



Dispute Resolution System and Practices in Korea

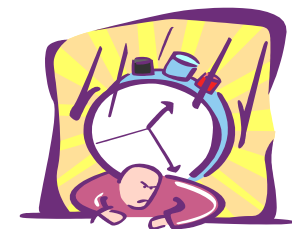
KAM



Korea Association of Mediators
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1. Basic Frame of Mediation in Korea



Triangular Committee of Mediation in Korea

- ◆ **A typical format of mediation in Korea is that**
 - **A mediation committee consists of three part-time members;**
 - **One of the three members is a chairman;**
 - **The chairman suggests a mediation proposal;**
 - **Disputants have rights to accept the proposal or not.**



Background of Triangular Mediation Committee

- ◆ Political triangle reflects **check and balance** in Chosun Dynasty.
 - Inspector → Bureaucracy → Personnel → Inspector
- ◆ The separation of the three branches of government reflects **check and balance** in modern politics.
 - Administrative – Legislative – Judicial Branches
- ◆ Three judges participate in the consensus trial, reflecting **check and balance**.
 - A party may appeal to the consensus trial when he or she objects the judgement made by a judge in the single trial.

Philosophy of Triangular Mediation Committee

= **Check & Balance**

- ◆ **Committee members rule disputants.**
- ◆ **The committee renders award / solution.**
- ◆ **A single mediator is not trustful and so three members needed.**
- ◆ **Three committee members conduct **check and balance**.**
- ◆ **Committee members should be high ranked, high scholars, social leaders, good personality so that they could be respectable and rule disputants.**

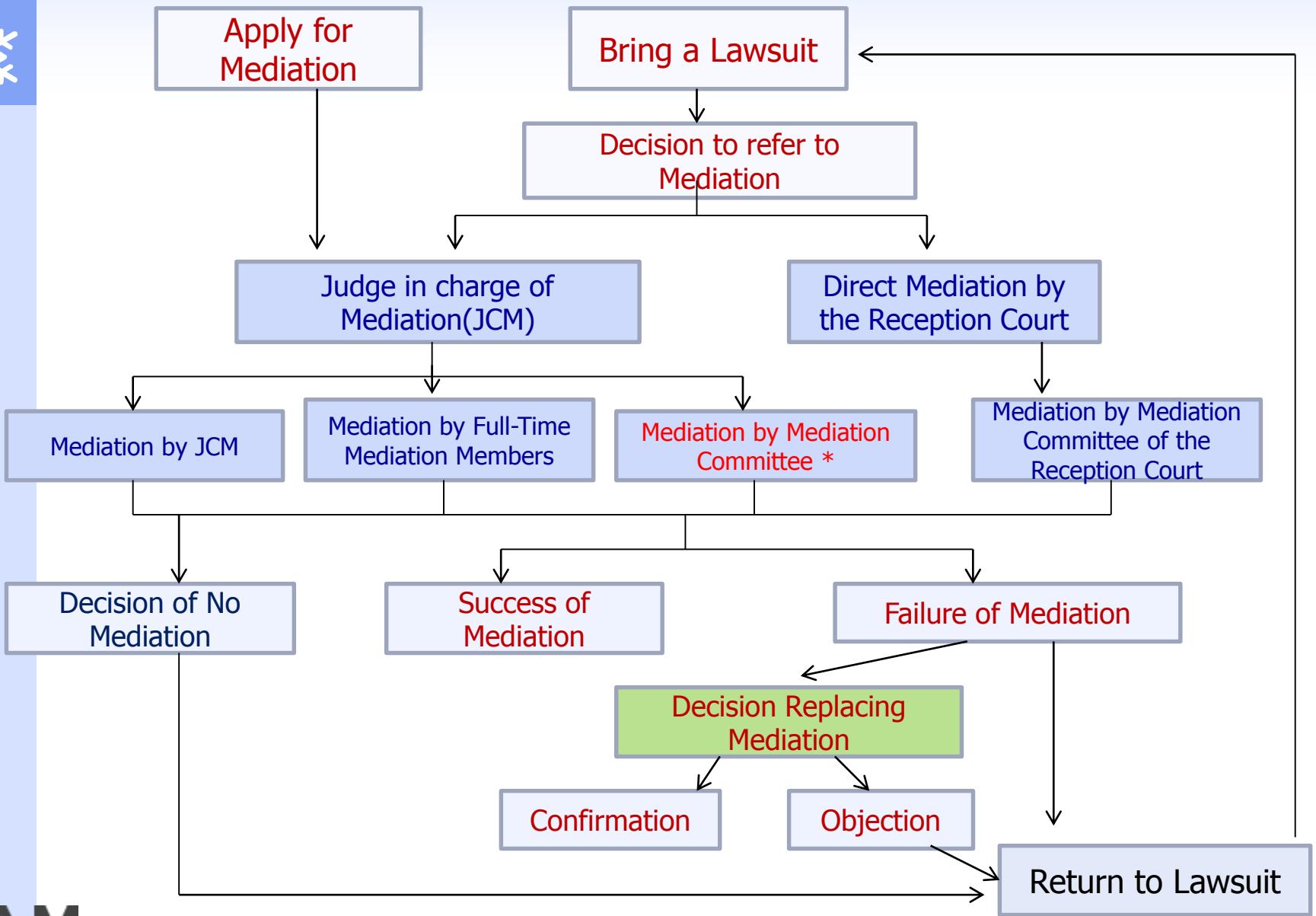
2. Mediation Systems in the Public Sector



