

Information needs and research behaviour of legal professionals in Korea

Myung Ja Hong*

〈Contents〉

- | | |
|---|---|
| 1. Introduction | 4.2 Information sources for
statutory law |
| 2. Information needs and re-
search behaviour of legal
professionals in general | 4.3 Information sources for
case law |
| 3. Survey of information needs
and research behaviour of leg-
al professionals in Korea | 5. Proposal for improvement of
information environment in
Korea |
| 3.1 Methodology | 5.1 Information source |
| 3.2 Analysis of the results | 5.2 Education and training for
legal research |
| 4. Summary of the survey | 5.3 Library |
| 4.1 Major sources of legal infor-
mation and legal research | Abstract |

1. Introduction

In a law-governed society, every person either as an individual or as a member of a social body, needs legal information in order for their professional or para-professional duties, or for their lives as a citizen. The information needs of legal professionals are certainly stro

* Professor, Department of Library Science, Catholic University of Taegu Hyosung

nger, more specific and deeper than those of others. They might need specific and detailed information relating to their legal matters which are closely related to their unique social roles and tasks, as well as to the legal system itself.

Generally, peculiarity of the users' information needs and research behaviour is influenced by the subject and by their social functions. Professionals who are engaged in the law field as practitioners or scholars, not only contribute to the realization of justice through the settlement of legal disputes, but also to the improvement of the legal system through research. Legal professionals' attitudes toward information, therefore, can be affected by the characteristics of legal system and legal information sources. The Civil Law system to which the Korean legal system belongs is not substantially differentiated from the Common Law system in the primary function of legal research, even though there may be differences in the priorities and in the manner of use of legal materials caused by the sources of law in each system.

Under the Korean legal education system, students have not been trained for legal research method, information search, and library use, but by the text-oriented lectures they have been urged to get used to the interpretation of written laws. Therefore, it may be too difficult to expect that they are well-trained in information skills.

For the efficient legal research, the most efficient information system should be developed in compliance with the information needs and behaviour of legal professionals, which are closely linked with legal system and legal professional system. Knowing the professionals' attitudes toward information is a prerequisite for the construction of

the most efficient information system. The information system, therefore, should not only be equipped with sufficient contents in order to comply with the users' needs properly, but also it should be organised to reflect the users' research habits and behaviours which are influenced by their legal education and training.

Especially, practicing lawyers are required to possess legal knowledge and skill, and the failure to research the law thoroughly and accurately results in liability for malpractice (Model Rules of Professional Conduct for American Lawyers 1.1). There is a case (Smith v. Lewis), which addressed the lawyer's general duty to perform legal research and approved an award of \$100,000 against a lawyer who failed to apply principles of law commonly known to well-informed¹⁾. Courts have already referred to computer-assisted legal research systems as an essential tool of a modern, efficient law office, and the use of them is certainly reasonable in contemporary legal practice in Wehr v. Burroughs case²⁾.

In this paper, information needs and research behaviour of Korean legal professionals were surveyed in relation to the major source of legal information and library, their information seeking habits, and evaluation of the existing primary legal information resources. The attitudes toward information were compared between scholars and practitioners.

1) L. A. O'Connel, "Legal malpractice: does the lawyer have a duty to use computerized research?", *Federation of Insurance Counsel Quarterly*, 1984 (35): 77-103

2) M. S. Willick, "Professional malpractice and the unauthorized practice of professions", *Rutgers Computers & Technology Law Journal*, 1986 (12. 1): 1-32

2. Information needs and research behaviour of legal professionals in general

Legal professionals, either scholars or practitioners, have common objectives to acquire legal information, that is, to provide specific and introductory information for work in progress, to improve abilities, to keep informed of development in work, and to provide introductory and background information for unfamiliar needs³⁾. But, they have different needs and uses for information, which are derived from their different social duties and tasks fulfilled in their works.

All kinds of intellectual expressions of the law are very important both to scholars and practitioners, but differ in terms of emphasis, perception, form of communication⁴⁾. Scholars (academics) investigate the way in which such intellectual devices are formed, and practitioners use such devices for immediate practical ends. They are not focussed toward the affairs of any client or individual, but are directed toward the edification of students, the legal profession, or even society at large by exposition, analysis, and critique of the law. They are more concerned to analyse what they perceive to be the distinctive qualities of legal information, and present the reasoning as to why any set of ideas might be adopted in any particular social context⁵⁾.

3) M. S. Feliciano, "Access to law: information needs of researchers in law and the public", In: *The use of information in a changing world* (ed. by A. Vanderlaan and A. A. Winters), North Holland, 1984.

4) M. Slade and R. Gray, *The impact and potential of online legal research system on academic legal education*, R & D Report 5812 British Library, 1984.

5) Id

Practitioners' legal research relates to two of their basic professional functions, to determine what the law is on a particular problem and how a court will act if the problem is ever litigated. They need to solve the legal problems faced in their work, and thus they need relevant information for this purpose and need to obtain the most accurate information as quickly as possible. As it were, research done by practitioners is oriented towards the end-product and is projected directly into their work. The court has imposed a duty upon the lawyer to diligently seek out the knowledge of well-established and clearly defined basic principles of law, relevant to the legal problem at hand (1890, Supreme Court of Indiana), and it has been imposed upon the attorney up to the present day⁶⁾.

Principally, legal practice and research are based on legal data which can be obtained by the search of legal sources. The search aims to locate desired information by efficient search with a minimum amount of time and effort. The search process in law is so complicated due to its characteristics, such as the presence of several legal issues, the fact that no two cases are ever exactly the same in their material facts, and the possibility that the passage of time has generated new social circumstances and interests⁷⁾. For an efficient search, the user should be able to analyse each information need and the system, and to operate the system in an efficient manner⁸⁾

6) O'Connel, *Supra*, note 1

7) M. L. Cohen, *How to find the law*, 7th ed., 1976, West Publishing Co.

8) D. Hamilton, "Library users and online systems : suggested objectives for library instruction", *RQ*, 1985 (25) : 195-197

There are several studies on the research behaviour of legal professionals. Among them, Goedan⁹⁾ examined that scholars and practitioners showed different attitudes in the use of search aids, field of information search, and required time. Scholars spent more time on the information search than practitioners, preferred to rely on their own documentation as opposed to practitioners who relied heavily on a prefabricated system, and searched mostly literature as opposed to practitioners who searched statutory law, case law, and literature to the same degree. Also, he explained the characteristics of the working methods and information needs of practitioners, that they cover a large number of cases at the same time, need concise information on particular details, and are looking for the most relevant case or the relevant statutory provision. When they are confronted with a new problem, they acquire the required information by referring to their files and notes, and seeking the advice of other lawyers, or assigning the research task to others¹⁰⁾.

There are several studies on the search processes in the law field¹¹⁾. Most of them suggested 4 steps of search process as factual analysis, identifying and framing the issues using commentary for background

9) J. C. Goedan, "Legal comparativists and computerized information system", *International Journal of Legal Information*, 1986 (14, 1/2) : 1-49

10) M. L. Cohen, "Research habits of lawyers", *Jurimetrics Journal*, 1969 (9) : 194

11) Cohen, *Supra* note 7

C. L. Kunz, *The process of legal research*, Little Brown and Co., 1986

B. H. Pausley, *Information science techniques in legal retrieval*, Verlag Clemens Koechert, 1990

J. L. Ebersole, "The emergence of computer assisted research as an established legal tool", In : *Legal and legislative information processing* (ed. by B. K. Eres), Greenwood Press, 1986. Goedan, *Supra*, note 9

purposes, and searching for authority.

3. Survey of information needs and research behaviour of legal professionals in Korea

Legal professionals in Korea have been trained by textbook-oriented lectures using interpretations of written laws, so it may be difficult to believe that they are well-trained in information skills. Usually, they try initially to find a pertinent legal structure and concepts to which the legal matters they face are related. Then, they try to seek relevant information relating to legal matters which exist in the form of statutory law, case law or legal doctrine.

Statutory law and case law are made by government, and accordingly collections of them are published in a form of government publications and updated frequently. Most legal doctrines are included in the textbooks or commentaries.

3.1 Methodology

This survey has been carried out for two purposes. One is to identify the legal professionals' attitudes toward legal information, their information needs and behavioural patterns, and attitudes toward legal information sources. The other one is to compare the characteristics of information between professors and practitioners. For the comparison, the professionals were divided into two groups, and were examined separately in order to compare the results. Legal infor-

mation sources were classified into two categories, sources for statutory law and case law which have been considered as basic sources mainly used by professionals. The respondents' attitudes toward them were surveyed independently.

For comparing the attitudes of the two groups, the same number of respondents (44 persons for each group) were chosen from legal professionals who are strongly involved in the development of and interested in legal information systems, and who take an active role in legal research.

Delivery of the questionnaires and their collection were done through the representative belonging to each institution. Among the data collected, valid data was analysed statistically conducting by Chi-square in order to analyse the relation between two groups, and by F-test (2-way ANOVA) and Sheffe's Test for Variable for analysis and verification of the results.

3. 2 Analysis of the results

3. 2. 1 Details of the respondents

Samples of this survey amount to 88 legal professionals consisting of the same number of scholars and practitioners. Respondents belonging to the practitioner group are comprised of 17 judges, 13 prosecutors, and 14 attorneys. The selection was made to maintain a balance between each category. The scholar group is composed of law professors who are teaching and researching in law schools. 86 persons among all respondents (97.7%) have been educated in law schools and possess

law degrees, even though there is no educational requirement to be a legal professional in Korea.

A qualification for law professors is not firmly established in Korea, but most of them have higher degrees in the law field. On the contrary, the legal practitioners should be qualified as practicing lawyers which are approved by the government to be engaged in legal practice.

3.2.2 General attitudes towards legal information and research

1) Major source of legal information

In general, the sources used to obtain required information are closely related to the aims of information use, information seeking behaviours, and types of information environment.

It is common to use the library as a major source of information. In the survey, libraries in the institution where the legal professionals are working, are indicated as major information sources by more than half of the respondents (especially preferred by practitioners). On the other hand, private collections are indicated as the most widely used sources by professors. It has been a general tendency in Korea that the readers want to have their own collections and use their own books. This might be based on several factors, eg. traditional research habits, sufficient knowledge of contents and use of their private collection.

The varied response to this question might be derived from the differences in the objectives of information use between practitioners and professors. Most of the duties of practitioners who are doing legal

work in connection with their practice, are carried out in their office during office hours, and are concerned primarily with the review of the records relating to litigation in hand. Furthermore, they do not usually specialize in a narrow subfield, and thus they deal with a variety of legal matters as they arise. On the contrary, professors do theoretical research on a specific topic, and need to search comprehensively for in-depth research on it. Therefore, they normally wish to have materials relating to the specified field nearby and to have easy access to them when the need arise.

(Table 1) Major source of legal information

	practitioner	professor	total
private collection	3	14	17(28.8%)
office	7	0	7(11.9%)
library in the institution	22	11	33(55.9%)
other library	0	2	2(3.45%)

* Frequency missing : 29

2) Use of library and library collection

None of the respondents replied that they could obtain "complete" information from the library, almost all respondents replied that they could get information on an "adequate" or "insufficient" level. Negative attitudes toward the library were expressed more seriously by professors, and this may cause them to prefer to have their private collection and to depend on them strongly in research.

Almost all the respondents in the two groups (37 practitioners

and 35 professors, 93. 5%) pointed out that an "insufficient collection" is the most important factor in obstructing the use of the library and causing the low usage of the library.

The problem of "acquisition of current information" was presented as the most critical barrier to the use of the library collection by more than half of all respondents, especially by a large number of professors who reacted to this question very strongly. Due to the continuously changing nature of legal information, the provision of current legal information is not only necessary to solve legal matters, but also the provision of outdated information may have dangerous consequences. Therefore, the requirement for current legal information by legal professionals is accepted as a matter of course. On the other hand, "unsystematic organization of library material" was pointed out as a major difficulty faced by the practitioners. Different responses as such may be closely related to the major information sources of each group. That is, professors depended on their own collections, because of unsatisfactory provision of current information by the library. On the other hand, practitioners generally depended on the library, so they might face some problems in accessing and locating needed information in the library collection. Different responses, also, may be caused by the nature of the research purpose and topic, scope of research, and information needs and behaviour of each category. Pointing out "the lack of basic legal materials, such as Collection of Statutory Laws and Case Laws" is very suggestive of the real situation of law libraries.

〈Table 2〉 Major difficulties in using library collection

	practitioner	professor	total
lack of basic legal materials	5	7	12(17.1%)
acquisition of current information	13	25	38(54.3%)
missing volumes	1	1	2(2.9%)
unsystematic organization of material	15	3	18(25.7%)

* Frequency missing : 18

(i) The most convenient access point to the legal information

Most libraries including law libraries in Korea, have two kinds of catalog, one based on KDC, the other on DDC. Although the subject approach to library collection is preferred by the majority of users, users of law libraries at present can only use the classified catalog for a subject approach to the collection. This is because there is no list of subject headings appropriate to the Korean legal system and thus no law library has a subject catalog based on the subject headings.

As a quarter of all respondents found that organization of library material was inconvenient for locating the needed information in the present system, it is important to examine the desirable access point. In this survey, "access by specific terms" was ranked most frequently (54.8%) by both groups, and "access by legal structure" was also indicated by a lot of respondents (42.9%) as a proper access point. This means that either specific terms or legal structures are familiar and used as access points by legal professionals.

(ii) Assistance from others

It may be possible to anticipate that the professionals are usually aided in their work by others who act as eyes and legs in finding proper information and delivering it. Even though the professors

usually spend much time on their research, less than half of them use assistants for their research. This may be derived from the fact that they do in-depth research on a specific topic, and need comprehensive and accurate information on it, thus they tend to acquire the required information for themselves. On the other hand, practitioners officially have assistants in their work, and call upon them frequently. Only 4 practitioners among all respondents answered that they were assisted by the librarian.

The degree of assistance ranges from the comprehensive and overall examination of the research topic to a search for specific item in the library holdings and routine assistance, such as circulation and photocopying of materials. In this survey, most of the respondents received the aid in "search of the specific item" or in the routine works. It means that most of the legal professionals examined relevant information for themselves, and then asked for the assistance to others to find the location of that information, or to borrow or photocopy it.

(iii). Required time for the location of information

Legal professionals in Korea tend to spend much time on information searches in the process of their legal research. In Korea, there is no formal training course in legal information searching or for use of the library. So, it is natural that information searching is time consuming. No training in information searching and library use may result in the fact that users do not use the library efficiently and they try to possess and to develop their private collection. We can easily assume that there are many differences between practitioners and professors in terms of the subject, scope, method, and purpose of their research.

Practitioners do research on the legal matters faced in their practice in order to get a reasonable resolution, and professors do research on a specific topic to find and consolidate its theoretical foundation. Therefore, most of the professors responded that they spend "more than 3 days" (22 persons) and "1 to 3 days" (13 persons), which is quite longer than the practitioners' time required (i. e. less than 6 hours by 16 persons, 6 hours to 1 day by 11 persons).

(iv) Training for information search

There are no formal courses for legal research method, information search and library use in the curriculum of law schools or of the Training Institute for Legal Practitioners in Korea. Lack of formal courses in legal research and use of libraries may result in time-consuming searching, simple level of assistance from others, insufficient use of the library, and tends to possess and to develop private collections.

3.2.3 Kinds of needed information and its sources

Respondents were asked to rank the preferred information in order of importance, which can be used for the analysis of the comparative value of each type of information. Analysing the preferred information by the first rank, the practitioners regarded legal information in the order of statutory law, legal doctrine, and case law. For professors, on the other hand, this was in the order of statutory law, case law, and legal doctrine. Responses from the two groups go against the general expectation that the practitioner is likely to regard the case law as of great importance, and the professor, the legal doctrine as the most important.

For understanding the respondents' attitudes, it is necessary to introduce and explain the primary information sources for statutory law and case law.

1) Information sources for statutory law

Primary sources for statutory information are typified by the *Official Gazette* and the *Collection of Law of the Republic of Korea* which are edited and published by government agencies.

The Official Gazette is published daily by the Ministry of Government Administration, and includes laws newly enacted or revised. Through it, current information on statutory laws can be traced on a daily basis, so it is useful as a current awareness tool for statutory law. But, users' needs to locate statutory information on special subjects cannot be satisfied by it, even though the monthly alphabetical index by subject can fulfill them to some extent. Meanwhile, the major function of the *Official Gazette* is to notify government activities to public officials. So, it seems that the *Official Gazette* is not subscribed to and used as a source for current statutory law by legal professionals and the general public.

The Collection of Law of the ROK is a comprehensive tool for statutory law in force. Main volumes were published in loose-leaf form, and supplements are published frequently in order to keep up-to-date. So, the value of the *Collection of Law* is dependent upon its maintenance, that is, the addition of new laws, the removal of repealed laws, and the replacement of revised laws quickly and accurately. It means that the usefulness of this information source is based on the skill and character of the staff who are in charge of that work. Sometimes in a library, its maintenance is controlled by a clerical assistant who does

not realize the importance of filing accurately.

The Collection of Law is categorised by legal structure, and each volume is arranged systematically by a sub-structure. The final volume is an index volume which is alphabetically arranged by the title of the act. Therefore, without knowledge of legal structure and the exact title of the act, users must browse through the source in order to locate relevant law. Thus, the users who need statutory laws about them can not easily find them. Due to the difficulties in accessing them, the legal practitioners, legal scholars and legislators, as well as laymen, have problems in locating needed information efficiently.

Professionals tend to access the *Collection of Law* directly, but there is no subject index. So, new and obscure fields of law, and subjects related to several fields cannot be easily and comprehensively searched, even by use of the existing index, which is arranged by the title of the act. Legal terms in the text but not in the title are impossible to retrieve. Furthermore, the *Collection of Law* covers the statutory law in force only. The old versions of existing laws and repealed laws are very important for historical research into the present legal system and for the settlement of legal trials which occurred in the past. But, the users' need to locate these cannot be met by the *Collection of Law*.

2) Information sources for case law

Representative sources for case law are the *Judicial Gazette* and the *Collection of the Supreme Court Case Law*. Both of them include the reported cases which are chosen and edited by the judges in charge of those works independently and by the different procedures. So, there is a possibility of inconsistency in the scope and contents of cases which may be derived from different subjective views.

In the *Judicial Gazette*, selection and editing are left to the Judicial Researcher without any detailed guidelines. On the other hand, in the *Collection of the Supreme Court Case Law*, the Justice who is mainly in charge of the case reviews delegates to his assistant (Assistant of Justice) the preparation of the draft of the report. The drafts are examined by the Examination Committee of Case Law, and then published. The positions of Judicial Researcher and Assistant of Justice are filled by judges. They are too frequently rotated for these judges to become specialised in reporting work. This may be a reason for the more serious problems inherent in the reporting system.

In principle, only reported cases are published in the printed sources. As mentioned above, whether the case is reported or not is dependent on the judges' own views, thus it is a probability that the valuable cases will be excluded from reporting and from publishing. It is possible to deprive the users of the opportunity to access and use them. If the reporting is done by the judges who make decisions, more reliable reporting can be obtained quickly and accurately.

The Judicial Gazette is an official bulletin of the Judicature. Activities of the Judicature are reported in it, as well as current case law. Therefore, the *Judicial Gazette* can be used as a primary tool to access the current case laws. To increase availability, sections of case laws are extracted from it and distributed to the subscribers. But, it is not widely distributed to users outside of legal practitioners, in contrast to *The Collection of the Supreme Court Case Law* which is extensively distributed to the individuals or institutions for scholars and practitioners. *The Judicial Gazette* and the *Collection of the Supreme Court Case Law* are arranged chronologically by the date of decision

which is not only forgotten easily but also cannot meet the users' common need for access by subject. The table of contents in the *Judicial Gazette* and the *Collection of Supreme court* includes 'title of the case'. In addition, the *Collection of Supreme court* includes 'statutory law referred to' as well. They can be used as access points to locate relevant cases relating to a research topic. Quarterly and annual indexes of the *Judicial Gazette*, and the cumulative index of the *Collection of the Supreme Court* by statutory law referred to can be used for searching.

Normally, legal disputes are so complicated that lots of issues are intermingled with each other, and thus they necessitate reference to several statutory laws. Therefore, the citation of all statutory laws referred to is useful to be included either in the table of contents of the main text or in a supplementary index. These citations tend to omit important information which deals with issues necessary for understanding of case. Furthermore, in some cases, a certain section of the act covers a vast amount of subjects, so it is difficult to locate needed information easily unless it is subdivided into detailed subjects.

3.2.4 Questions on the statutory law information and its sources

1) Reasons for need of statutory law sources

Both of the two groups commonly pointed out that statutory law is the most important information. For the reasons for asking for statutory information, practitioners responded that they have used statutory sources in the order of "ascertainment of existence of law relating

to special subject", "identification of related laws to special subject", and "examination of legal text". On the other hand, professors answered in the order of "ascertainment of existence of law relating to special subject", "examination of legal text", and "identification of related laws to special subject".

2) Kinds of information needed in the statutory law sources

The contents included in the statutory sources are different from each other, ranging from the coverage of the full-text to comprehensive information relating to the statutory law. Similar attitudes towards them arose in both groups. That is, they commonly preferred the information in the order of "full-text", "related laws", and "history of statutory law".

3) The access procedure to the full-text of statutory law

In the written law system, the *Code of Law* is considered as a basic tool and is the first source checked by professionals in their work, and thus it is located close by them for easy use at any time. Legal professionals normally have their own *Code of Law*, which is commercially published in one volume. It is located within their reach and used frequently for statutory legal information. So, they are very familiar with it. But its scope is very limited and only selected categories of statutory instruments are covered in it, that the need for comprehensive statutory information cannot be satisfied by it. Therefore, the *Collection of Korean Laws in Force* in loose-leaf form is usually required as a comprehensive source for statutory information. It is organized by legal structure, so knowledge of legal structure is required to facilitate its use.

Behaviour in accessing the full-text was different between two groups. "Direct access to *Collection of Laws of the ROK* was strongly cited by the practitioners. Namely, they access directly the *Collection of Laws of the ROK* when they found the appropriate statutory information relating to a legal matter. On the other hand, the professors ranked "journal article to *Collection of Laws of the ROK*" first, and "direct access to *Collection of Laws of the ROK*" second. The different attitudes in information seeking behaviour between the two groups may be the reflection of their research habits and depth of research.

Secondary sources, such as journal articles and commentaries, are used both by practitioners and scholars as tools for finding statutory information. Professors in particular frequently browse and read journal articles and use them for such purposes. They give theoretical information on a specific legal topic with leading cases and related statutory information. Commentaries are also used by many professionals. These are arranged numerically by sections of a specific act and contain much useful information, such as an interpretation of the law, leading cases and related statutory information.

4) Title of the most used source and degree of satisfaction with it

Attitudes toward the preferred statutory sources varied between two groups. This may be related to the nature of their duties. Professors tend to need an exhaustive examination of information relating to their specific topic for in-depth scholarly research, and practitioners need definite information which can be applied to the legal matter and will resolve it successfully.

The professors in this survey clearly showed the order of importance of their preferred sources as "*Unabridged code of law*", "*Collection*

of laws of the ROK", "Official gazette", and "Abridged code of law". On the contrary, practitioners showed the varied nature. But, "Unabridged code of law" was commonly preferred by two groups. It may be caused by an adequate coverage of law compared with others, its handiness to use, and their familiarity with it. Question on the degree of satisfaction with the most used statutory source was posed in an attempt to analyse the attitudes of two groups toward the most used statutory source, in terms of its scope and contents, and the method of searching. Therefore, three facets of analysis, i. e., the relationship between practitioners and professors (A), the relationship between three items (scope, contents, and methods) (B), and the relationship of interaction between two groups and three items ($A \times B$), were conducted. In order to analyse them statistically, 2-way ANAVA (Analysis of Variance), also called F-test, was conducted.

