness about the importance of organ donation.<sup>39</sup>

An important principle in establishing a societal system of donation for the use of the human body for any purpose, whether human-derived material, a corpse, or parts of a corpse, is that the donation must be gratuitous and the donor's act must be voluntary. The principle of gratuitousness becomes even more important in cases where the donor does not decide to donate during his or her lifetime. Therefore, it is even more important that the support and respectful treatment system for those who consent to the dissection of a corpse under the Corpse Dissection Act is based on the principle of gratuitous donation, not transaction, at the national level. In the United Kingdom, when a body is donated,

---

<sup>35</sup> HTA, [Body, Brain and Tissue Donation Pack] [https://content.hta.gov.uk/sites/default/files/2020-11/HTA%20Body%2C%20Brain%20and%20Tissue%20Donation%20Pack\\_0.pdf](https://content.hta.gov.uk/sites/default/files/2020-11/HTA%20Body%2C%20Brain%20and%20Tissue%20Donation%20Pack_0.pdf) (Search date: 21.9.6).

<sup>36</sup> <https://www.organdonor.gov/about/facts-terms/donation-faqs.html>

<sup>37</sup> <https://uscode.house.gov/browse/prelim@title42/chapter6A/subchapter2/partH&edition=prelim>

<sup>38</sup> <https://www.congress.gov/110/plaws/publ413/PLAW-110publ413.pdf>

<sup>39</sup> <https://power2save.org/what-is-power2save/>

it is cremated and returned unless requested by the bereaved family, and there is no separate funeral payment. In the U.S., there have been discussions about paying for funeral expenses, but rather than doing this, the U.S. is currently providing support by creating a culture of indirect donation.

Article 9<sup>40</sup> of the Enforcement Rules of the Corpse Dissection Act also weighs gratuitousness in this context and stipulates that psychological support such as counseling that can directly benefit the person or the bereaved family, memorial and commemorative events in respectful treatment of the donor, educational promotion to improve social awareness, and other activities to create and promote a culture of donation may be supported.

The consenting party under this Act is basically the bereaved family, and decisions on dissection, preservation, research, and provision can be made with the consent of the bereaved family after the donor's death. Therefore, a more cautious approach is needed to ensure that the state is legally justified in providing respectful treatment and support to the bereaved family who consents to the dissection of the corpse in addition to the purpose of facilitating donation. Depending on how the status of the corpse is viewed, the legitimacy of the bereaved family's decision to donate may vary, but Korean law considers the corpse to be owned by the bereaved family, so there is no legal problem in having the right to dispose of it. However, there can be dispute on what to do with the corpse after the completion of its use, as with the adequacy of compensation for other donations.

In the UK, there is no separate funeral procedure after brain research donation, but considering the process of receiving the brain after death and the courtesy of handing over the body to the bereaved family after the process, it would be natural for the bereaved family to show courtesy to the donated body itself even if they decide to donate. To that end, it may be ethically acceptable for the state to support the funeral process beyond direct monetary payments such as funeral expenses. Indirect support for the posthumous process, such as having a dedicated coordinator to facilitate the funeral process, or having a foundation or dedicated organization to support the posthumous process, rather than the actual cost of the funeral, is also a system that can be considered in the actual law enforcement process.

---

<sup>40</sup> Article 9 (Respectful treatment of and support for bereaved family, etc.) The Minister of Health and Welfare or the director of the Korea Centers for Disease Control and Prevention may implement or provide support for the following projects in accordance with Clause 1 of Article 17-2 of the Act:

1. Psychological support such as counseling for the person him/herself or the bereaved family and support for post-mortem procedures
2. Memorial and commemorative event for the deceased who consented to the dissection of the body
3. Education and publicity to improve awareness of the dissection, preservation, research and provision of human remains
4. Other activities to establish and promote a culture of donation

Of course, although securing a budget must ultimately be prioritized in order for the funeral process to be carried out according to appropriately respectful rituals, if it is left to the private sector, there may be a problem of not being able to support the proper ritual in an equitable manner according to the financial status of each institution or the will of the financial execution decision maker, which may lead to unnecessary competition or incentives for donation between institutions. Therefore, it should be a priority for the Corpse Dissection Act to provide practical support at the national level so that a healthy culture of donation of corpses and parts of corpses for dissection, preservation, research, etc. can be established and the social duty to the dead can be fulfilled. If the state takes the lead in providing such support, it will not only increase the overall rate of corpse donation but also improve the quality of medical education and biomedical research using corpses. This in turn will create benefits for society as a whole in terms of improving the quality of medical care and advancing medical technology.

