

A Study on the Regulation of the Egg Donation and the Compensation for the Egg Donation in Korea

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Abstract

In Korea, the provisions concerning the egg donation for the purpose of either other's pregnancy or research have been provided by 「Bioethics and Safety Act」, which was enacted in 2005 and revised in 2008. According to this revised Act, the egg donor have to take the physical examination in order to judge her appropriateness as the egg donor. In addition, the egg donation is restricted in its number up to 3 times and is able to be carried at 6 months intervals. The egg donor can be compensated for the actual expense resulting from the egg donation. After the egg donation and the compensation for the egg donation, the Embryo Producing Medical Institution have to report the detailed information about the egg donation and the compensation to the egg donor that was occurred in the institution to both the Institutional Bioethics Committee and the Ministry of Health and Welfare. Consequently, these legal procedures and standards that are related to the egg donation are very meaningful and significant to guarantee the donor's reproductive health rights personally and to protect the bioethics and safety socially. However,

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these directions are not fully addressed for the protection of the rights of the parties who are involved in the donation and recipience, especially the egg donor. There are many issues that have to be considered to guarantee the rights of the parties. Therefore, we have to rethink and discuss about issues surrounding the use of the assisted reproductive technology and the egg donation and recipience ethically, socially, and legally, so that we should have to attain to the social consensus and to bring about an legal agreement.

Keywords

egg donation, egg donor, compensation, Bioethics and Safety Act, assisted reproductive technology

I. Introduction

The female egg is a cell for the reproduction which leads a woman's pregnancy after the successful fertilization with the male sperm inside the woman's body. However, due to the advancement of the technology for the incitement of over-ovulation and the methods of picking female eggs, the multiple numbers of eggs can be taken out of the woman's body. Recently, it is even possible to freeze the eggs for the purpose of safekeeping and to defrost the frozen eggs for using the eggs in a desired way. This new technology has improved the medical treatments for the woman's pregnancy from the way of injecting male sperms into the woman's worm (so called 'Intra Uterine Insemination' or 'Artificial Insemination') to the way of transplanting the embryos into the woman's worm (so called 'In Vitro Fertilization & Embryo Transfer' or 'Test Tube Baby'). In Korea, the first success report using the way of transplanting the embryos into the woman's worm was the birth of two-egg twins of a boy

and a girl in October 1985, conducted by the Seoul National University Hospital. Since then, the treatments of injecting male sperms or transplanting the embryos have been conducted briskly for the women who are hard to have a baby naturally. According to ‘the Survey Results of the Current Status of Storage and Supply for Spare Embryos(hereafter, ‘the Survey Results’)’ which is conducted by the Korean Ministry of Health and Welfare (hereafter, ‘KMHW’) in May 2006, December 2007, September 2008, September 2009, and June 2010, the scale of conducting the treatments using the embryos has been increased tremendously. During the five-year period from 2005 to 2009, the total of IUI and IVF-ET are 311,057 cases, which indicates that the average number of cases in one year is over 60,000. In 2009, the number of cases is 67,768 which recorded the highest.

The female eggs can be used not only for the pregnancy of the woman whose eggs are picked out but also for the pregnancy of other women. In Korea, the egg donation is legally allowed for the purpose of pregnancy. According to the survey results that I mentioned above, the number of cases using other woman’s eggs and conducting IVF-ET is as follows: 266 cases in 2005, 271 cases in 2006, 318 cases in 2008, 334 cases in 2009. In all, 1,492 cases of treatments were performed during the five-year period. In addition, in Korea, the egg is also legally allowed to use in the research on the somatic cell nuclear transfer embryo, which generates the somatic cell cloning embryo through the somatic cell nuclear transfer (i.e., the procedure of transplanting a human somatic cell nucleus into the nucleus-removed woman’s egg) and creates the stem cell lines. Indeed, from November 2009 to December 31, 2009, 118 eggs (109 frozen eggs and 9 immature eggs) were used in one research approved in May 2009.

