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# **Determining e-Government Legal Framework**

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**Pilwoon JUNG**

Senior Researcher, Korea Communications Agency

Ph.D in Law

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# I . Introduction

1

## Global ICT Index Ranking of Korea

Index	Organization	2005	2006	2007	2008	2009	2010	Recent Release Date
E-government Readiness Index	UN	5 (191)	-	-	6 (192)	-	1 (192)	2010. 4.
Online Participation Index	UN	4 (191)	-	-	2 (192)	-	1 (192)	2010. 4
ICT Development Index	ITU	-	-	-	-	2 (154)	3 (159)	2010. 3.
Digital Economy Rankings	EIU	18 (65)	18 (68)	16 (69)	15 (70)	19 (70)	13 (70)	2010. 6.
Networked Readiness Index	WEF	24 (104)	14 (115)	19 (122)	9 (127)	11 (134)	15 (133)	2010. 3.
Global Competitiveness Index (Technological Readiness)	WEF	11 (117)	12 (125)	7 (131)	13 (134)	15 (133)	-	2009.10.
World Competitiveness Index (Technological Infrastructure)	IMD	2 (51)	6 (53)	6 (55)	14 (55)	14 (57)	18 (58)	2010. 5.

Note : ( ) are numbers of samples surveyed

Source : 1. E-government Development Index/Online Participation Index : UN, 'United Nations E-Government Survey', 2010.4.

2. ICT Development Index : ITU, 'Measuring the Information Society 2010', 2010.3.

3. Digital Economy Rankings : EIU, 'Digital economy rankings', 2010. 6.

4. Networked Readiness Index : WEF, 'The Global Information Technology Report 2009-2010', 2010.3.

5. Global Competitiveness Index : WEF, 'The Global Competitiveness Report 2009-2010', 2009.10.

6. World Competitiveness Index : IMD, 'World Competitiveness Yearbook 2010', 2010.5.

\* Quoted in NIA(2010), Informatization White Paper

# I . Introduction

2

## Structure of This Presentation

• Goal •

**Successful e-Government Building and Operation**

**Choosing Reasonable Legislative Form and Mode**

**1st step**

**The Choice of  
Legislative Form**

**2nd step**

**Relationship  
with ICT Laws**

**3th step**

**Relationship  
with General  
Administrative Laws**

**4th step**

**Relationship with  
e-Government Act**

## II. Theoretical Considerations

1

### The Choice of Legislative Form

#### Legal System of Korea



**Act is a status form which made by National Assembly**

**Decree is a status form which made by Administration**

## II . Theoretical Considerations

1

### The Choice of Legislative Form

#### Choosing a form of 'Act' or 'Decree'

##### ▶▶ Taking a form of 'Act'

That **basic and essential issues of a society**, such as those touching **citizens' fundamental rights and duties**, or **governing organs and mechanisms of the state and governance**, must be made into Act.

It is recommended that a rulemaking take the form of Act (1) if the issue at hand is deemed important enough to require deliberation by the legislature, in other words, require parliamentary legitimization; (2) when the rule affects a large number of people or have a large number of interested parties, or has sizeable potential consequences on future generations (a concern at the level of legal recognition and stability and (3) when a rulemaking decision has the potential to bring about fundamental and radical changes to the current state of the area concerned or the changes brought about are lasting; in other words, the rulemaking is likely to have broad repercussions

##### ▶▶ Taking a form of 'Decree'

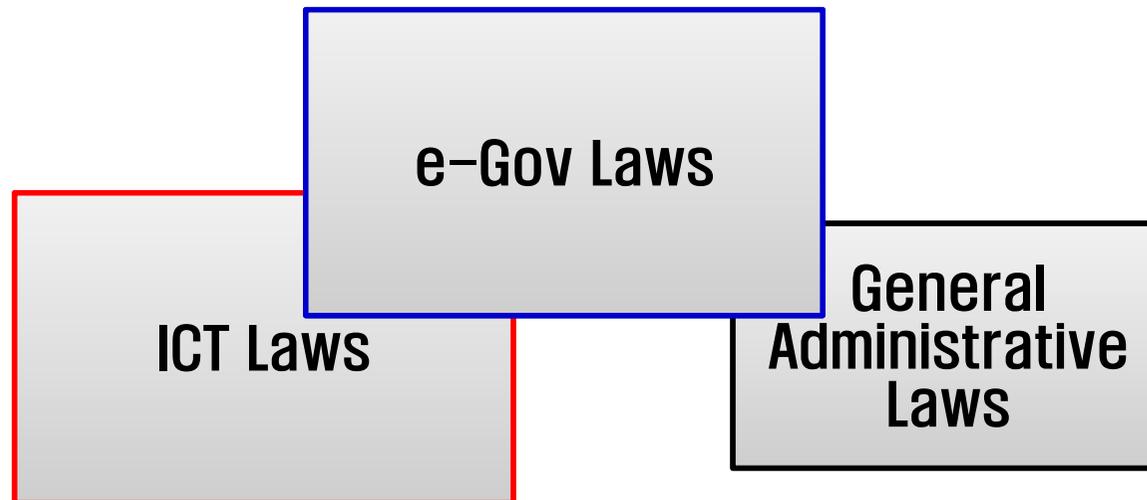
It is better for the rulemaking to assume the form of an decree (1) when the rule needs an important degree of flexibility and adaptability; (2) when the area regulated by the rule requires an autonomous environment; (3) when a signification portion of the rulemaking is concerned with emergency situations; and (4) when the area regulated by the rule is a field with large involvement of specialized knowledge and technology