Even if a budget is secured, it is necessary to consider who to prioritize for funeral support with a limited budget and method. One way to do this is to designate a dedicated organization to handle requests for funeral assistance and respectful treatment. If a country designates an organization in charge of respectful treatment and support and conducts funeral support procedures through that organization, individual organizations can be relieved of the burden of manpower and procedures, and more appropriate ceremonies can be held to respect the wishes of donors. Furthermore, in addition to the respectful treatment support project for the consenting person, it would be possible to integrally manage the provision and preservation of corpses and parts of corpses collected from donation, which would not only make the noble meaning of donation more precious, but also contribute to efficiency and professionalism in practice.<sup>41</sup>

#### **D. The need for an integrated public management system**

Currently, the level of corpse donations for educational anatomy training is not high in Korea, and the supply rate of corpses for practical training varies greatly among medical schools.<sup>42</sup> Considering this reality, there is a concern that the supply and demand of existing educational corpses will be hindered by biased use for medical and bioscience research rather than educational use if it acts as an incentive for each institution. In particular, this

---

<sup>41</sup> Regarding the establishment of an integrated management and control organization, refer to [Study on Integrated Management Plan for Human Resources for Transplantation] by the Ministry of Health and Welfare, 2014.

<sup>42</sup> Lee, Juju, "Study on Influencing Factors and Activation Methods of Organ Donation," Master's degree thesis, Graduate School of the Catholic University of Korea, 2011, pp.52-54.

is based on the prediction that it will be easier for hospitals than universities to receive support for funeral expenses and respectful treatments for each institution. However, as stated earlier, it is desirable that donations are made purely based on the intentions of the donor, and that they are treated with appropriate respect. Therefore, for whatever reason, there is a need for proper oversight so that commercial capital does not flow into licensed providers or operations to generate revenue. For this purpose, it is important to monitor the operations of the providers and make sure that an appropriate balance is maintained to ensure that there is no imbalance of supply and demand that creates a vested interest in a particular sector.

In particular, it is too difficult to predict how much the amendment of the Corpse Dissection Act will affect some parts of corpses as specialized research resources such as brain resources, and how much of the demand for research will be supported and provided by providers. Furthermore, in order to safely handle parts of corpses as a research resource that can be used for diversified medical studies rather than for education, forensic anatomy or specimen storage, etc., infusion of facilities, equipment and manpower within the provider organization is unavoidable. Therefore, it is inevitable for the motivation for such investments and the relationship with the research field where demand is generated or increasing to be very important factors in the operation of the provider organization. It is necessary to understand the process of resourcing a corpse or part of a corpse, the relationship before and after, and the needs of various interested parties and researchers. Moreover, although the donation of corpses and parts of corpses is also based on the principle of voluntarism and gratuitous donation by the donor or the bereaved family, it can be said that there is little private benefit, if any, for the donor or the bereaved family compared to the social benefits and values created through donation. The donation system is an important process that illustrates how public value can be created. Therefore, it is essential to have a system that transparently and socially manages the processes of collecting materials through donation, resource use, and resource distribution. Such a system will eventually require the investment of social capital, and the results of this investment should be for the benefit of the community.

Article 9-8<sup>43</sup> of the Corpse Dissection Act requires the Minister of Health and

---

<sup>43</sup> Article 9-8 (Management of the provision of human body parts for research). The Minister of Health and Welfare shall perform the following tasks in order to properly manage issues related to the provision of human body parts for research:

1. Management and supervision of institutions licensed pursuant to Clause 1 of Article 9-4
2. Establish, manage and promote the use of information systems for cooperation among institutions licensed pursuant to Clause 1 of Article 9-4
3. Establishing standards for procedures for providing parts of a corpse pursuant to Article 9-6
4. Investigation of and research on policies and systems for the provision of body parts, and investigation and analysis of related statistics
5. Other issues prescribed by Presidential Decree regarding the provision of body parts

Welfare to manage and supervise institutions that provide parts of a corpse for authorized research for proper management, establish and manage an information system for cooperation between institutions, and establish standard procedures for promoting use and providing parts of a corpse. Furthermore, the Act stipulates the investigation of and search for policies and systems for the provision of parts of corpses, as well as the investigation and analysis of related statistics, which in effect specifies the need for public management and the role of the government. This is expected to support not only the settlement of the newly introduced system for using a partial corpse for research, but also the issues necessary for smooth operation. There is a need to establish an integrated management system and operate it as soon as possible for the successful establishment of a stable and structured system in the early stages.

#### **4. Conclusion**

In this paper, the key amendments to the Corpse Dissection Act and their implications, as well as legislation similar to the Act, were reviewed to examine the background for the establishment of subordinate laws to ensure that the corresponding amendments are implemented as intended.

Unlike the Bioethics Act, under which human-derived material is used after acquiring the informed consent of a living donor after providing sufficient explanation, the Corpse Dissection Act focuses on the legitimate use of a corpse or part of a corpse donated in accordance with the decision of the bereaved family after the death of the donor, within the scope of respecting the intention of donation rather than the protection of the dead. Recently, an extensive range of biomedical studies have been based on biobanking, which strives to bank materials on a large scale and add information to such materials with the aim of improving their quality as research resources. As can be seen from the background of the amendment of the Corpse Dissection Act, much of the discussion around the Corpse Dissection Act has been focused on increasing the donation rate and use of corpses, rather than the interests of the dead and their protection. However, this amendment to the Corpse Dissection Act does not significantly change the principles of deliberation of and consent for human-derived materials research in accordance with the Bioethics Act, although it could obviously vary depending on the scope of information used in the research, in order to use part of a corpse for comprehensive medical and bioscience studies. In particular, since advancements in analysis and storage technologies related to genomics include genetic material of not only the dead but also his/her bereaved family even if it is part of a corpse, it is difficult to view it as an exception to the applica-

tion of the Bioethics Act. Technology in the field of biomedicine will continue to develop, and moreover, the potential for privacy violations of the dead and his/her bereaved family members due to genetic material will increase in the future, particularly if the direction of advancement involves the development of not only analysis but also related technologies such as synthesis and reverse analysis. In spite of this situation, the current Personal Information Protection Act does not view information on the dead as personal information that needs to be protected. Accordingly, the Corpse Dissection Act also only stipulates the protection of identification information of the donor or his/her bereaved family, but has no provisions for protection in relation to the use of sensitive information, such as health information, of the dead. Since it is not necessary to protect the personal information of the dead to the same extent as for a living person, the degree of protection can differ,<sup>44</sup> but a review of the protection of the dead and his/her bereaved family seems to be essential before the provision or use of personal information.<sup>45</sup>

It may be important to ensure that the legal justification for the use of a corpse or parts of a corpse is not based on the voluntariness of the deceased, but rather that the disposition is made by a person authorized for such a disposition. Currently, although the bereaved family, rather than the donor him/herself, is the primary holder of the consent right for the dissection, preservation, research and provision of the corpse under the Corpse Dissection Act, from the perspective of the ethical use of human-derived material research under the Bioethics Act, use based on the express wishes of the donor needs to be respected. Depending on how our society establishes the legal status of the dead in the future, the Corpse Dissection Act may differently stipulate the primary holder of the consent right for the dissection, preservation, research and provision of corpses.

Donation is an honorable social act. The Istanbul Declaration also specifies that “in order to protect and ensure the safety of living donors, to protest against transplant tourism, organ trade and commercialism in transplantation, and to promote appropriate compensation for the heroic actions of living donors, the act of organ donation should be viewed as heroic and honorable by governments and representatives of civil social organizations.”<sup>46</sup> Our society respects these acts of donation even more because it is based on voluntary benevolence<sup>47</sup> without seeking anything in return. Therefore, under the principle of gratuitous donation, it is necessary to create a social atmosphere that encourages

---

44 Hwang, Tae-Jung “Direction for Legislative Improvement of Legal System for Personal Information Protection,” *Series of Studies of the Criminal Policy Research Institute* 05-16, p.103.

45 Refer to [Study on the Scope of Personal Information] of the Personal Information Protection Commission, 2014.

46 <https://www.mykst.org/>

47 Richard M. Titmus/Anne Oakley John Ashton/Translated by Kim Yoon-Tae, Yoon Tae-Ho and Jung Tae-Keun, *Gift Relations*, Eiksa, 2019, p.17.

the donation of corpses through direct or indirect respectful treatment and support in the domain of social reward to the holder of consent right in accordance with the Corpse Dissection Act. However, if the focus is placed on use through donation, there could be occurrences of implicit infringement of an individual's freedom. While much of the medical education and future studies that are conducted with a corpse or parts of a corpse donated may become the cornerstone of health improvements for others in the future, individuals have the right to full self-disposition of their bodies and parts thereof, and should also be guaranteed the freedom to choose not to donate. Although donation should obviously be praised, there is no reason to criticize the decision not to donate. As efforts are made to establish policies on the support and respectful treatment of the holders of the consent right, etc., and create a culture of donation by allocating social capital, it should also be kept in mind that the wide range of different value systems of the individuals who chose not to consent to donation should be respected and realized.

A corpse is not just a material object, but rather a human being who experienced death. No part of the corpse should be seen as a type of waste that will eventually decay and disappear, but as part of a dignified human being who lived among us. Although a corpse is given the status of an object, it is ethically something that cannot simply be objectified in the eyes of the law. Therefore, it is a time that necessitates having proceeding discussions by viewing the issues related to the Corpse Dissection Act with the state of mind of addressing the future of all human beings rather than as a means to an end in the discussion on corpses and parts of corpses. In this regard, it is hoped that meaningful consideration and in-depth follow-up studies on the laws will continue.

## [References]

### <Korea>

- Personal Information Protection Commission, [Study on the Scope of Personal Information], 2014.  
[Act on Corpse Dissection and Preservation, and Enforcement Order and Rules of the Act prior to amendment].
- Eun-Ae Kim, "Considerations on the Grounds for Exemption by Institutional Review Board (IRB) Review of Research under the Act on Bioethics and Safety," *Hanyang Law Review* 26(2) 2015, pp.43-73.
- Kim, Hyun-Cheol, "A Review of the Organ Donor Support System under the Organ Transplantation Act," *Ewha Womans University Law Review* vol. 20 no. 3, March 2016, pp.231-249.
- Press release by the Anti-Corruption and Civil Rights Commission, "Fortifying Respectful Treatment of Organ Donors and Their Bereaved Families" 2021.3.16.
- Korea National Institutes for Bioethics Policy [Report on Research Results for the Preparation of Subordinate Legislation (Proposal) to the Act on Dissection and Preservation of Corpses] 2020.12
- Korea National Institutes for Bioethics Policy, [Trends in the Legal System on the Management and Use of

- Human-derived Materials] 2018-03.
- Ministry of Science and ICT, [Planned Study to Improve Subordinate Legislation of the Brain Research Promotion Act] (2018)
- [Brain Research Promotion Act, Enforcement Order]
- [Bill for Partial Amendment of the Brain Research Promotion Act (Bill No. 2012806)]
- [Bill for Partial Amendment of the Brain Research Promotion Act (Bill No. 2018233)]
- [Bill for Partial Amendment of the Brain Research Promotion Act (Bill No. 2102236)]
- [Bill for Partial Amendment of the Brain Research Promotion Act (Bill No. 2012806) Review Report of the Committee on Science and ICT]]
- [Bill for Partial Amendment of the Brain Research Promotion Act (Bill No. 2018233) Review Report of the Committee on Science and ICT]
- [Bill for Partial Amendment of the Brain Research Promotion Act (Bill No. 2102236) Review Report, Examination Report and Resolution of the of the Committee on Science and ICT].
- Supreme Court, Nov. 20, 2008, Adjudication No. 2007 DA 27670 (en banc decision) [Corporeal handing over, etc.]
- Richard M. Titmus/Ann Oakley John Ashton/Translation by Kim Yoon-Tae, Yoon Tae-Ho and Jung Tae-Keun, *Gift Relations*, Eiksa, 2019.
- [Report on the Systematic Review of Bills for Partial Amendments to the Act on the Anatomization and Preservation of Corpses by the Judicial Committee]
- [Act on the Promotion of Collection, Management and Use of Pathogen Resources, and Enforcement Order and Rules of the Act]
- Ministry of Health and Welfare, [Study on the Means of Integrated Management of Human Body Resources for Transplantation] (2014)
- Ministry of Health and Welfare, [The Third Dementia Management Plan ('16~'20)], 2015.2
- [Act on Bioethics and Safety, Enforcement Order and Rules of the Act]
- [Bill for Partial Amendment of the Act on Corpse Dissection and Preservation (Bill No. 2001909)]
- [Bill for Partial Amendment of the Act on Anatomical Dissection and Preservation of Corpses (Bill No. 2006433)]
- [Bill for Partial Amendment of the Act on Anatomical Dissection and Preservation of Corpses (Bill No. 2008875)]
- [Bill for Partial Amendment of the Act on Anatomical Dissection and Preservation of Corpses (Bill No. 2013226)]
- [Bill for Partial Amendment of the Act on Anatomical Dissection and Preservation of Corpses(Bill No. 2018416)]
- [Bill for Partial Amendment to the Act on the Dissection and Preservation of Corpses (Bill No. 2018416), Review Report, Examination Report, and Resolution of the of the Committee on Health and Welfare]
- Lee Kang-mi and Lee Won-bok, "The Meaning of and Suggestions for Practice Improvements to the Deliberation Exemption under the Act on Bioethics and Safety," *Bioethics* 20-1, 2019, pp.63-82.
- Lee Juju, "Research on Influencing Factors and Means of Activation of Corpse Donation," Master's degree thesis, Graduate School of the Catholic University of Korea, 2011.
- [Act on Human Tissue Safety and Management, Enforcement Order and Rules of the Act, and Rules on Human Tissue Safety, etc.]

## A study on the implications and major controversial issues of the amended "Corpse Dissection Act"

Yoo Ji-hong "A Review of the Civil Law Status of Corpses Based on Advanced Biomedical Sciences," *Bioethics Policy Research* vol. 8 no. 2, 2014, pp.133-176.

[Act on Organ Transplantation, Enforcement Order and Rules of the Act]

[Minutes of the Second Plenary Session of the 367th National Assembly (Extraordinary Session)]

[Minutes of the First Meeting of the Bills Review Subcommittee of the 369th National Assembly (Extraordinary Session)]

[Minutes of the Second Meeting of the Bills Review Subcommittee of the 371st National Assembly (Regular Session)]

[Minutes of the Seventh Plenary Session of the 371st National Assembly (Regular Session)]

[Minutes of the Second Plenary Session of the 376th National Assembly (Extraordinary Session)].

Korea Centers for Disease Control and Prevention, [Planned Study for the Fourth Korean Human Body Resources Bank Project] (2020)

Cho Seon-Jung, Cho Chul-Man and Ko Young-Ho, "Current Status of and Mid- to Long-Term Development Plan for Operation of Dementia Brain Tissue Bank," *Weekly Health and Disease* vol. 12 no. 38, 2018, pp.1481-1491.

[In Vitro Diagnostic Medical Devices Act, Enforcement Order and Rules of the Act].

Choi Min-Young "Use of Human-Derived Materials and Criminal Legal Regulations," *Medical Jurisprudence* vol. 19 no. 3, 2018, pp.27-52.

Korea Institute of Legal Studies, [Analysis of the Current Status of Domestic and International Legislation on Corpse Dissection] (2015)

Korea Organ and Tissue Donation Institute, [Study on Establishing a Comprehensive Plan to Revitalize Organ and Human Tissue Donation] (2019)

[Criminal Law]

Hwang Tae-Jung, "Direction of Legislative Improvement of Legal System for Personal Information Protection," *Collection of research by the Criminal Policy Research Institute* 05-16.

### <Overseas>

[Human Tissue Act 2004]

Human Tissue Authority(HTA) [Body, Brain and Tissue Donation Pack]

HTA [Code of Practice A Guiding Principles and the Fundamental Principle of Consent] 2020

HTA [Code B: Post-mortem Examination Licensing Standards and Guidance] 2020

HTA [Code C: Anatomical Examination Licensing Standards and Guidance] 2016

HTA [Code E : Research Standards and guidance] 2016

HTA [Code of practice and standards E: Research] 2017

Health and Safety Executive(HSE)는 [Managing infection risks when handling the deceased] 2018

Public Health, Title 42. The Public Health and Welfare, United States Code

Public Law 110-413, Stephanie Tubbs Jones Gift of Life Medal Act of 2008

The Brain Network Europe Consortium Code of Conduct

日本神経病理学会・日本生物学的精神医学会 [ブレインバンク倫理指針], 2015年 9月 26日.

日本外科学会・日本解剖学会 [臨床医学の教育及び研究における死体解剖のガイドライン], 2012.