A. Judicial Mediation

- ◆ **Civil Mediation**
- ◆ **Family Mediation**
- ◆ **Criminal Mediation**

Procedure of Civil Mediation





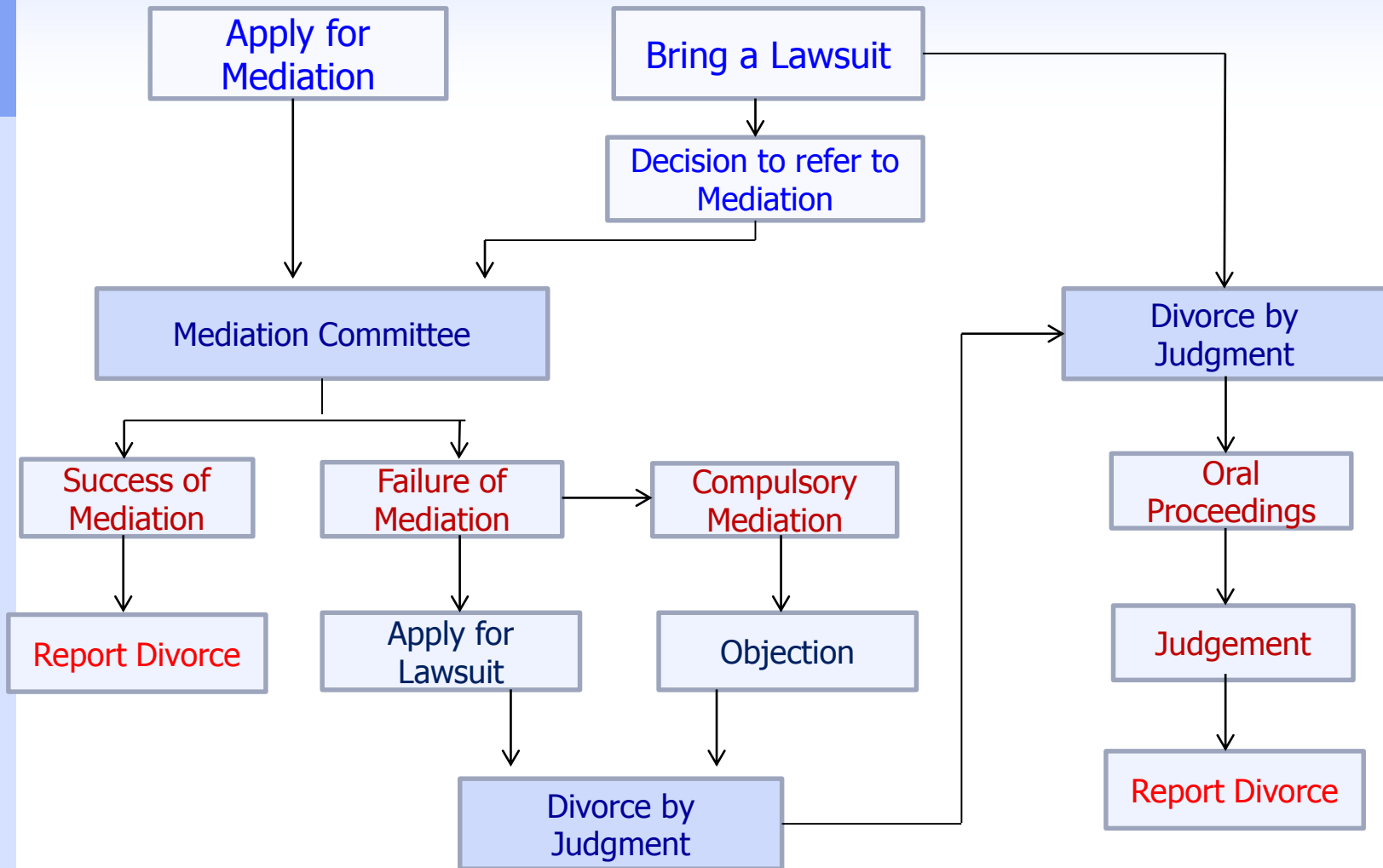