## II. Theoretical Considerations

2

### Relationship with ICT Laws

#### Distinction of 'ICT Laws' and 'e-Gov Laws'



▶▶ ICT Laws

- General laws comprehensively regulating the information and communication field

▶▶ e-Gov Laws

- Rather special laws regulating the informatization of the government or public sector field

⇒ Consolidated vs. Separate Legislation

## II . Theoretical Considerations

2

### Relationship with ICT Laws

#### Choosing a ‘Consolidated legislation’ or ‘Separate legislation’

Consolidated Legislation		Separate Legislation	
strength	weakness	strength	weakness
<ul style="list-style-type: none"> <li>• easier to find relevant provisions</li> <li>• more comprehensive</li> </ul>	<ul style="list-style-type: none"> <li>• a hindrance for systematic regulation if there are substantial differences between the public and private sectors</li> </ul>	<ul style="list-style-type: none"> <li>• greater clarity if there are substantial differences between the public and private sectors</li> </ul>	<ul style="list-style-type: none"> <li>• less unificative and systematic between two sectors</li> <li>• inefficiencies of policy implementation, due to the dissociation of the two sectors and resulting fragmentation.</li> </ul>

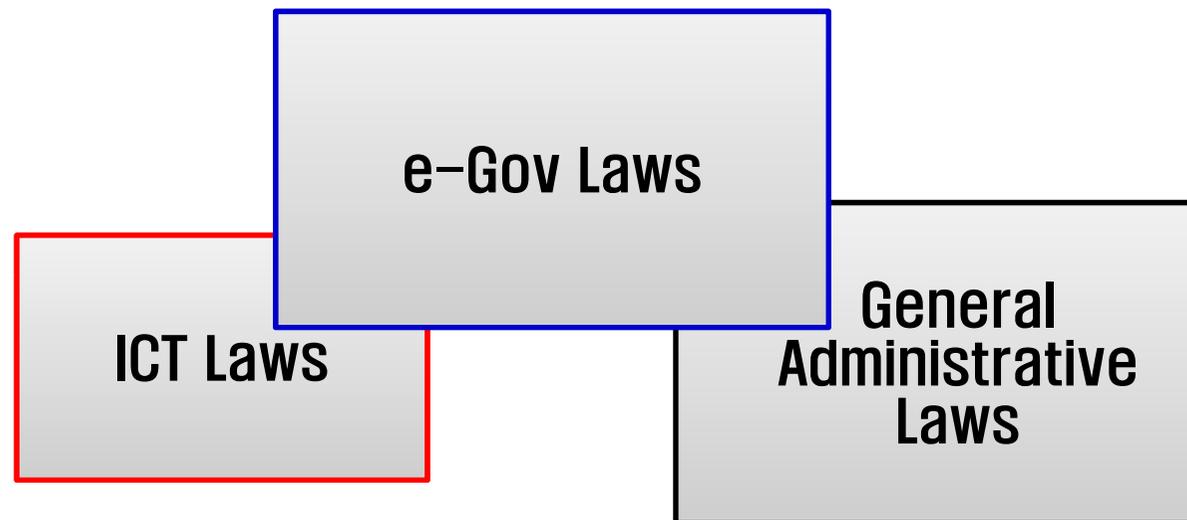
**A standard of choice:** The choice between consolidated and separate legislation would depend on **whether there is a justifiable reason for a law specifically regulating e-Government** and the informatization of the public sector; in other words, there exist regulatory needs which cannot be adequately met through the existing body of ICT laws.