In summary, offering eggs for the purposes of either the other's pregnancy or research can give women who are not able to use their own eggs the opportunity to be pregnant and deliver a baby or contribute to the studies for the future treatment of rare or incurable diseases (e.g., muscular dystrophy). However, there has been an issue concerning the human dignity of the women who provide their eggs for such purposes, because these women can be reduced to being instruments of providing eggs for others' interests. Furthermore, it is impossible to produce "multiple" number of eggs "outside" a woman's body without carrying out the controlled ovarian hyper stimulation and gathering medical procedures. Since these procedures are somewhat invasive, the concern of causing harms to the woman's body (e.g., side effects or after-effects) has been raised. In fact, in Korea, according to the May 2006 announcement of the Prosecutor's Office regarding the Hwang Woo-Suck case, <the Results of Investigating Hwang Woo-Suck Study's Process of Receiving Eggs for the Relevant Issues of Bioethics> published in November 2006 by KMHW, and <the Report on Bioethical Issues in Hwang Woo-Suck's Study> published by the National Bioethics Committee, 15 women among 79 who provided their own eggs through MizMedi Hospital visited to the hospital again because of these side effects or after-effects, 2 of which received hospital treatment through 3 times of hospitalization. These publications revealed that 2 women of those who provided their own eggs to the Hwang Woo-Suck's Research through Hanna Clinic suffered from the problem of ascites. As a result, there is an opinion that the women who provide their own eggs for the purpose of either other's pregnancy or research should be given a chance to be compensated considering their physical and mental pain and suffering and their cost and time. However, opponents of this opinion argue that such compensations include the risk of making the donation of eggs into the practical sale of eggs. Besides that,

the following list of ethical, social, medical, and legal issues are still strewn around the egg donation: the welfare issue of the baby born from the donated eggs and the baby's right to know its biological parents; the legal relationship between the baby and the egg donor, or the egg donor's right or duty to the baby born from her egg; the consent or the withdrawal of the consent issues in making the decision of egg donation; and the issue of restricting the price of eggs considering the egg donor's age, health condition, marriage status, and childbirth experience.

In Korea, the provisions concerning the egg donation for the purpose of either other's pregnancy or research have been provided by the 「Bioethics and Safety Act(hereafter, 'the Act」), which was enacted in 2005 and revised in 2008. In addition, for the goal of increasing the general understanding of this law and supplementing the law, the KMHWS published and distributed 〈the Guide to the Medical Checkup for the Egg Donors〉 in December 2008, which contains the specific guidelines and relevant standard consent forms. In this article, I overview the legal regulations and the standard of compensations for egg donors articulated in the law and investigate the merits and demerits of the present legal standard and procedure.

II. The Merits and Demerits of the Egg Donation Provisions in 「Bioethics and Safety Act」

1. Making Pre-Explanation and Written Consents Compulsory

In Korea, it is legally allowed to take one's eggs for the purpose of the other's pregnancy on the condition that the egg donor and her spouse

would be received the explanation regarding the egg donation and sign a written consent. However, it is not legally allowed to take one's eggs for the purpose of research because there is legal limitation on the use of eggs in the stem cell research of somatic cell cloning embryo. Eggs which are frozen for the purpose of embryogenesis and which can be included in one of the following categories are only allowed to use in the stem cell research of somatic cell cloning embryo: surplus eggs which are scheduled to be discarded because of the successful pregnancy, immature eggs or abnormal eggs which are scheduled to be discarded because of no plan for embryogenesis on those eggs; eggs which were used in the IVF and are scheduled to be discarded because of either their failure to be fertilized or their uselessness in the future fertilization; eggs which were originally taken for the purpose of the infertility treatment but are scheduled to be discarded because of no proper recipient; or eggs which are taken from the removed ovary (Enforcement Decree of Bioethics and Safety Act(hereafter, 'Enforcement Rules of the Act') Article 12.3 1st provision 2nd item 1-4). In other words, in Korea, eggs which can be employed in the stem cell research of somatic cell cloning embryo are limited to remaining eggs which are originally taken for the pregnancy after pre-explanation and written consents and eggs which are taken from the removed ovary for the purpose of treatments. As a result, since egg donations for the purposes of both other's pregnancy and research are basically relevant to the IVF medical technique, there is a legal provision regarding the embryo producing medical institution(hereafter, 'EPMI')'s duty to obtain written consents from not only the egg donor but also her spouse prior to the medical procedure of taking eggs from the donor(the Act Article 15 1st and 2nd provision). This regulation comes from the basic principle of this law, guaranteeing the right to self-determination, which articulated as "anyone who becomes a subject of research or experimentation in the area