*** Mediation Committee**

1) Mediation Committee in the Court

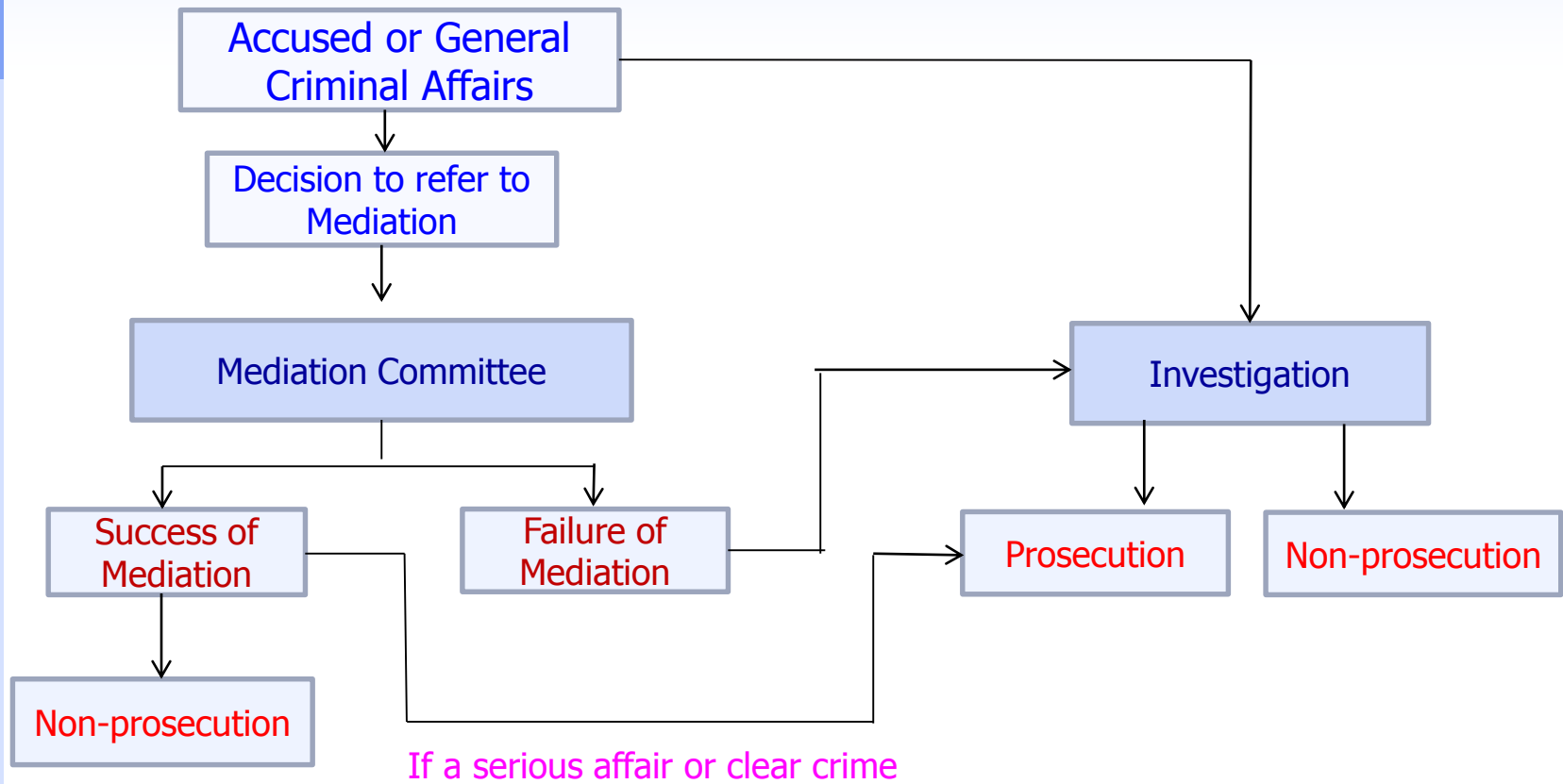
2) Mediation Committee Connected with the Court