Results by the analysis are as follows :

- (i) The relation of the two groups to the most used statutory sources was significantly different ($F(1,258)=6.76, p<.01$)
- (ii) The relation between three items (scope and contents of the most used statutory source, and method of search) is also significantly different ($F(2,258)=6.52, p<.01$)
- (iii) The relation of interaction between the two groups and the three items is not significant ($F(2,258)=0.52, p>.05$)

In order to verify the degree of difference further, Scheffe's Test for Variable was conducted. Detailed results were as follows.

- (i) The professors' group seemed less satisfied with the most used statutory source than the practitioners' group, and the relation between the two groups is significantly different ($p<.05$).

- (ii) The degree of satisfaction with "method of search" of the most used statutory source tended to be less than either "scope of it" or "contents of it". The relation between "scope of it" and "contents of it" had no significant difference. Thus, it is clear that "method of search" is the major unsatisfactory factor among the three items, and the relation between the three items is significantly different ($p < .05$).

3.2.5 Questions on the case law information and its sources

1) Reasons for need of case law sources

As to the reasons for asking for case law information, the professors clearly showed an order of importance, unlike the dispersed distribution of the practitioners. But, the results from the practitioners as observed by the first rank were the same as from the professors. "Identify whether the case laws relating to the special subject exist" was pointed out as the most important reason for using case law sources by two groups. Only a few respondents indicated that they use those sources for "identification of the title, and the number and date of a certain case". It can be interpreted that the title of the case, and the number and date of the case are not regarded as important points or as useful information to find a specific case.

2) Kind of information needed from case law sources

Practitioners and professors showed a very similar response to the kind of information included in case law sources. That is, the kind of information preferred by both groups occurred in the order of "major

point of case", "full-text", "related case law", "history or change of case law", "statutory laws applied to a certain case law". Preference for "the major point of case law" might be caused by the fact that it has been used as an efficient tool for finding the appropriate case laws in practicing and scholarly fields.

3) Kind of information expected to be found in the case law

Normally, case law sources include an explanation of the facts which raise legal matters and legal disputes, application and interpretation of laws, and judicial decisions and the basis of them. The purpose for using case law sources and kind of information expected to be found in case law were clearly observed in the practitioners' attitudes, which was different from the dispersed distribution of the professors' attitudes. Furthermore, the order of importance of the kind of information was ranked quite differently from each other.

〈Table 3〉 Kind of information expected to be found in case law
(tables of the first rank)

	practitioner	professor
identification of the fact	20	7
conceptualisation of the fact into the legal concept	8	9
interpretation of legal terms and essential facts	10	10
typical conclusion of legal problems	2	18

These results may be related to the differences in their social roles. Namely, practitioners tend to find similar cases which include similar facts to the legal matters faced, and to make a reasonable decision independently. On the other hand, professors tend to find information which can be used as a basis for their theoretical opinion, and for this

purpose they may prefer to get a typical conclusion to legal problems.

4) The accessing procedure to retrieve the full-text of case law

In general, the primary case law sources, such as the *Collection of Supreme Court Case Law*, are arranged by the date of decision and the number of cases. So, users who want to use these case books must know the date and number of the specific cases concerned with their legal interests. Without prior knowledge of them, it is very difficult for users to access the pertinent cases required.

Large number of professionals, especially practitioners (27 persons among 41 persons responded), were apt to access the *Collection of Supreme Court Case Law* directly in order to get the full-text of specific case law required. Without any preliminary knowledge of the title or the number of the case, practitioners usually directly access to it and try to find appropriate information from it. On the other hand, it is more general for professors to firstly access journal article which is likely to include relevant case law information, and then to access the *Collection of Supreme Court case laws* based on the information secured from the journal article. The difference in the accessing procedure between practitioners and professors may be related to their information seeking behaviour and the purpose of their research. As it were, practitioners frequently utilise the *Collections* for their work, and thus they can become very familiar with the use of it. On the other hand, as professors need case law information in relation to theoretical research, they tend to find it through journal articles.

〈Table 4〉 Access process to retrieve full-text of case law

	practitioner	professor	total
textbook to <i>Collections</i>	3	7	10(12.35%)
commentary to <i>Collections</i>	7	1	8(9.88%)
journal article to <i>Collections</i>	4	18	22(27.16%)
notes in code to <i>Collections</i>	0	3	3(3.70%)
direct access to <i>Collections</i>	27	11	38(46.91%)

* frequency missing : 7

5) Title of the most used source and the degree of satisfaction with it

The titles illustrated as the most used sources by practitioners and professors are quite different : “*Judicial Gazette*” by practitioners and “*Collection of Supreme Court Case Law*” by professors. This difference might be related to their availability.

Compared with the *Collection*, the *Judicial Gazette* has such advantages as currentness and comprehensiveness in respect of its coverage of case laws. But it also has such disadvantage as limited distribution. Practitioners can easily access and use the *Judicial Gazette* without any problem, so they prefer this source. Although *Collection of Supreme Court Case Law* cannot be as comprehensive and current as the *Judicial Gazette*, it is readily accessible to the professors. Therefore, half of the professors indicated it as the most used source.

There is another question about the attitudes of both groups toward the most used case law source, in terms of its scope and contents, and the method of search. Therefore, three facets of analysis were done by the same way as statutory source.

(i) The relation of the two groups to the most used case law source is significantly different ($F(1, 255)=9.59, p<.01$).

(ii) The relation between the three items is also significantly different ($F(2, 255)=4.31, p<.05$).

(iii) The relation of the interaction between the two groups and the three items is not significant ($F(2, 255)=1.03, P>.05$).

Facts concerning the degree of difference were clearly verified by Scheffe's Test for Variable, as follows.

(i) The professors were likely to be less satisfied with the most used case law source than the practitioners, and the relation between the two groups was significantly different ($p<.05$). The relation of the two groups to the case law sources seemed to have a similarity to the statutory source.

(ii) The degree of satisfaction with "method of search" of the most used case law source tended to be less satisfied than either "scope of it" or "contents of it", and the relation between scope and contents of it showed significant difference. Thus, it was clarified that "method of search" was the major unsatisfactory factor among the three items and the relation between the three items was significantly different ($p<.05$). This tendency was similar to the statutory source.

6) Title used to obtain current case law information and the reasons for needing it

Legal professionals, by and large, tended to use the *Judicial Gazette* in order to get current case law information. Due to its limited distribution, most of them were practitioners (31 persons among respondents) who could easily access this officially published source. Sources for current case law which were used by professors, were commercial publications, such as *Monthly Journal of Case Law* and *Legal*

Newspaper, which are easily available to them. The relation between the two groups regarding the preferred source of current case law was verified by statistical analysis to be very significantly different ($X^2(3)=25.586, p<.0001$). As the reasons for need of current case law, "acquisition of current information relating to the subject" was ranked first both by practitioners and professors instead of "understanding of current trends in case law" and "analysis of the specific case law".

7) Titles used to get information about lower court case law and reasons for need of it

The Legal Newspaper was indicated as the most used source for lower court case laws for legal professionals (48.81%). This might be due to the nature of it, that is, the provision of current information by frequent publication (twice a week) and its ready availability (commercial publication). In particular, more than half of all professors used it, in contrast to the practitioners' preference to the *Collection of Lower Court Case Law*. As reasons for need of lower court case law, "understanding the trends of lower court case law" was commonly stressed by practitioners and professors, even though the same number of practitioners also pointed out to the "identification of the fact included in the case law". This emphasis by practitioners seems to be related to their work, in that when they encounter legal matters, they need to collect and consider factual information, such as judicial decisions, pleadings, and prosecutors' addresses, in their area.

8) Attitudes toward the *Judicial Gazette* and *Collection of Supreme*

Court Case Law

(1) Attitudes toward the *Judicial Gazette*

By the Scheffe's Test, the following facts are clarified.

(i) The professors tended to be less satisfied with it than the practitioners.

(ii) The degree of satisfaction with the "method of search" tended to be less than either the "scope and contents of it", and the relation between the "scope and contents of it" was similarly satisfied. Thus, it was clarified that the "method of search" was the most unsatisfactory factor among the three items.

(2) Attitudes towards the *Collection of Supreme Court Case Law*

By the Scheffe's Test, the following facts are revealed.

(i) The practitioners tended to more satisfied with it than the professors.

(ii) The degree of satisfaction with "the method of search" tended to be less than either "the scope or contents of it", and the relation between "the scope and contents of it" was similarly satisfied. Thus, it was clarified that "the method of search" was the most unsatisfactory factor among the three items.

3.2.6 Question on doctrines

The sources of information used for legal doctrines are quite different between practitioners and professors, which might be closely related to their information seeking behaviour and their types of information need. Practitioners prefer to use a commentary which is a handy source to look up information easily and quickly. It is

arranged by the number and section of each act, and includes case law and doctrines relating to that section in abbreviated form, and gives guidelines for the interpretation of certain sections. Conversely, professors prefer to use journal articles, which include adequate theoretical information with more comprehensive case law and doctrines, and gives exhaustive explanation of them.

(Table 5) Kind of sources used to get information about legal doctrines

	practitioner	professor	total
textbook	7	18	25(29.07%)
commentary	30	3	33(38.37%)
journal article	6	22	28(32.56%)

* frequency missing : 2

Legal doctrine purports to be an interpretation of the law given by scholars, and is applied to legal matters by practitioners in their work. As a result, the reasons for requesting legal doctrines are expected to be different between two groups. With practitioners, the frequency distribution revealed a considerable concentric appearance, and the reasons for using them were ranked in the order of "examine the contents of legal doctrines", "review the application of legal doctrines to the specific case and the result of it", and "identify whether the legal doctrines relating to the special subjects are existing". Conversely, the professors' responses showed the dispersed distribution, and analysis by the first rank revealed an order different from practitioners. That is, a "review the application of legal doctrines to the specific case and the result of it", "identify whether the legal doctrines relating to the special subject are existing", and "examine the contents of legal doctrines".

3.2.7 Best way for effective legal research

“Expansion of the library collection” was pointed out as the best way for effective legal research by practitioners. Libraries in the institutions were indicated as a major source of information by most practitioners, and insufficient collections were pointed out as a major difficulty in using libraries. The professors showed the same response to this question, even though libraries in the institutions were not considered to be a major source of information.

What is specially noteworthy in this question was “the computerization of legal information”. Necessity for the computerization of legal information” was ranked as the second most important element by practitioners, and third by the professors. It could be presumed that favourable attitudes toward computerization by practitioners might be caused by the need for quick information searches, by prior knowledge of the information system being developed by the Supreme Court and LIRES by Government Legislation Agency in Korea and about the operation of information systems in other countries, and by the progressive move toward information technology.

Order of importance was ranked by the practitioners into “expansion of library collection”, “computerization of legal information”, “reorganization of library materials”, and “provision and use of research assistants”. Conversely, the professors’ attitude was observed in the order of “expansion of library collection”, “reorganization of library materials”, “computerization of legal information”, and “provision and use of research assistants”.

4. Summary of the survey

Finding the source of law is a major concern to the legal professionals' research work, either practitioners or scholars. Printed sources for statutory and case law are primary tools for this purpose. The degree of satisfaction of legal professionals with the existing primary legal sources was examined. Also, their information needs and research behaviour and their attitudes toward the primary sources were surveyed.

4.1 Major sources of legal information and legal research

According to the survey, Korean legal professionals, especially legal scholars, showed different attitudes from the general tendency. That is, more than half of the professor group mainly used their private collections as major sources. This may be caused by their traditional research habits of having and using their own books. Professors, mostly, are specialised and concerned with a specific subject field. Therefore, they are apt to collect the books in that field, and they can easily understand the contents of their collections and how to use them. Furthermore, the reason for having their own collection can be related to the present library situation. Professors were not satisfied with the library because of the difficulties in acquisition of current information and in the location of needed information. So, insufficient collections and inefficient search methods resulted in the infrequent use of the library by professors.