of life sciences and biotechnologies shall have the right to be fully informed of his or her involvement in the research and shall also have the right to consent, or refuse consent, after being fully informed of his or her involvement in the research”(the Act Article 5).

Therefore, before obtaining a written consent from the egg donor and her spouse, EPMI must explain the following list of issues clearly: the details of the purpose of producing an embryo; the details of the deposit period and maintenance of embryos; the details of the disposal of embryos; indication of whether or not consent is given to utilize the spare embryos for purposes other than pregnancy; and information on the procedures for the withdrawal of consent, the protection of consenters' rights and information, and other necessary information set by the Ordinance of the Ministry of Health and Welfare Affairs (i.e., storage period and maintenance of sperm or oocytes, disposal of sperm or oocytes, and indication of whether or not consent is given to use sperm or oocytes for research purposes) (the Act Article 15 1st and 2nd provision and Enforcement Rule of the Act Article 5 3rd provision). In addition, EPMI must get consents from the egg donor and her spouse using the standard legal consent forms provided by the Enforcement Rule of Bioethics and Safety Act, or <Consent Form to Produce Embryo> (Attachment 3 Form), <Consent Form to Use Spare Embryos for Purpose other than Pregnancy>(Attachment 4 Form), and official form of <Agreement Form of Egg Donation>(Enforcement Rule of the Act Article 5 1st and 2nd provision). If EPMI takes eggs without observing the procedure described above and without obtaining a written consent, the authorization, registration, or license of that institution may be revoked, or that institution may be ordered to close its facilities, partially or fully, for a maximum of one year (the Act Article 41, 1st provision 1st item). In

addition, employees in that institution shall be sentenced up to 3 years of imprisonment or fines of up to 30 million Korean won (the Act Article 52, 2nd item). As such, by clearly stipulating the pre-explanation and written consents as the compulsory requirements of EPMI's collection of eggs, the Act gives a woman an opportunity to understand the egg donation fully and guarantees a chance to make a voluntary decision to make or not to make the egg donation. Furthermore, as listing detailed issues that should be dealt in the pre-explanation and in the written consent, the Act attempts to prevent EPMI from obtaining consent forms as a mere formality.

Despite these merits, the present provisions concerning the egg donor's consent contain several problems that should be pointed out. First, presently, the <Agreement form of Egg Donation> is not offered as the standard legal consent form, instead offered as the official form by the Ministry of Health and Welfare. Thus, there is no fundamental problem to use this form in practice; however, considering the importance of this form, it should be included in the standard legal consent forms in the future just like other consent forms. Second, the Act only addresses issues occurring after the egg donation is actually made, such as whether or not remaining embryos are disposed right after producing embryo for the purpose of pregnancy, how long the remaining embryos are maintained if the embryos are decided not to be disposed, and whether or not the embryos are utilized for research purpose, but fails to address direct issues of the egg donation itself. Of course, the official form of <Agreement form of Egg Donation> suggests the following list of direct issues as the contents for the explanation and consents:

- I donate for the pregnancy of the recipient without receiving any

- payment for the donation;
- I have heard enough explanation about the risk in my health caused by the egg donation;
 - If it is proved by the physical examination prior to oocyte collection that my health condition is below health standards set by the ordinance of KMHW, so I am unsuitable for the egg donation, I will not ask for the egg donation;
 - I know that I can receive the compensation of the actual costs for my time needed for oocyte collection procedure and recovery, and transportation fare as determined by the ordinance of KMHW from EPMI. However, I will not receive any other expense except this compensation; and
 - I agree that the right and the duty to manage and use the donated eggs belong to the recipient after the egg donation.

