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## A Study on the Development of the KOREAN National Police Workers Union from a Criminal LAW Perspective

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### Abstract

*The labor union means a group of workers organized by workers for the purpose of maintaining and improving working conditions and improving their economic and social status. In modern Western countries, the importance of police union organized in the early 20th century is increasing within the police organization and the it also plays a role as a law-protected labor organization. In Korea, however, the government did not approve of the police union. This study examined the three basic labor rights and significance of the government employees' union and the trends of police unions in Germany, the United States, and Japan according to the World Labor Organization standards, and then compared the basic labor rights of Korea police union with them. As a result, the police officer's basic labor rights of Korea police union are not authorized. Therefore, the establishment of Korea police union to obtain basic labor rights of Korea police officers as an employee should be actively considered, also the extent, scope and procedures of allowing Korea police union should be smoothly implemented within the legal system.*

**[Keywords]** Labor Criminal Law, Labor Union, Police Officer, Labor Rights, Public Peculiarity

### 1. Intro

Trade unions mean a group of workers organized by workers for the purpose of maintaining and improving working conditions and improving their economic and social status. It is true, however, that from the past many countries have struck down policy decisions that allow trade unions for civil servants. This is due to concerns about the looting that may result from the strikes of officials of the country's heavy industries. Nonetheless, historically, it has long been possible to allow police unions in foreign countries[1].

Police official union(hereinafter referred to as 'police union') refers to the association of police workers, associations, and groups of police workers, which aims to protect the welfare, interests and rights of police members.

In the modern western countries, the importance of police unions organized in the early 20th century is increasing within the police organization[2].

It is a labor organization guaranteed by law, sitting on the table with the manager and paying the wages of police officers Negotiate from the working environment to the policy-related policy or enforcement[3].

This is a good example of the case in the United Kingdom, the United States and Germany. Unlike in Korea, the United States has police unions in most states, its activities are legalized, and since the 1960s, it has a right to negotiate with police officers to improve the remuneration and welfare of union members. In addition, it can exercise a considerable influence on the policy decision of the police.

In the case of Germany, the unions also include technical workers and daily workers who work in police officers and policemen. The police union (Polizeivereine), which is the roots of police unions, was already established in 1871. It was disbanded under the Nazi regime in 1933, but it was re-launched in 1951 with the opening of the German police officers[4].

In Korea, police unions are not allowed in accordance with Labor Relations Act, Article 33 of the Constitution of the Republic of Korea, and Article 66 of the National Public Service Act. In 2002 and 2003, however, there were attempts to form union officials for some civil servants, and since January 2006, the law on the establishment and management of labor unions has been enforced since January 2006, but the right to organize and collective bargaining has been legally guaranteed. In December 2007, the first public-sector labor-management collective agreement was signed. Police unions were also allowed to be union officials on August 25, 2006. Police offices were set up in the Police Agency, but police officers are still allowed only to skilled workers. Police officers are still not allowed to join police unions[5].

In the case of police officers, there may be a fear that group behavior through civil union unions may cause serious adverse effects compared to other organizations due to the nature of the work that entails responsibility and mandate to the public, but public well-being and well- In order to protect the rights of the police officers, it is necessary to promote the activities of the labor union as well as to carry out the special duties that take the risk of collateral for their lives. Therefore, this study examines the significance of civil unions and police unions, reveals the differences between the US and Germany, which historically allow police officers' unions, and compared it to the case of Japan, And to propose the directions for the development of police labor unions in Korea. In the second chapter, this paper explains the definition of civil servants' unions and the three labor issues of civil servants as the theoretical background, and the meaning and legal

nature of police officers' unions. In addition, ILO standards for public union unions and Germany, which can be considered as the root of the police union among the foreign countries already working in the police union, the United States which has the reign of the world after World War II, And examined the case of Japan, which had no police union, in terms of labor rights. In Section 3, we compare the cases of Korean police labor unions with those of Korean police unions. Finally, in Chapter 4, we summarize the comparison results so far and present a discussion on the direction of Korean police unions' I will finish.