- **Korean Commercial Arbitration Board**
- **Korea Fair Trade Mediation Agency**
- **Korea Consumer Agency**
- **Korea Association of Beommusa Lawyer**
- **Seoul Bar Association**
- **Others(10 Organizations)**

Procedure of Family Mediation



Procedure of Criminal Mediation

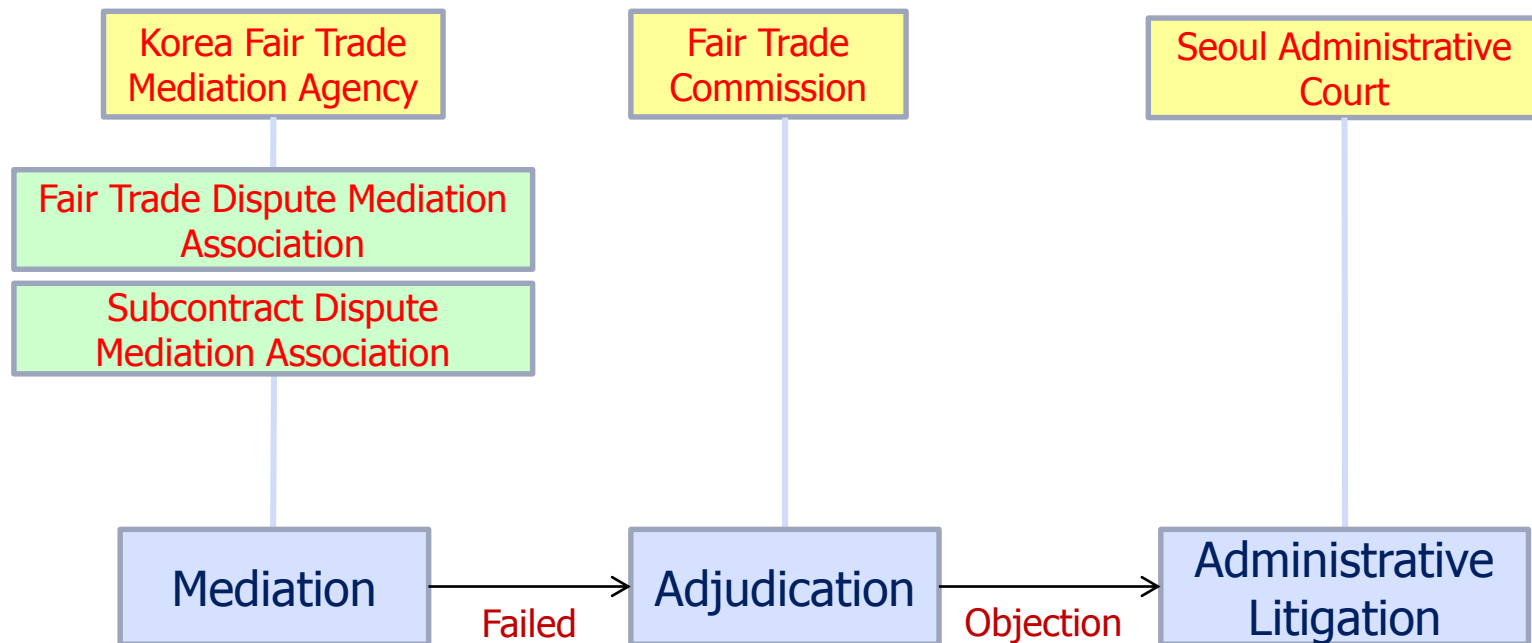


B. Administrative Mediation

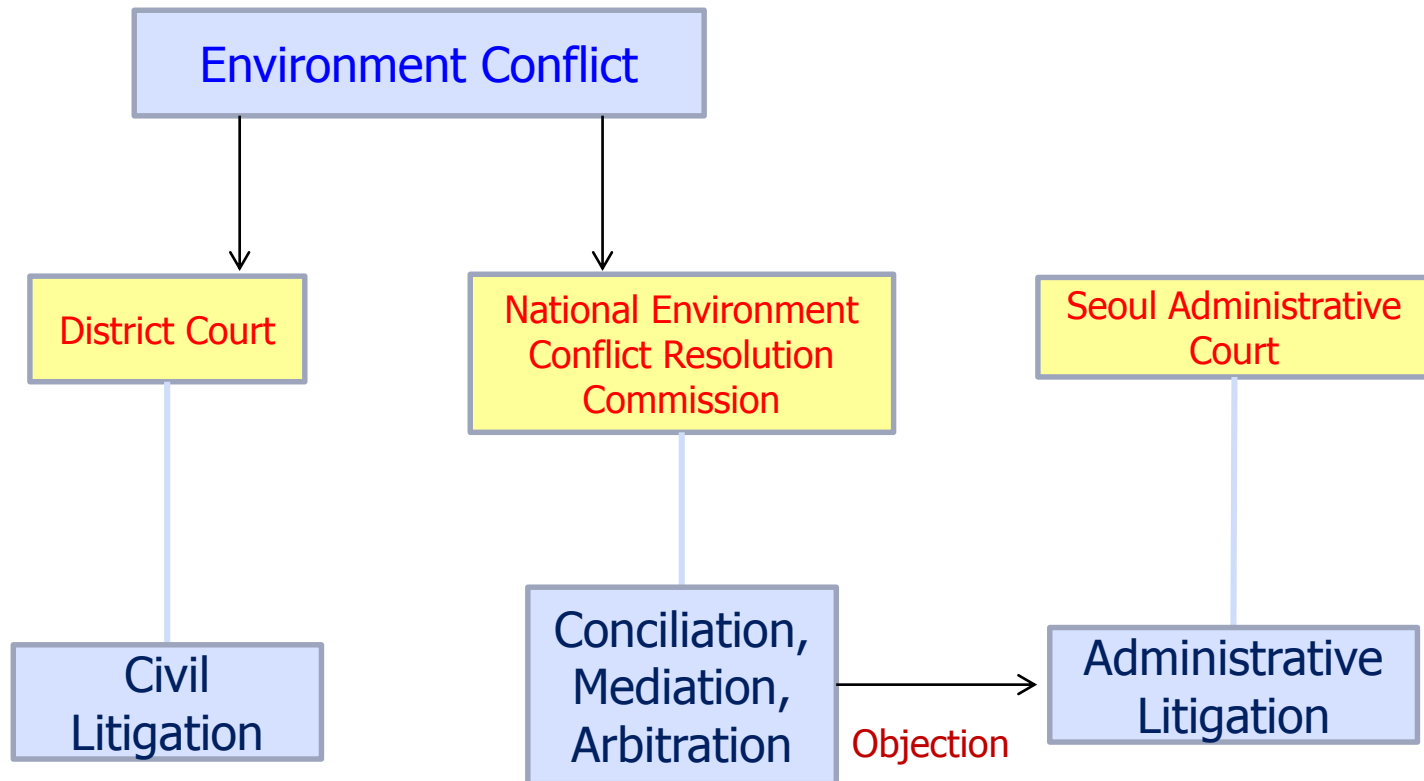
- ◆ **Administrative Judgement-like**
- ◆ **Prepositional Mediation**
- ◆ **Voluntary Mediation**