However, indicating these issues in the official form and expressing these issues in legal provisions are two different tasks. This problem is generated from the fact that the same requirement of the pre-explanation and written consent applies to all egg collection, ignoring the difference between one's egg collection for the purpose of one's own pregnancy and one's egg collection for the sake of the other's pregnancy. It might be difficult to enumerate all details in the law, and also it is expected that EPMI develops self-regulation procedure and explains persons who want to take their own eggs regarding other issues raised from the egg collection, which are not even described in the law. However, the law should be revised for clarifying these two different situations and include such specific issues as the medical procedure of the egg donation, the risk of side effects or after-effects after the procedure, the legal limits concerning the egg donation (e.g., limit on the frequency of the egg

collection from one woman), the compensation of the actual expense for the egg donation.

2. Checking the Egg Donor's Health Condition and History of Egg Collection

One of the special issues in the egg donation is how to protect the health of women who provide their own eggs for the other woman's pregnancy. Those women are quite different from the other women who provide their remaining eggs after they take the egg collection procedure for the purpose of their own pregnancy. In the International World Conference on Population and Development, Cairo and the Forth World Conference on Women, Beijing, the woman's reproductive rights were defined as including not only the rights to have a baby and deliver a baby according to the women's will, but also guaranteeing a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes including the whole process of pregnancy and delivery. Following such international trend, the qualifications of whom to provide their own eggs were added in the revision of the Bioethics and Safety Act as one way of protecting the health of egg donators.

First of all, according to the Act, the egg collection frequency from the same donor is limited. In detail, the number of egg collection from one woman is limited to no more than three times during her whole life, and the retrieval procedure shall be carried out at least over a six month interval (the Act Article 15.3 and Enforcement Decree of the Act Article 10.2). If EPMI violates this provision and retrieves eggs from one woman over three times or within the six month interval, the Minister of KMHWS

may take an administrative measure, i.e., the suspension of that institution for one month as a first step, for six months as a second step, and the revocation of the authorization, registration, or license of that institution as a third step. Accordingly, EPMI must check up the history of egg collection of the woman who wants to take the retrieval procedure before it actually starts the procedure.

EPMI can conduct primary check through its own medical records and consultation records of a woman. Even when the institution's records indicate that the woman has not taken the retrieval procedure more than three times and that the six-month-interval requirement is satisfied, there is the possibility that she has taken the procedure in the other EPMIs. Since it is not plausible to check records of all other medical institutes, the institutes should send a formal request to check that woman's history of egg collection to KMHW. More specifically, EPMI must submit the official form of 〈Request Form on the Egg Donor's History of Egg Collection〉 to the appropriate department in the KMHW (i.e., Division of Bioethics and Safety), with the copies of 〈Agreement form of Egg Donation〉 mentioned above and the official form of 〈Agreement Form to Offer the Personal Information as the Egg Donor to EPMI〉. Since December 2008, if EPMI carried out the egg collection for the donation, EPMI should have to report that actual result to KMHW until the 10 days of the next quarter. And then, EPMI will put this data about the egg donation/donor in the report into the EPMI's official database about the egg donation/donor, so that EPMI will offer the personal information as the egg donor to EPMI if EPMI wants to check the egg donor's history of egg collection.

Second, EPMI must conduct a physical examination (e.g., ABO/Rh Typing, CBC, Urinalysis, Glucose, Creatinine, BUN, SGOT/SGPT, Total

bilirubin, HBsAg, HBsAb, Anti-HCV, VDRL or RPR, Anti-HIV, Pelvic ultrasonography, Pap smear) of the egg donor prior to the egg collection in order to decide whether she can take the retrieval procedure (the Act Article 15.2 1st provision, Enforcement Rule of the Act Article 5 1st and 2nd provision and attachment 1.2). And EPMI has to expect the woman who is below health standards set by the ordinance of KMHW--in other words, the woman who is found to have syphilis, hepatitis, acquired immune deficiency syndromes and other diseases, or have abnormalities which make it impossible to collect oocyte from her (the Act Article 15.2 2nd provision, Enforcement Rule of the Act Article 5.2 2nd provision). If EPMI violates this provision and retrieves eggs from one woman who is unsuitable for the egg donation under the Act, sentences of up to 3 years of imprisonment or fines of up to 30 million Korean won shall be given to a the staff of EPMI who has done that violation (the Act Article 52 item 2.3).