## II. Theoretical Considerations

3

### Relationship with General Administrative Laws

#### Distinction of 'GA Laws' and 'e-Gov Laws'



- ▶▶ General Administration Laws
  - General law comprehensively regulating the public service of Administration
  - GA Laws traditionally apply to the paper-based public service
- ▶▶ e-Gov Laws
  - Special laws regulating a specific field of electronic public service

⇒ Consolidated vs. Separate Legislation

## II . Theoretical Considerations

3

### Relationship with General Administrative Laws

#### Choosing a ‘Consolidated legislation’ or ‘Separate legislation’

Consolidated Legislation		Separate Legislation	
strength	weakness	strength	weakness
<ul style="list-style-type: none"> <li>• easier to find relevant provisions</li> <li>• more comprehensive</li> </ul>	<ul style="list-style-type: none"> <li>• if there is a huge gap between paper-based and electronic administrative processes, it causes the lack of regulation systemicity</li> </ul>	<ul style="list-style-type: none"> <li>• if there is a huge gap between paper-based and electronic administrative processes, it can make regulation flexible</li> </ul>	<ul style="list-style-type: none"> <li>• less unificative and systematic between two sectors</li> <li>• harder to find relevant provisions</li> </ul>

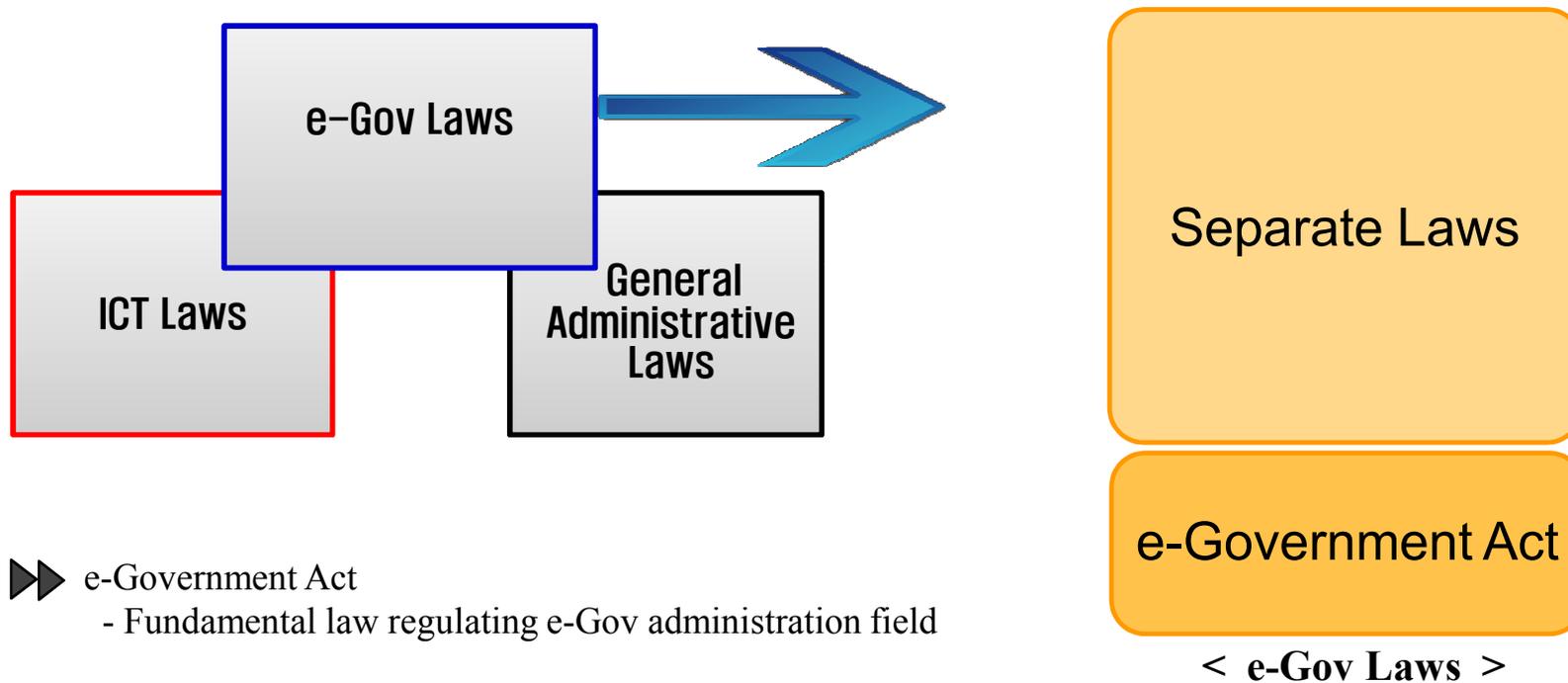
**A standard of choice:** The choice between consolidated legislation and separate legislation depends on (1) **the current status of progress in e-Gov achievement** in a given area of administration and (2) **the extent to which electronic processes in this area of administration differ from corresponding paper-based processes.**