## **2. Theoretical Background**

### **2.1. Korean police officers' union**

Police officers the function of labor unions is divided into economic and deductive functions and political and social functions in the traditional sense. Today, the functions are being expanded by the necessity to cope with the development of the economy and society. In addition to the function of maintaining and expanding the police organization, the Hyundai police officers' union has the functions of general activities to maintain and improve the working conditions of the front line police, as well as educational activities, propaganda activities, research and research activities, It also contributes greatly to the recognition of the importance of the police organization[6].

As we have seen in the significance of the preceding labor groups, labor organizations can be divided into general groups and labor groups (meeting the standards of labor unions), and police organizations can be distinguished as well.

First of all, there are police officers' labor organizations and other employees' organizations in the labor organization of the police. In some cases, the two organizations are interpreted in the same sense, but this is basically different from the legal nature. Employee organization refers to any organization in which police officers are admitted

as police officers, including social groups and charitable groups whose main activities are entertainment and community service. Labor unions cannot act individually, ignoring the rules of the organization, unlike other employer organizations, because they are contracted legally with the employer or maintain other formal implications. Therefore, the employee organization is a voluntary group in that the individual is given the freedom of participation, and the police officer labor organization is a special form of the employee organization.

Police officers organization is a group of police officers who work for the purpose of maintaining and improving working conditions and improving the economic and social status of police officers, it can be said that it is a group that has all the formal and practical requirements stipulated by the law related to the union. It is also aimed at enhancing the morale and improving administrative efficiency and administrative efficiency by promoting the sense of solidarity and peerage of police officers, improving working conditions and status, and promoting welfare. In addition, economic factors, as well as wages, pensions, life allowances. Unfair procedures, recruitment criteria, appointment, discipline, promotion. Dismissal, improves work efficiency, and negotiates with the user in the procedural rights of the police officers, thereby contributing to the overall working environment[7].

However, in terms of the police union, the basic rights of the police are divided into the right to organize, collective bargaining and collective action. In order to prevent labor exploitation from employers, the labor union of the private enterprise conducts collective bargaining with employers' employers in order to improve wages, working conditions and socio-economic status based on the unity of the workers themselves, and the user side commits the job closure in response to this. However, police unions are somewhat limited when compared with private unions in their activities because of their special status. The wages of private enterprises are fixed by the employer but the wages of the police are covered by the taxes of the people.

Therefore, there is a limit to the increase of wages and the like. If collective bargaining is broken, In addition, there is a limit to the collective action rights of police unions in each country. Therefore, even if the right to collective action is limited, it is also possible to recognize the unions and increase their free decision-making and participation opportunities for the police, which is a problem that can be considered in terms of morale of the subordinate police and also has a close relation with the general work problem of the police. In addition, police officers' labor unions can carry out self-help and continuous activities in order to secure the position of the police as an abbreviated person based on the strength of the organization and to provide a comparable relationship with the user country.

## **2.2. Foreign police officers' union**

### **2.2.1. Police officers union in German**

Polizeiverein, the roots of the police union, was born in 1871 during the German empire and was demolished and transformed. In 1951, it was relaunched as the 'German police officers' association. In 1966, and the role of the German police union was great on the back of the establishment of the personnel, remuneration and working conditions of the German police.

In Germany, there are no legal restrictions on the organizational forms of private and public sector unions, so public sector workers organize trade unions with their own or private sector workers. The members of the police union to collectively solve the working conditions of the police officers and the welfare and welfare problems include the functional and daily workers who work in police officers and police officers.

The fundamental rights of the police are defined in Article 9, Paragraph 3 of the Basic Law of Germany, which states that "the right to form an unity for the maintenance and improvement of working conditions and economic conditions is guaranteed to any person and to any profession, Is invalid, and the measures for this purpose are illegal." In addition, Article 91(1) of the Federal Civil

Service Act stipulates that "civil servants have the right to form trade unions or functional organizations under the freedom of association." In addition, Article 2 of the same article states that "civil servants are guaranteed unity by stating that they are not disciplined or disadvantaged for their activities because of their activities." Therefore, unlike in Korea, there are many high-ranking officials in the labor union, such as soldiers and ministers[8].

### 2.2.2. Police officers union in U.S

After the World War 2, the U.S, which has taken over the hegemony of the world from the Great Britain to the present day, has become legally recognized in most of the country. In the United States, public officials are divided into federal government officials and state and local government officials. Police officers are also divided into federal police and state and local police. The Civil Service Reform Act of 1978 was applied to federal police officers, individual public labor relations laws were applied to state and local police officers, and US police officially legalized police labor unions.

In the United States, in many autonomous police stations, the union is required to represent all police officers except police officers. In addition, many police unions are excluded from the union because the deputy director of the police department acts as an administrator to represent all the police officers below the captain. On the other hand, in many large-scale police stations, there are many police unions, such as police union and union labor union. In this case, the police chief must engage in collective bargaining with each union and, in some cases, negotiate collective bargaining with three police unions. An important issue for the US police union is which issues should be negotiated. Basically, there are three categories of collective bargaining. First, there is a mandatory bargaining target, which includes salary, supplementary benefits(pension, vacation, insurance, etc.), daily working hours per week, and overtime pay. Second, there is an exclusion of negotiations on the part of management that is not subject to collective

bargaining. This includes what are called so-called management rights such as appointment of workers, job assignment, telegrams, and promotion. Third, there is arbitrary negotiation. Both sides may or may not negotiate arbitrary negotiations. The only way for American police to carry their arguments is collective bargaining.

### 2.2.3. Police officers union in Japan

Japan is located in close proximity to Korea and has had a considerable impact on Korean police change in the process of colonizing Korea. The Japanese police are differentiated into the National Police Agency and the Prefectural Police, which are autonomous police, and the National Public Service Law and Local Public Service Law are applied respectively. According to the ruling of the Supreme Court of Japan, public officials are generally included in the scope of Article 28 of the Constitution as "workers", and three books of labor are guaranteed in principle. Therefore, public officials are supposed to be guaranteed constitutional rights on the right to conduct collective action other than collective bargaining and collective bargaining. The guarantee of rights generally means to protect the rights from infringement and to maintain a certain degree, and since the guarantee of the right to organize, collective bargaining and collective action is interpreted in the same sense, the public servants are guaranteed constitutional guarantee It means that the Constitution protects and protects the three books of civil servants from invasion. Therefore, police officers, who are public officials or local public officials, theoretically belong to workers under Article 28 of the Constitution. However, even if the police officers are the workers under Article 28 of the Constitution and 3 labor rights are recognized, the labor rights of the police officers in the current law are limited. Article 1108-2(5) of the Japanese National Civil Servants Act states that "a police officer or an officer working at a maritime security office or in a prison is for the purpose of maintaining and improving the working conditions of an employee, and in addition, "Article 98(2) of the Act stipulates that" employees shall not engage in strike,

sabotage, or other action against the public as a user represented by the government. This means that the police officers belonging to the national public officials are restricted in the scope of the human application of Article 28 of the Constitution which guarantees 3 labor rights, and the police officers belonging to the local public servants are also subject to Article 372 the same three books are restricted. As mentioned above, Japanese police officers can guarantee the three books of Article 28 of the Constitution in principle, but this is limited by the provisions of the law, and these laws are interpreted as constitutional ones in which rational reasons exist. However, it is pointed out that it is a problem to obtain the grounds for judging such reasonable limitation from 'public welfare' or 'common interest of the whole people'.

In the case of Japan, Korea and the police organization system and the legal system are relatively similar and there is room for comparative argument. However, in order to guarantee the basic rights of the police officers, the police officer's position, maintenance and livelihood, etc.