There are some validity debates concerning whether the limitation on the frequency of retrieving eggs from one woman is appropriate and to what extent that limitation should be imposed. However, the present level of limitation is of significance because it eliminates a certain level of suspicions on the invasion of the reproduction rights of the egg donor. In addition, the preparation of the official form for requesting the history of egg donors contributes to the convenience of EPMI in practice. Furthermore, the requirement of the egg donor's consent on checking the history of her egg donation is based on the awareness that such history checking can be the invasion of the egg donor's privacy right or right to control private information. Lastly, by making the physical examination of the egg donor compulsory, it can prevent that the unhealthy woman for the egg donation is included. The unhealthy woman's egg donation will

lead to not only this woman's worsening health condition but also the recipient's pregnancy of unhealthy fetus or delivery of the unhealthy baby. Furthermore, there is a possibility that the recipient is infected with contagious diseases because of using the unsuitable egg donated by unhealthy egg donor. As a result, these directions under the Act are very meaningful to protect the health of the egg donor, the egg recipient and the fetus/baby as a result of the donation and recipience.

However, for the purpose of protecting the health of the parties who are involved in the donation and recipience, especially the egg donor, these directions are insufficient. Although EMPI has to obey the legal limitation in the egg collection, EMPI has to conduct only a physical examination according to the legal standards excepting a mental examination. And in the list of a physical examination that is forced by the Act, there is no item of conducting genetic test to avoid the serious gene-related diseases and of assessing the bodily strength of woman to feel equal to the process for the egg donation. Therefore, from now on, the policy which is required in practice in order to guarantee the right to health of the parties who are involved in the donation and recipience must be considered from all aspects.

III. The Merits and Demerits of the Compensation Provisions related to the Egg Donation in 「Bioethics and Safety Act」

1. Prohibition of the Buying and Selling the Egg, Standards and Procedures of the Compensation for the Egg Donor

In Korea, it is prohibited by the Act to provide or utilize sperm or oocytes,

or induce or assist in providing or utilizing them for the purpose of receiving monetary benefits, property interests or other personal benefits in return (the Act Article 13 3rd provision). In advance, this legal direction is very significant from a broad perspective. If the woman donates her egg to receive the economical return, the woman's dignity as a human will be damaged because the woman will be most likely treated as a means or an instrument to supply the egg. In reality, this legal direction has been played an important role to prevent the occurrence of the worst situation that the economically poor woman donates her egg to emerge from poverty because the woman is considered the compensation for the egg donor as a easy moneymaking.

However, by donating the eggs, the egg donor has a bitter experience (so-called the controlled ovarian hyper stimulation and gathering medical procedures) to collect the eggs. Thus, the egg donor has to go through great hardship in her health, with paying for the medical expense and taking time needed for oocyte collection procedure and recovery in consequence. Moreover, the egg donation is only for the recipient, not for the egg donor. In Korea, the compensation for the Egg Donor is legally allowed, so that EPMI may pay for the money as the compensation of the actual costs for the egg donor's time needed for oocyte collection procedure and recovery, and transportation fare as determined by the ordinance of KMHW. In detail, KMHW can give the money to the egg donor for the for the following expenses to cover the actual costs; transportation, meals, accommodation and compensation for the time spent for treatment and recovery (the Act Article 15.4 and Enforcement Rule of the Act Article 5.3 1st provision). Among them, the amount of expenses for transportation, meals, accommodation shall be determined by Schedule 2 (section 2) of Public Official Remuneration Regulations