Administrative Judgement-like

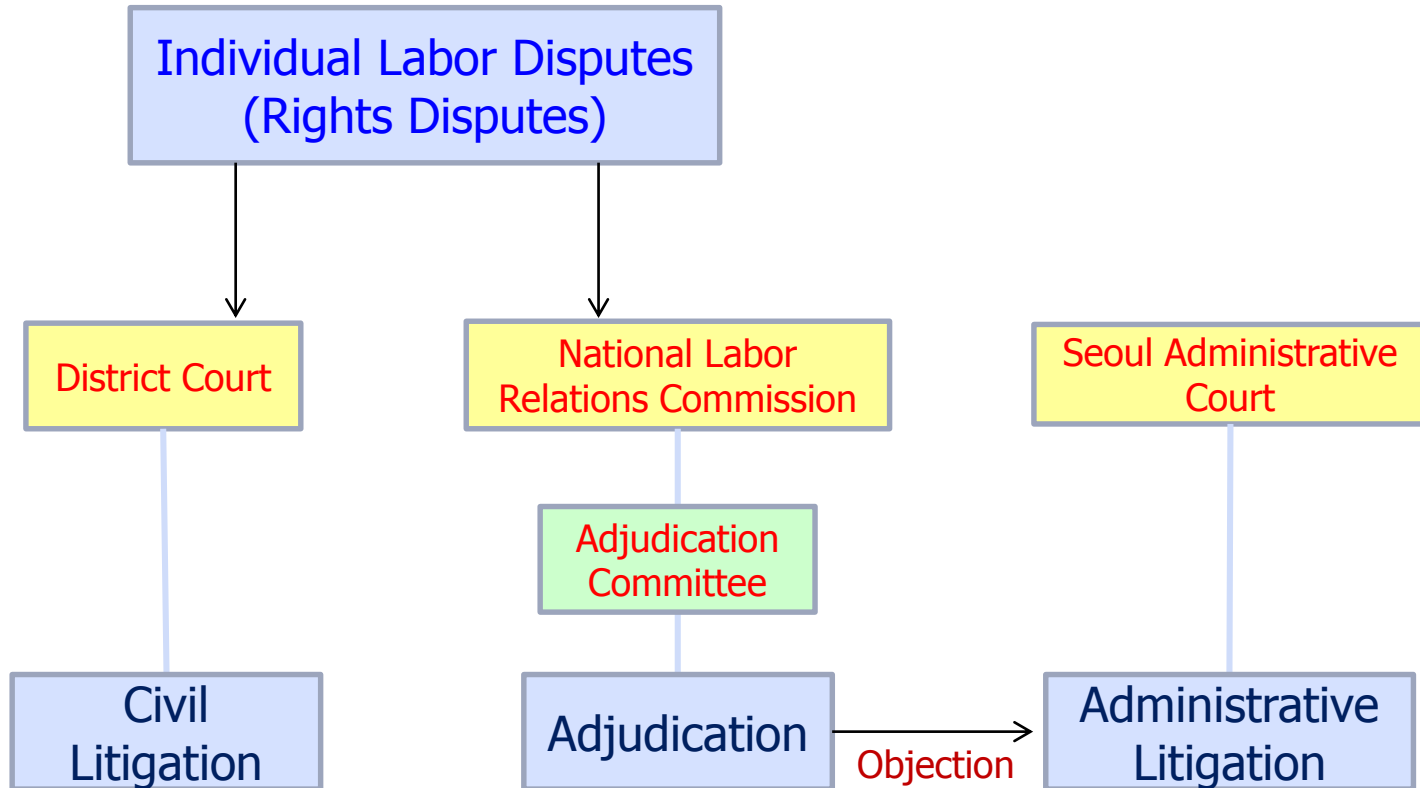
➤ Korea Fair Trade Mediation Agency



➤ National Environment Conflict Resolution Commission

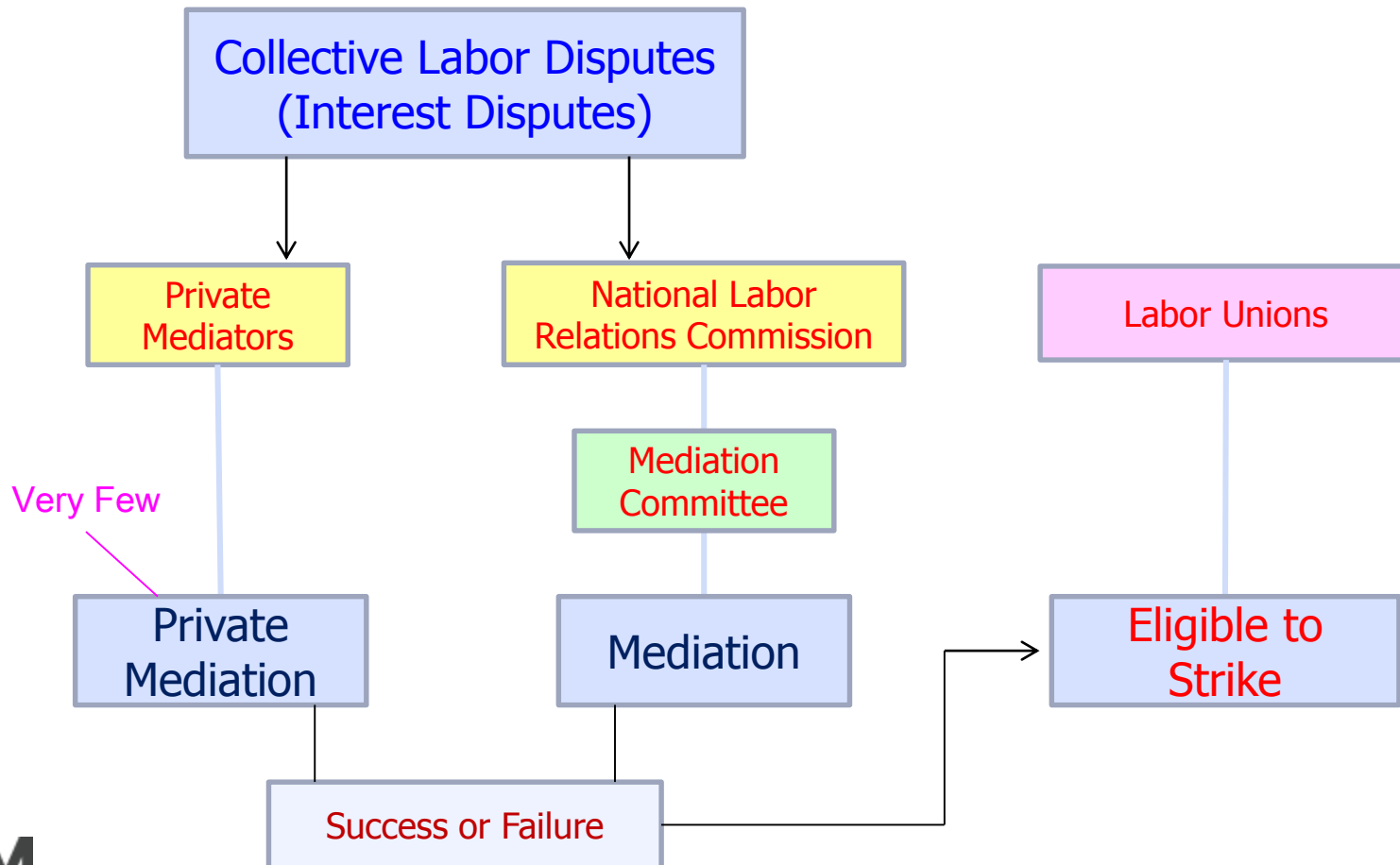


➤ National Labor Relations Commission