In contrast to professors, practitioners considered the library as a major source for legal information and utilised it frequently. The degree of satisfaction with the library is much higher than that of professors. Different attitudes between them may be caused by the distinction of their work and information needs. The aims of an information search by practitioners is to acquire relevant information relating to legal problems which range over wide subject areas. The value of information, that is, the acquisition of appropriate and timely information, can be a factor to determine the quality of a professional's work. For this reason, professionals tend to locate their information by themselves, although they are assisted by their assistants in routine work.

Professionals, either practitioners or professors, preferred to access legal information by specific subject terms such as suicide, defamation, etc.. This need cannot be met by the printed primary sources. The acquisition of relevant information and time required for it are not only related to the condition of information sources, such as the existence of appropriate sources and their organisation, but also they are affected by education and training in the use of information sources.

In Korea, there is no formal course for legal research including how to use legal sources and to locate needed information, either in law schools or in the Judicature Research and Training Institute. Therefore, it is likely to be difficult for legal professionals to search information efficiently.

4. 2 Information sources for statutory law

Statutory law was indicated by practitioners and professors as the

most essential information : it is required for identifying the existence of written law relating to special subjects. In Korea, an interpretative method of legal research is widely adopted. It is based on the interpretation of the written law, especially of legal terms included in legal texts. This kind of approach is generalised in both scholarly and practical fields, so primary statutory sources should not be adjusted to this research method and could not meet the users' needs.

In the survey, professionals responded that they are not satisfied with the search mode of the *Collection of Laws*, only with its contents and scope. There was an evidence that they had problems in locating the needed information through it, even if they were specialized in the law. A requirement for statutory law was indicated in the survey in the order of full-text, related law and history of law. Due to the nature of printed sources, needs for related law and history of law cannot be completely satisfied, although the *Collection of the History of Laws of ROK* partly complies with the need for historical information.

4. 3 Information sources for case law

Sources for case law were considered as very important sources by professors and practitioners in order to identify the existence of case law relating to special subjects. Both groups tended in the first instance to approach the *Collections of Case Law* which are normally arranged by the date of decision and the number of the case. Therefore, many problems in locating appropriate case law on special subjects are encountered with them. There is a striking difference of views between professors and practitioners as to the most used source : the

professors indicated the *Collection of the Supreme Court Case Law* and the practitioners indicated the *Judicial Gazette*. Due to the limited distribution of the *Judicial Gazette*, professors do not have this advantage with its availability of current case law and of comprehensive case law.

The search mode of case law sources was pointed out as a serious problem both by professor and practitioner groups. In case law, facts and legal problems are expressed in judges' language, so the necessity for retrieval by natural language in case law is more critical than in statutory law. Respondents showed a preference for the coverage of all Supreme Court case law, and the inclusion of the full-text of the judgment record. Therefore, the inclusion of the full-text either in printed sources or computerised data bases is a prerequisite for meeting the professors' need for a typical conclusion to legal problems and the practitioners' needs to get factual information similar to the cases faced. For these purposes, factual data and specific subjects must be retrieved.

Lower court case law is required by professionals for understanding trends and for the confirmation of factual data examined by the lower court. It is especially important in any decision by the Supreme Court to annul a judgment and return that case to the original court. The Supreme Court case law is a final decision based on the legal review of lower court case law, so legal problems with a factual aspect relating to a specific case can be understood through the lower court case law. Further, there may be important cases which are valuable as case law, but are concluded without appeal to the Supreme Court. This is because whether to appeal to the Supreme Court is decided by the parties, not by the nature of the case. The professional's needs for lower court case

law can be met in part by the *Collection of Lower Court Case Law*.

5. Proposal for improvement of information environment in Korea

Every element which comprises the information environment surrounding legal professionals not only has its own problems, but these also intermingle with each other and aggravate the situation. Therefore, the present condition of each element should be improved, and then the whole information environment can be enhanced.

5. 1 Information source

The legal research method generally adopted in Korea is the interpretation of legal terms in the text in relation to their legal meaning. So, professionals prefer to access the required information by special terms.

Printed information sources are basic tools which provide easy access for manual searching. At present, none of the printed primary sources, either main texts or indexes is organised to meet their need for specific subject searching. It was verified that the professionals were not satisfied with the search method of primary sources. Printed sources are a basis for constructing CLIS. The development of CLIS could not replace the printed sources but facilitate the use of information efficiently. Therefore, the improvement of printed sources

should be carried out parallel with the development of CLIS, with respect to search mode and data coverage, to develop the search mode, the arrangement of the main text, as well as of the index, and the addition of cross references should conform to the users' needs and their information seeking behaviour. To increase the coverage, the data covered in printed sources should be available as much as possible. In order to increase the availability of sources, they have to be widely distributed. Mailing lists for free distribution should be reconstructed according to the degree of use and necessity for them. Subscriber-based distribution should be carried out so that the sources are easily available to individuals or professional institutions on demand.

5. 2. Education and training for legal research

The acquisition of appropriate and timely information is a factor to determine the quality of professional work, so legal professionals tend to locate their information for themselves. A few of the professionals have been trained formally in law schools in the use of legal information and legal research in Korea. Houghton¹²⁾ suggested that as the teaching of information sources is introduced into law schools' curricula, the information problem inside the profession will diminish. The lack of education in legal research results in problems in finding the necessary information efficiently. In particular, library materials which are not organised in relation to the users' behaviour, and information

12) B. Houghton, "The management of online legal information", *Aslib Proceedings*, 1985 (37.3) : 165-170.

sources which are not arranged to help them find information easily, make this information retrieval more difficult.

Under the present situation, education and training in the use of information sources and libraries are prerequisites for efficient legal research. Therefore, legal research should be included as part of the formal curriculum in law schools and should be taught manual searching, as well as computerised searching in preparation for the popularisation of CLIS. Cooperation between legal scholars and practitioners is necessary not only for research activities, but also for the training of future legal practitioners.