(Enforcement Rule of the Act Article 5.3 2nd provision). According these regulations, the cost for transportation (e.g., train, airport, and so on) can be given up to 10 thousand Korean won per a day if the egg donor travels in a short distance for the egg donation, the cost for meals can be given to 20 thousand Korean won per a day, and the cost for accommodation can be given up to 40 thousand Korean won per a day. However, as an exception, the cost for transportation and accommodation, even if it is over the legally-allowed costs, can be given according to the actual costs if the egg donor can present an actual receipt. And to pay compensation of the amount of expenses for the time spent for the treatment and recovery, the head of EPMI shall determine specific standards to pay compensation after the review of the Institutional Bioethics Committee(Enforcement Rule of the Act Article 5.3 3rd provision). In terms of determining specific standards to pay compensation in EPMI, KMHW suggested that the standard period that is counted to spent for the treatment and recovery would be decided within ten days and advised that the standard expense that is counted to spent for the treatment and recovery would be decided with reference to the objective data, such as the average wages of the worker.

For the compensation, first, EPMI has to calculate the sum by the legal standards and EPMI's specific standards as well as the receipt presented by the egg donor. Second, EPMI has to send information about the sum to the recipient. Third, the recipient has to pay the sum to EPMI. Finally, EPMI has to be delivered to the egg donor. In relation to the time to pay compensation, KMHW suggested that it will be conducted at the time after the egg donor's health condition will be recovered and within 2 weeks from the day conducted the egg collection.

The reason and meaning of these Standards and Procedures for the compensation, especially giving the authority to determine specific standards to pay compensation to EPMI and its Institutional Bioethics Committee, is to pursue the appropriate compensation. Under a slightly different and special Standards and Procedures which are able to be adapted considering each EMPIS situation, the real meaning and effect of the compensation will be lead. And in some cases that both the egg donor and recipient do not want to know each other, EPMI can be the intermediate agency in the egg donation and recipience as well as in the compensation for the egg donation, so that the anonymity of the egg donor and recipient can be defended. But, it seems unreasonable to apply the legal standards mentioned above in order to calculate for the money as the compensation. Because the process and the burden of donating eggs are different from the process and the burden to performance of public official duties, although the egg donor can be given according to the actual costs if the egg donor can present them a receipt. There is nearly a fear that the egg donation and the egg donor are unrespected, as if the exertion of the egg donation is considered the same thing as the exertion of the officials. Moreover, it is very difficult to determine the level of the compensation for the woman who is consented for the egg donation but withdraw her consent during the ovarian hyper stimulation or immediately after the operation to collect the eggs. Therefore, from now on, the necessary policy required in practice is to make the standards and procedures of the compensation for the egg donor appropriate and to take these definite.

2. Official Reporting to the Institutional Bioethics Committee and the Ministry of Health and Welfare Affairs

In Korea, it is prohibited by the Act that the head of EPMI shall report the amount of compensation paid to the Institutional Bioethics Committee (hereafter 'IBC') (Enforcement Rule of the Act Article 5.3 4th provision). By the following procedure, IBC can confirm autonomically whether or not the compensate for the egg donation is conducted with appropriate standards and procedures. For this, EPMI has to report by the official form of <Confirmation Document of the Compensation for the Egg Donor> until the meeting of Institutional Bioethics Committee is held.

EPMI also shall report the information about the egg donation including the amount of compensation paid to KMHW. For this, EPMI has to report by the official form of <Reporting Document about the Results of the Egg Donation and the Compensation for the Egg Donor> until the 10 days of the next quarter. In this report form, the following information is listed: the name and the resident registration number of the egg donor, the day conducted the physical examination and the result of it, the day when the woman was operated to collect and donate the eggs, details of the compensation for the egg donor, and so on. By the following procedure, KMHW can confirm whether or not the compensate for the egg donation is conducted appropriately as well as putting the data about the egg donation/donor in the report into the EPMI's official database about the egg donation/donor to offer the personal information as the egg donor to EPMI if EPMI wants to check the egg donor's history of egg collection. In addition, EPMI shall complete a Current Status of Storage and Supply for Spare Embryos by the standard legal reporting document provided by the Enforcement Rule of Bioethics and Safety Act, <Reporting Document about the Current Status of Storage and Supply for Spare Embryos> concerning the current year's storage and supply of spare embryos and submit that document to KMHW until the end of next February. By the

following procedure, KMHW can not only get hold of the EPMI's actual condition but also use the data about the egg donation/donor in the report to make a policy and to enact or revise the legislation. However to prevent or to solve the ethical, legal, social problems related to the egg donation and recipient and to prepare the active counterplan to protect and guarantee the right of the egg donor and the recipient, EPMI has to make an effort more than this.

IV. Conclusion

In Korea, 「Bioethics and Safety Act」 was enacted in 2005. This Act included the legal procedure and standard to use the assisted reproductive technology. Especially, this Act emphasizes the informed consent of the egg donor (if she is married, with her husband). And then, this act was revised in 2008. According this revised Act, the egg donor have to the physical examination to judge the appropriation as the egg donor. In addition, the egg donation is restricted the number of times up to 3 times and is able to be carried at 6 months intervals. The egg donor can be compensated for the actual expense occurring from the egg donation. After the egg donation and the compensation for the egg donation, the Embryo Producing Medical Institution have to report the detail information about the egg donation and the compensation to the egg donor that was occurred in the institution to both the Institutional Bioethics Committee and the Ministry of Health and Welfare. Consequently, these legal procedures and standards that are related to the egg donation are very meaningful and significant to guarantee the donor's reproductive health rights personally and to protect the bioethics and safety socially.

According to the surveys by the Korean Society of Obstetrics and Gynecology and the Korean Ministry for Health and Welfare, in Korea, the assisted reproductive technology has been used in great numbers from 1980's and the third party reproduction using the donor's gamete also has been conducted not a few from 1990's. The third party reproduction using the donor's gamete not only comes into existence as the medical method to resolve the infertility but also increases with a deepening infertility and a change of public awareness about making the nontraditional family. In spite of these situation, there has never been any legislation and public system to regulate the using of the assisted reproductive technology and the donation of the gamete for the pregnancy of others until January 2005. At the same reason, it was too difficult to secure the reproductive rights of the donor and the recipient. So it was very effective that the revision of this Act to include the provisions related to the egg donation which is contributed to taking a increasing interest in the egg donation and the egg donor. Particularly, it was a good opportunity for the person to use the assisted reproductive technology and the donated gamete for the pregnancy to ask the concrete way and the short/long term plan to guarantee their right to the Ministry of Health and Welfare. Actually, although not sufficiently, the Ministry of Health and Welfare has made an effort to provide and to perform the way and the plan to manage the egg donation and the gametes and embryos that has been stored or has been offered for the research under the Act.

Now, there are many things that have to consider, discuss and determine connected with the use of the assisted reproductive technology and the donation of the gamete for the pregnancy of others, besides the guarantee of the egg donor's reproductive health rights and right of self-determination. Examples are as follows: whether or not the egg donor can

appoint the recipient of her egg (on the contrary, whether or not the recipient can choose the egg donor or the egg), whether or not the number of children who will be born as a result of the assisted reproductive technology using the same donor, how the fresh eggs will be divided if the egg donor wants to share her eggs with the recipient, whether or not the information about the donor and the recipient will be kept to offer to each other if they want (including both the subject, the scope of information and the way to keep and the reason, the way and standards to offer), whether or not it will be allowed if the single woman wants to use the assisted reproductive technology and the donated gamete for the pregnancy, and so on. These cases are including the ethical, social, legal issues that we have to be concerned and to be solved immediately.

In conclusion, the assisted reproduction - especially using donor's gamete - has become the alternative for the infertile person. For that reason, we have to rethink and discuss about ethical, social, legal issues surrounding the use of the assisted reproductive technology and the egg donation and recipience, so that we should have to attain to the social consensus and bring about an legal agreement. We must have in mind that the women who want to use their reproductive ability and become the subject to the donation and the recipience will have to exist in the middle of the reproductive rights. Therefore, the women's view-point as a top priority basis will be able to be reflected to the law and the system that have jurisdiction over the biomedical science and technology including the assisted reproductive technology.