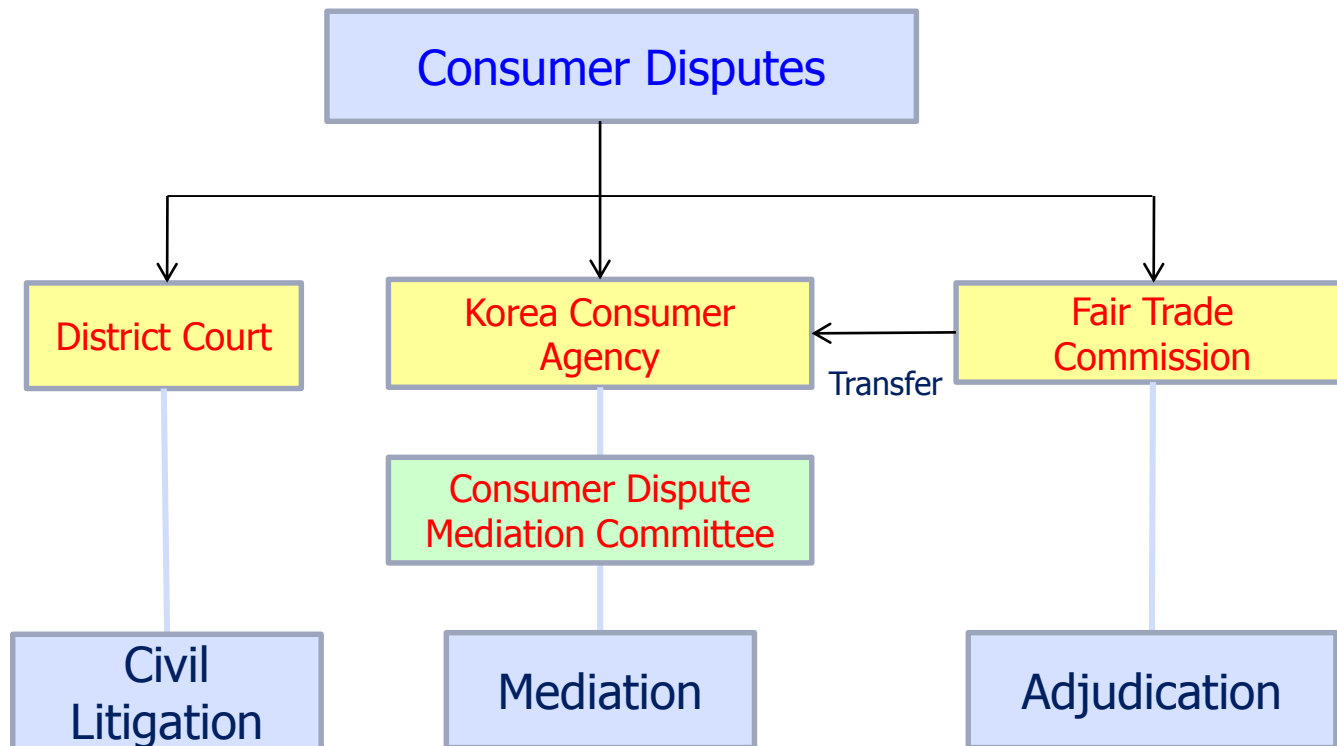
Prepositional Mediation

➤ National Labor Relations Commission

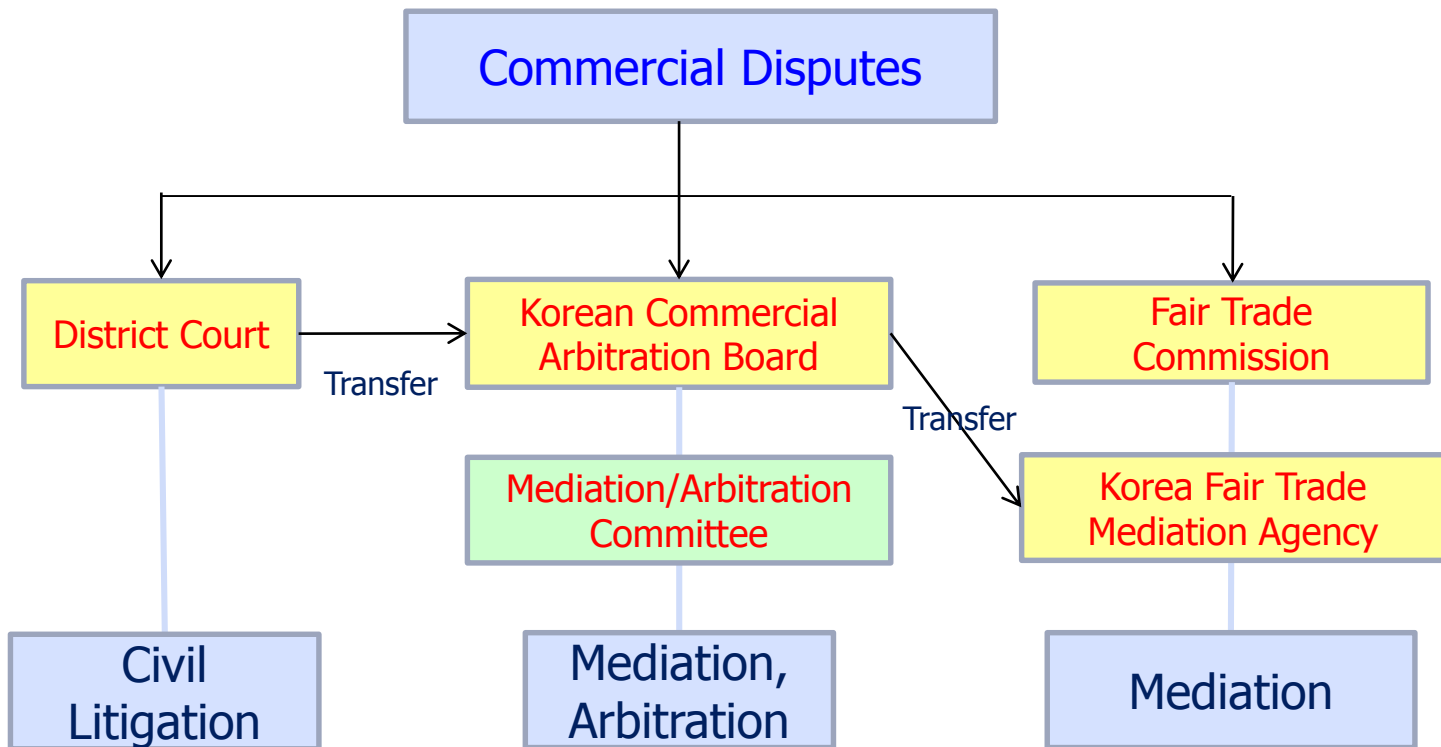


Voluntary Mediation

➤ Korea Consumer Agency



➤ Korean Commercial Arbitration Board



3. Reality of Mediation in the Private Sector



Private Mediation Organizations

- ◆ **Korea Association of Mediators**
- ◆ **Korea Mediation and Arbitration Association**
- ◆ **Korea ADR Center**
- ◆ **Korea Institute of Conflict Management & