

The Relationship between Legislative Research Service and Library Service: The Case of the Republic of Korea

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1. Introduction

The increasing professionalism of the executive branch and pluralism of social value¹ have given an impetus to institutional countermeasures in the perspective of the legislative branch. In Korea, as elsewhere, each supporting organization(National Assembly Secretariat, National Assembly Library, National Assembly Budget Office, National Assembly Research Service) of Korea National Assembly has tried to provide professional information about policy and legislation.² However, the services of each supporting organization are mutually overlapping. And many inefficiency problems exist in providing services for the Members of Parliament(MPs). Among these problems, this article focuses on the relationship between National Assembly Research Service(NARS) and National Assembly Library(NAL) because these two organizations actually take the main role in providing information to the MPs.

NARS was separated from NAL³ and established as an independent organization in 2007. Since then, NARS and NAL have provided their research and library services separately to the MPs, but the segregation of functions is not clear. The two organizations have the common function of keeping the

¹ This kind of pluralism can be explained “disagreement” in academic terms. Relating to disagreement in legislation, see Woomin Shim, “Disagreement and Proceduralism in the Perspective of Legisprudence”, Luc J. Wintgens & A. Daniel Oliver-Lalana(eds.), *The Rationality of Legislation* (Springer, 2014); Jeremy Waldron, *Law and Disagreement* (Oxford University Press, 1999).

² About the functions of each organization, see Woomin Shim, *The Fundamental Perspective of Legisprudence – Implication and Application of Legislative Argumentation* (Seogang University Press, 2014)[in Korean], pp. 117-128.

³ NAL was established in 1952 during Korean War(1950-1953). Since 1998, NAL’s function has been expanded to the general public. Today, NAL stands as an invaluable resource that provides legislative information to the MPs, and knowledge and information to the public. NAL has taken the role for one of the representative legislative supporting organizations.

MPs informed. In this line, it is necessary to clarify the spheres of services and find out the possibilities of cooperation.

2. Services of NARS and NAL

(1) Overview

NATIONAL ASSEMBLY ACT Article 22(1) provides that the National Assembly Library shall be established in order to administer affairs concerning books and legislative materials of the National Assembly. Article 22-3(1) of the same act also provides that the National Assembly Research Service shall be established for supporting the parliamentary activities relating to the legislative information service, including investigating and studying the matters about legislations and policies and providing the related information and data.

As above, the establishment of the two organizations is basically connected with legislative materials or information. Even though various books and historical records NAL houses are included in the concept of legislative materials, the information from each organization has only an analogous characteristic in the standpoint of MPs or clients.

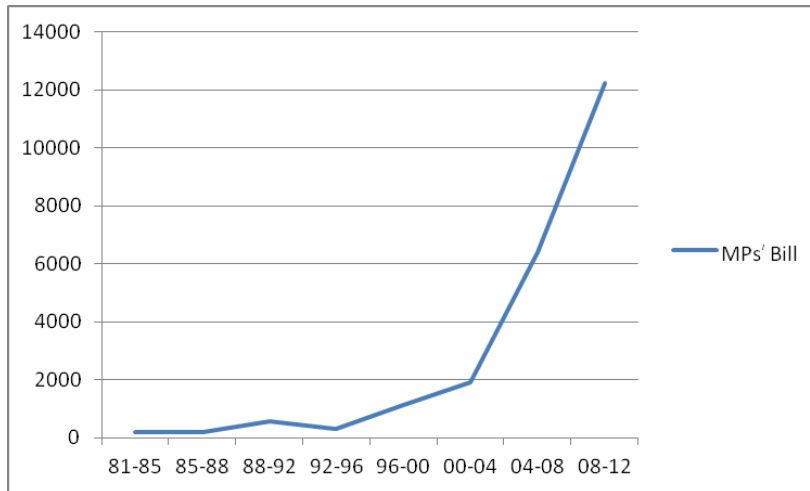
It is a general thought that service of NARS is analysis-based whereas that of NAL is fact-based. Frankly speaking, analysis and fact cannot be classified distinctly in some cases. For this reason, MPs and their staffs often send the same request for inquiry to both organizations⁴ because they wish to collect as much information as they could. Considering this situation, what does analysis-based service of NARS mean then? Some clues can be found from the facts after the independent establishment of NARS.

(2) Quantitative Analysis

Since around the year 2007 when NARS was separated from NAL, the number of MPs' bills has drastically increased. Though the interrelation between establishment of NARS and increase of MP's bills has not been corroborated in a scientific method, it can be speculated that the service of NARS has significantly influenced a considerable number of MPs' bills.

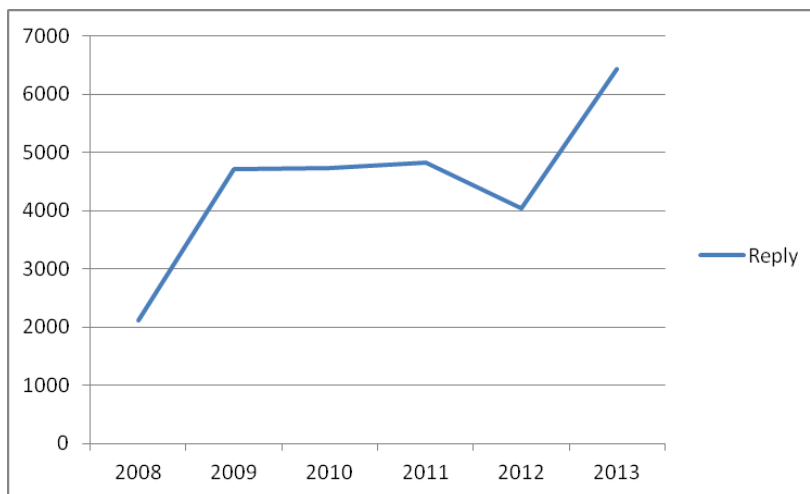
⁴ There is not the exact statistics about this fact. However, it could be assured through the communications for research services.

<Figure - 1> Increase of MP's Bill⁵



Compared to the number of MPs' Bills, that of NARS' reply to the MPs' request for inquiry has gradually increased since its establishment. However, it can be said that this trend reflects the increase of MPs' as a whole.

<Figure - 2> Increase of NARS' Reply⁶

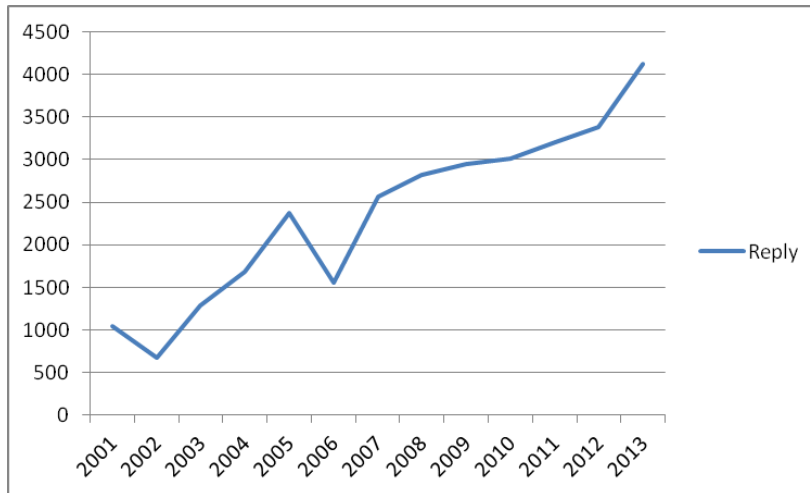


The number of NAL's reply to the MPs' request for inquiry has also gradually increased. It can be assumed that the statistics in the early 2000's, especially before NARS established, shows the necessity of new legislative research service. Actually, the bill for establishment of NARS was first proposed in 2005.

⁵ National Assembly, *Database for bills* (web site: <http://likms.assembly.go.kr/bill>).

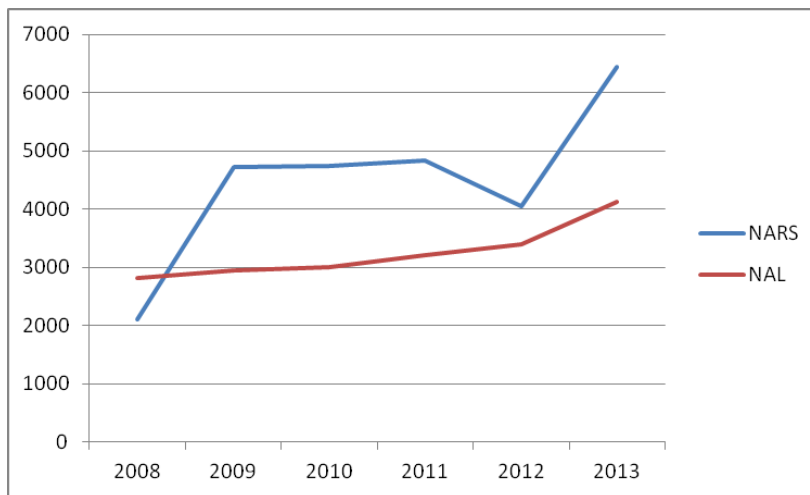
⁶ *Annual Report of NARS(2008-2013)*.

<Figure - 3> Increase of NAL's reply⁷



The comparison of the reply number of NAL and NARS over the same period(2008-2103) shows that the number of NARS' reply have exceeded that of NAL. This is an expected result as the major tasks of NAL include more than replying to the MPs' request. The fundamental reason for this result relates to the different characteristic of each organization's services.

<Figure - 4> Comparison of Reply Number⁸



Replies to the MPs' request for inquiry are not the only service of NAL. NAL's services are largely divided into two areas, collection and information services. NAL's collections are mainly made up of resources in the humanities and social sciences as well as parliamentary materials and government publications of foreign nations. As a legal depository library, NAL has materials and publications

⁷ Annual Report of NAL(2001-2013).

⁸ Annual Report of NARS & NAL(2008-2013).

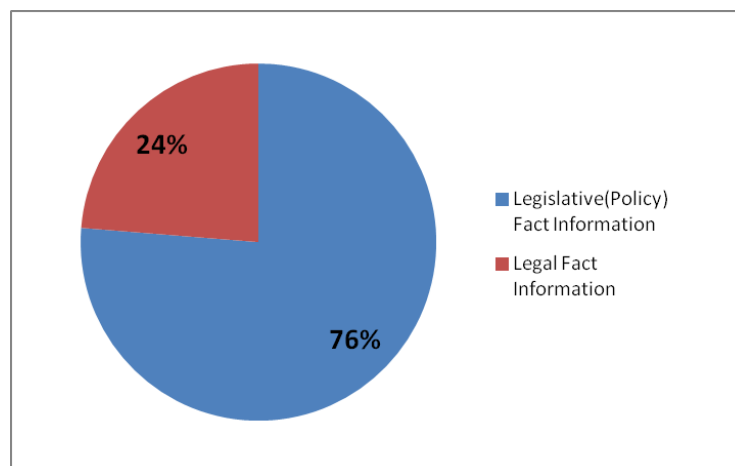
from many international organizations including the UN and the EU. NAL also provides legislation-related information and materials on current issues through the services such as parliamentary information reference service, data publications(ex. Fact Book, Global Hot Issues, Major Policy Issues), building databases of domestic and international policies(ex. the Legislative Knowledge Service(NEXT) system), and e-mails services to the MPs and legislative support organizations. Especially, parliamentary information reference is a comprehensive service of research and translation for supporting legislative activities, which mainly relates to the MPs' request for inquiry.

On the contrary, NARS' services are mainly about replying to the MPs' request for inquiry. NARS' services also have two dimensions, legislative research(or information) and publication of report(ex. Distribution Memoranda, Issue Brief, NARS Report, Field Survey Report) services. Report services have the purpose of providing proactive legislative information, but this is not the main duty of NARS. The major duty of NARS is to reply to the requests from MPs by undertaking research and analysis. This service is based upon the needs of MPs(including committees), and employing scientific methods. In that procedure, confidentiality is guaranteed by adhering to internal principles. Services of NARS have the characteristics of strict client system.

(2) Qualitative Analysis

In a qualitative aspect, both organizations' services relating to the replies of MPs' request have different attributes. NAL's service is fact-based. It can be identified in the statistics below.

<Figure - 5> Component Ratio of NAL's Reply of 2013⁹



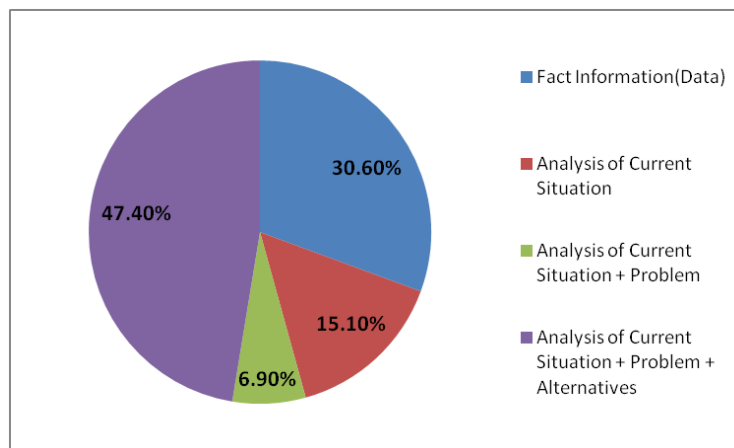
Parliamentary information reference service(reply service to the MPs' request) of NAL is composed

⁹ Annual Report of NAL(2013).

of two sections, legislative(policy) fact and legal fact information. These kinds of services are focused on fact finding relating to legislation or policy making, and carried by data-search or translation. Presumably, MPs and their staffs hope to find out legislative or legal facts of major foreign countries through these services.

Component ratio of NARS' Replies shows a different aspect. MPs mainly request NARS for legislative or policy alternatives analysis. Actually, a considerable number of MPs and their staffs frequently use NARS' analysis as their arguments for justification and defense of legislative or parliamentary activities. For this reason, the replies of NARS are reported or quoted in the press quite often. Furthermore, a significant number of NARS' replies affect bills of MPs in practice. This trend can be checked in the statistics below.

<Figure - 6> Component Ratio of NARS' Reply of 2013¹⁰



Among the contents of NARS' replies, the proportion of requests for legislative alternatives is the highest. This implies that NARS' service is analysis-based. In the statistics, it needs to be considered that the portion of requests for just fact information(data) also shows a significant rate. At this point, it can be said that the inefficiency between services of NAL and NARS occurs.

3. Legislative Decision Making and Cooperation of Legislative Supporting Organizations

(1) Structures and Steps for Legislative Decision Making

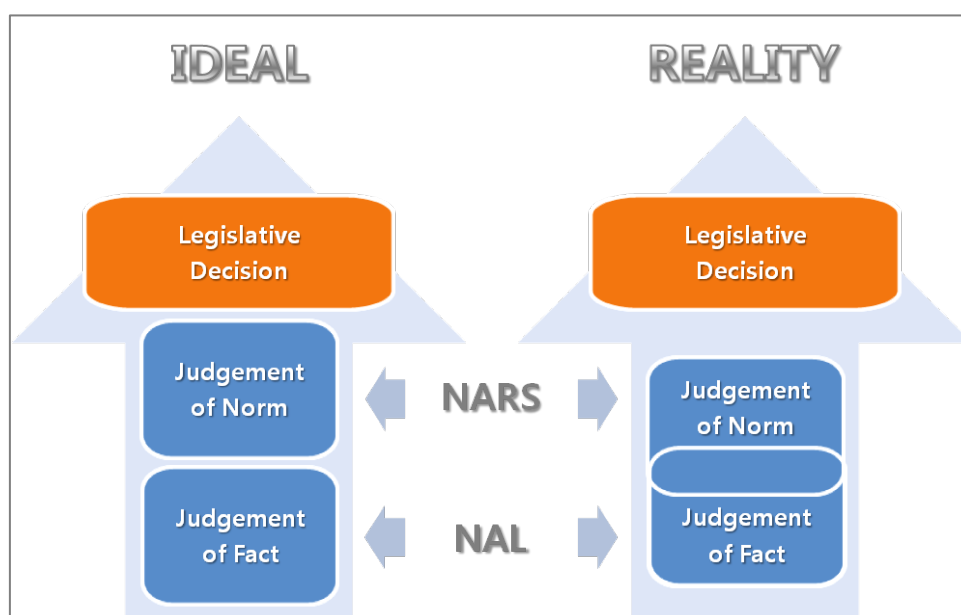
Legislative decision making is a kind of activity that generates a legal norm for adjudication and administration, especially in civil law tradition. In this, it also has the characteristic of normative

¹⁰ Annual Report of NARS(2013).

decision making.¹¹ Normative decision making is generally comprised of two steps. Judgement of fact is one, that of norm(or value) is another.

Accordingly, legislative decision making also has the same steps. Ultimately, legislative supporting organizations such as NARS and NAL should take a role for providing information or analysis which can be used in each step. In an ideal point of view, information about fact is for NAL and alternative relating to normative decision is for NARS. However, demarcation between fact and norms is not so much clear. This problem is a philosophical question which could not be solved.¹²

<Figure - 7> Ideal and Reality between NAL and NARS



(2) Cooperation between NARS and NAL

Korean legislative institutional environment is rather different from that of other countries. The major distinction is the number of bills. In Korea, number of bills from the MPs(legislative branch) exceeded that of the executive branch. This situation demands a larger role of legislative supporting organizations than other countries.

¹¹ Luc J. Wintgens, “Legislation as an Object of Study of Legal Theory: Legisprudence”, Luc J. Wintgens(ed.), *Legisprudence: A New Theoretical Approach to Legislation* (Hart Publishing, 2002), p. 10; Daniel Oliver-Lalana, “Legitimacy through Rationality: Parliamentary Argumentation as Rational Justification of Law”, Luc J. Wintgens (ed.) *The Theory and Practice of Legislation: Essays in Legisprudence* (Ashgate, 2005), p. 245.

¹² The academic or philosophical literature relating to this problem, see Habermas, Jürgen, *Faktizität und Geltung: Beiträge zur Diskurstheorie des Rechts und des demokratischen Rechtsstaats* (Suhrkamp, 1992); William Rehg(trans.), *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (MIT Press, 1996)

<Table - 1> Bills' number of Executive and Legislative Branch¹³

Countries	Terms	Executive Branch	Legislative Branch(MPs)
US	2011-2012		10,439
UK	2006-2010	127	384
France	2007-2012	762	6,070
Germany	2005-2009	539	431
Japan	2009-2012	295	253
Korea	2008-2012	1,693	12,220

This distinct institutional and cultural environment requires that legislative supporting organizations should contribute to not only professional services but also to the efficiency of those services. Consequently, NARS and NAL need to construct a new cooperation system to mediate overlaps of their services in the perspective of MPs or clients.

First, it is necessary for both organizations to provide a co-work system or platform for the MPs, for the purpose of minimizing duplication of services between judgement of fact and norms. As a matter of fact, MPs and their staff often request inquiries to NARS on legislative(policy) facts as well as legislative alternatives. Perhaps similar cases may also happen to NAL. The main reason for these cases is that legislative facts are indispensable for the analysis of problems and construction of a legislative alternative. Actually, NARS' replies including international cases(legislative facts) in 2013 reached up to 49.9%. This situation implies that NARS and NAL need to construct a cooperation system. One of the possible solutions is to improve electronic request systems of both organizations and to construct a consultative group for co-classification of requests.

Second, both NARS and NAL have published various reports for legislative activities. NARS' publication has the purpose of providing proactive research services. On the other hand, NAL's publication relates to the pre-supplying of comprehensive legislative references(facts). However, both publication service categories are not distinguished in the MPs' perspective. Therefore, it is necessary that both organizations amend categories or contents of reports. Especially, the reports of NARS should be concentrated on the analysis for legislative and policy alternatives rather than gathering and disseminating legislative fact.

¹³ Jin-Young Jeon, "State of MPs' Bill and Comparison of Countries", *Distribution Memoranda* No. 671, National Assembly Research Service, 2013[in Korean], p. 4.