### **3. Comparison of Korean Police Officers' Trade Unions with Foreign Countries**

In this chapter, firstly, the cases of the United States and Germany, which recognize the activities of the police labor union centered on the application of the ILO standards to police unions and basic labor rights, and the case of Japan, which does not allow police union activities, Respectively.

In Korea, except for some "civil servants who are engaged in labor" through amendment of Labor Relations Act and National Public Officials Act in 1963, civil servants including police officers are divided into experienced civil servants and special experienced civil servants. Firefighting, education, etc., and the special-experienced civil servants are divided into civil servants, separate employees, contract workers, and civil servants.

As well as the formation of labor unions of general public officials. However, after the democratization, the demands of the labor system to guarantee basic labor rights for public employees have been strengthened. In December 1991, the ILO joined the OECD in December of 1996, We have put pressure on the labor sector.

Therefore, the National Police Agency's union started as a work council in 2002, but its activities were not recognized. In 2004, it recognized its activities. In August 2006, it was officially launched as a police union, and in September 2006, the union began its activities. However, this police union is not a police officer organization because it is organized as a general officer and a functional civil servant belonging to the police agency, not a police officer. The police officers' labor union in Korea is composed of the general office of the police agency, the administrative union police station branch, it is composed of the contractors 'police officers, the police officers' unions, and the national police union promotion committees, which have been established but have not been established yet. However, there are many who do not even know whether there are police unions[9].

The trends of advanced countries in labor groups have implications for Korea, which has not yet allowed police unions.

In Germany, public sector workers organize their own trade unions or trade unions with private sector workers. The members of the labor union include the police officers and the technical and daily workers of the front office, and have the right to organize to solve the working conditions of the police officers and the welfare and welfare problems collectively. However, it does not guarantee the right to conclude collective agreements and strikes, except that it recognizes the right to organize instead of the right to conclude collective agreements.

In the case of the United States, a large number of self-governing police agencies organize labor unions and therefore have the right to organize. In the case of large-scale police departments, many police un-

ions are organized and operated. It also has collective bargaining rights for remuneration, working hours, excess allowances and management rights.

On the other hand, in Japan, police officers are legally specified as workers under Article 28 of the Constitution, but the law restricts the right to work for police officers.

On the positive side, in the United States and other countries, the police union was in the form of an employee organization before it was recognized as a law by the law, and this organization mainly started as a combination for the welfare and welfare of police officers. Since then, basic labor rights have been emphasized, and the establishment of a labor organization that was not recognized due to the special status of public servants has been recognized. As a result, these employee organizations have developed into law-protected, recognized labor organizations and are organized. These police officers' trade unions, like Germany, work independently or jointly with other functional groups or affiliated with higher level groups, and they have improved the welfare problems of police officers such as wages and working environment. It was also a way to utilize the knowledge and information of the police officers by influencing the policy decision process or the execution process. In addition, it has also been functioning to monitor the corruption of high-ranking police officers by forming appropriate containment relationships with high-ranking police officers. It also provides direct and indirect support such as legal assistance and consultation to unjustly disciplined police officers, It also represents profits[10].

In the case of Japan, however, basic labor rights are recognized similar to those of Korea. However, the law restricts the activities of police officers' unions and guarantees the status of police officers, the union is denied by the 'target action theory'.

Most of the countries recognize the right to organize and collective bargaining and do not recognize collective action rights. This is interpreted as police strike demanding public sacrifice.

#### 4. Conclusion and Discussion

Until now, the meaning of the labor union of the police officers and the legal nature of the police officers' labor unions in the meaning of the labor unions of the labor unions, and the significance of the labor unions of the civil servants, And analyzed the implications of this comparison in comparison with the case of Korea.

As a result, most of the countries recognized labor rights except collective action rights. Korea and Japan did not recognize the labor rights of police labor unions as exception. In many countries, police's right to collective action is construed to be due to concerns over labor disputes.

In ILO, the labor organization of general civil servants should be acknowledged, but it is mandatory for the labor organizations to recognize the special public servants such as the police. Accordingly, the United States, Germany, and other countries acknowledged that the activities of police officers' labor groups were protected by law and their rights were protected. In addition, police officers' labor unions have shown considerable influence in the decision-making and enforcement of police-related policies as well as welfare benefits such as the improvement of wages and working conditions of individual police officers[11].

However, in neighboring country Japan, the importance of police duty as a civil servant was emphasized in the same way as Korea, and individual police activities were not allowed. In principle, police officers are prohibited from union activities in Korea and only exceptionally allow civil servants who are engaged in labor.

Police are different from general administrative organizations in that they can exercise power. Police officers are categorized as experienced civil servants. Unlike general and functional workers, police officers are classified as specific. Police are especially dangerous and powerful, and have strong political and conservative power.

On the other hand, the police work is

about the basic matters for the existence of the national and the people's lives. The police function is to force the people to order and force them to maintain the public well-being and order. Therefore, it is directly related to human rights, so it can be said that it is the administrative organization closest to the people. In addition, the role of the police is increasing more and more today as the roles of the home and community, which are the informal control measures to maintain social order, are gradually weakened. Thus, police work is an important public service that has a lasting character.

In addition, the police are responsible for the protection of people's lives and property and for the prevention of crime, mainly for the protection of social disasters, risks and weaknesses. It has a very high occupational risk. Police officers are living in a harsh situation where they have to work continuously for 24 hours due to the existing crime prevention, demonstration suppression, traffic communication, and life and physical dangers. They are always in psychological tension, since the main task is to remove the police themselves, they are also vulnerable to such risks. Therefore, the police union can function to maintain and expand the police organization and to improve the working conditions of the line officers. In addition, the importance of the police organization through education, propaganda, research, it may also contribute to recognition. Line officers can exercise their right to speak on unfair personnel actions through unions and can be considered in terms of fraud as well as obtaining free personnel decisions and opportunities for participation. It may also play a role as a pressure group for the police administrator for police specialization and social well-being[12].

On the other hand, it is also true that when the police union is allowed, it maybe a profit grouping rather than a service to the people and the state. If the union strikes and acts as a group other than the justice struggle, Which may threaten the safety of citizens[7].

Police are generally semi-military organi-

zations that make up the pyramid structure of chiefs and subordinates. They are the organization of the subordinates. When the unions are formed, the hierarchical order within the organization collapses and the authority of the managerial level is weakened. There is also the argument that if the demand for more than the required level is constantly increased, the tax burden of the people will increase in terms of cost. Therefore, it is desirable to discuss the establishment of a police labor union that understands the innate ability and dysfunction of the union and includes the line officer in the scope of participation, on the precondition that the police officers' basic labor rights are guaranteed.

Even considering the public peculiarities, the establishment of unions should be considered actively for the basic rights as workers. As it is a group of public servants who require high level of compliance due to differences with other groups, So that it can be done smoothly within the legal system.

Prior to forming the police union, the police officers recognized the existence of various perspectives and emotions regarding the formation of the police union and gathered a lot of opinions so that the public consensus could be drawn up. We should also suggest ways to reach a positive conclusion about the rights, obligations and scope of responsibility. Furthermore, if unions are formed, they should continue to actively engage and participate in union activities and activities. It is also necessary to create an organizational quorum that allows free choice in joining and leaving of trade unions[13].

In terms of managerial level, it is necessary to understand that police union can supplement management activities and take a positive attitude toward union activities so that this can be used creatively in administration. In addition, rather than confronting union activities with managerial positions, it should be an opportunity to improve the efficiency of the organization through mutual cooperation.

In order to ensure that police unions are formed and act constructively, it is necessary

to establish conditions to support them in the administrative system. In this regard, it is necessary to establish labor unions based on international legislation and international labor standards, it shall examine and make legislation as much as possible to ensure the fundamental rights of workers to work.

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