## II. Theoretical Considerations

4

### Relationship with the e-Government Act

#### Distinction of 'e-Government Act' and Separate Laws



▶▶ e-Government Act  
- Fundamental law regulating e-Gov administration field

▶▶ Separate Laws  
- Special laws regulating a specific issue in e-Gov administration

⇒ Single vs. Plural Law System

## II . Theoretical Considerations

4

### Relationship with the e-Government Act

#### Choosing a 'Single Law System' or 'Plural Law System'

Single Law System		Plural Law System	
strength	weakness	strength	weakness
<ul style="list-style-type: none"><li>• significantly easier to locate relevant provisions</li><li>• more straight forward to update or amend any provisions that need to be revised.</li></ul>	<ul style="list-style-type: none"><li>• if a single e-Government law like the e-Government Act contains a vast number of provisions, this can entail the terrible drudgery of having to look up corresponding provisions in general administrative laws for comparison.</li></ul>	<ul style="list-style-type: none"><li>• making the amendment and application of laws a simpler process</li></ul>	<ul style="list-style-type: none"><li>• more hard to locate appropriate provisions, and more complex to a process of amendment.</li></ul>

**A standard of choice:** The choice between a single law system and a plural law system depends on **the overall progress in e-Gov development**. A single law system is a superior choice during the **early stages of e-Gov development**, while a plural law system may be more effective in **later stages**.

## III. A Case Study

1

### Overview

#### A Draft Bill on Managing Public Administrative Information Databases

##### ►► Need for Managing Public Administrative Information Databases (PAI DB)

- Access to administrative information becomes dramatically easier for both citizens and public servants, when it is compiled into a database.
- By building an administrative information database, government agencies can share information with each other with greater efficiency as well. Storing information in a database makes it also easier to discard and dispose of information that is no longer needed. Finally, as the resulting consolidation of information resources allows the administrator of a database to provide access to only authorized users, this leads to an optimal management of information resources.
- However, because of the lack of systemicity, it is difficult to transform administrative information into databases, and it makes database less efficient.

##### ►► Need for Systematic rule for Managing PAI DB

- For more efficient management of PAI DB, Uniform guidelines and documented procedures comprehensively covering the full process from the initial architecture to disposal of a database, as well as legislating such guidelines and procedures, have been the objects of a long-standing demand among database implementers and administrators.

## III. A Case Study

1

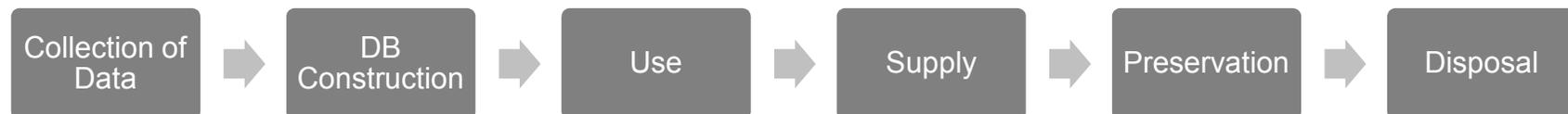
### Overview

#### A Draft Bill on Managing Public Administrative Information Databases

▶▶ **stage-by-stage management procedures taking the lifecycle of a database into account**

- For more efficient management of administrative information databases, what we need is stage-by-stage management procedures taking the lifecycle of a database into account and reflecting the special characteristics of databases of this type. Such management procedures should furthermore be consistent with the larger framework of information resource management.

#### <A Life-Cycle of PAI DB>



**Standardization**

### III. A Case Study

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**2**

**A Legislative Strategy for A Draft Bill on Managing PAI DB**

#### **A Considerations**

**1**

The Choice of Legislative Form

**2**

Relationship with ICT Laws

**3**

Relationship with General Administrative Laws

**4**

Relationship with the e-Government Act

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### III. A Case Study

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**2**

**A Legislative Strategy for A Draft Bill on Managing PAI DB**

**A Legislative Strategy**

**1**

Amendment of the ‘Public Records Management Act’

**2**

Amendment of the ‘e-Government Act’

**3**

Making a draft bill into new act which may be tentatively called  
‘The Act on the Management of Administrative Information Databases’

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## IV. Conclusion

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1 Finely-tuned legal infrastructure is very important for successful e-Gov

2 Each nation chooses their own legal framework

3 Nevertheless, there is a general theory

4 It is necessary to make a single fundamental law for e-Gov like the ‘e-Government Act’ in early phase of e-Gov development

5 However, plural laws is more effective in growth phase of e-Gov development

6 At this time, legislators must consider a relationship among e-Gov rule, ICT Laws, and General Administrative Laws

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**Thank you!**

**Pilwoon JUNG**

**(email: [jpw0310@hanmail.net](mailto:jpw0310@hanmail.net))**

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