5.3 Library

The library has been emphasised as the most important social institution in research activities, and it has been utilised as a center for information sources. The trend of legal professionals, especially legal professors, tending to avoid the library, and their inclination to possess and use their own collections is likely to relate to the present situation of law libraries which are mainly used by legal professionals. Libraries should be equipped with a sufficient collection, with frequent updating and systematic organisation of the collection enabling it to be used efficiently. Computerisation of information sources certainly does not make the printed sources in the library obsolete, but rather it complements the printed sources.

The development of a computerised system and increase in its use does not suggest an ignorance of the value of printed sources. To build up a desirable information environment, the enhancement of library

conditions and the improvement of computerised systems should be developed together. Also, specialised services should be provided by subject specialist librarians to meet the professionals' needs. The preparation of the prerequisite conditions for effective library services is so important.

So, a study of law libraries in Korea is needed for the construction of a desirable information environment. It should be done by the examination of the present situation of libraries for legal professionals, then by suggestions for their desirable management based on that examination and on the theory of law librarianship.

BIBLIOGRAPHY

- Cohen, M. L., "Research habits of lawyers", *Jurimetrics Journal*, 1969 (9) : 183-194
- Cohen, M. L., *How to find the law*, 7th ed., 1976, West Publishing Co.
- Ebersole, J. L., "The emergence of computer assisted research as an established legal tool", In : *Legal and legislative information processing*, ed. by B. K. Eres, Greenwood Press, 1986
- Feliciano, M. S., "Access to law : information needs of researchers in law and the public", In : *The use of information in a changing world*, ed. by A. Vanderlaan and A. A. Winters, North Holland, 1984
- Goedan, J. C., "Legal comparativists and computerized information system : general problems and present German status of computerized legal information", *International Journal of Legal Information*, 1986 (14, 1/2) : 1-49
- Hamilton, D., "Library users and online systems : suggested objectives for library instruction", *RQ*, 1985 (25) : 195-197
- Hong, M. J., *Access to legal information in Korea*, Ph. D Thesis, Department of Information, The City University, 1993

- Houghton, B., "The management of online legal information", *Aslib Proceedings*, 1985 (37, 3) : 165-170
- Kunz, C. L., *The process of legal research*, Little Brown and Co., 1986
- O'Connell, L. A., "Legal malpractice : does the lawyer have a duty to use computerized research ?", *Federation of Insurance Counsel Quarterly*, 1984 (35) : 77-103
- Pausley, B. H., *Information science techniques in legal retrieval*, Hannover : Verlag Clemens Koechert, 1990
- Slade, M. and Gray, R., *The impact and potential of online legal research system on academic legal education*, British Library, R & D Report 5812, 1984
- Willick, M. S., "Professional malpractice and the unauthorized practice of professions", *Rutgers Computers & Technology Law Journal*, 1986 (12, 1) : 1-32

한국 법률전문직 종사자의 정보요구와 이용행태

홍 명 자*

〈국문초록〉

법치주의사회에서는 개인적으로 혹은 단체의 입장에서 모두 법률정보를 필요로 하지만, 특히 법률전문직에 종사하는 사람들은 그들의 사회적 임무와 역할이 법률과 관련되어 있으므로 더욱 강하게 법률정보를 필요로 한다. 이들에게 보다 효율적으로 법률정보를 제공하기 위하여는 정보시스템을 구축하는 것이 필요하고, 이 시스템은 이용자의 정보요구와 이용행태에 적합하도록 즉 이용자의 요구를 충분히 반영할 수 있는 내용을 수록하며, 이용자의 연구습관 및 연구행태 등을 고려하여 마련하여야 하므로, 법률전문직 종사자의 정보요구와 이용행태에 관한 조사는 적절한 시스템의 구축을 위한 선결조건이다.

따라서 본고에서는 법률전문직을 두 집단 즉 실무가 (판사, 검사, 변호사)와 학자(법학교수)로 나누어, 각 집단의 법률정보에 대한 태도, 정보요구와 이용행태의 패턴, 및 법률정보원에 대한 태도에 관하여 조사한 후, 두 집단의 정보에 관한 특성을 비교하였다. 그 조사결과는 다음과 같다.

- 1) 실무가와 학자 모두 그들의 연구를 위하여 주로 사용하는 것은 인쇄자료로서의 판례집과 법령집이다. 그러나 이들 자료중에서 주로 이용되는 자료는 두 집단간에 차이를 보이고 있다.
- 2) 실무가와 학자 모두 일차자료들의 수록범위, 수록내용, 검색방법 등에

* 대구효성가톨릭대학교 도서관학과 교수

관하여 만족을 못하지만, 특히 검색방법에 대한 불만이 가장 크게 나타나고 있다. 이용자는 일반적으로 특정 주제어에 의하여 필요한 법률정보에 접근하기를 원하지만 이러한 요구를 충족시켜주지 못한다.

3) 두 집단은 그들의 역할이 각기 다르므로 따라서 선호되는 법률정보의 종류에 대한 순서에 있어서 차이가 있다.

4) 도서관에 대한 태도에 있어서 두 집단은 상이한 입장을 보이고 있다. 학자들의 과반수는 중요정보원으로서 자신의 개인장서를 활용하며, 도서관의 장서 및 그 조직방법에 대해서도 별로 만족하지를 못하고 있다. 반면에, 실무가들은 도서관에 대하여 비교적 만족하며 따라서 도서관에 대한 이용도도 높다.

5) 두 집단 모두 보조인을 적극적으로 활용하지 않으며 사서의 도움을 받는 경우도 극소수에 불과하다.

이러한 조사결과를 기초로 하여 볼때 법률전문직을 둘러싼 정보환경을 개선하기 위하여는, 인쇄된 일차적 정보자료의 검색방법등을 개선하고, 나아가서는 법령과 판례정보를 위한 효율적인 시스템을 구축하며, 뿐만 아니라 이용자의 요구에 충분히 대처할 수있는 도서관으로 변화되는 것이다. 이와함께 가장 중요한 것은 법과대학과 사법연수원에서 법학연구방법에 관한 강좌를 개설하여 각종 법률정보원의 활용 내지 도서관이용방법에 관하여 교육하는 것이다.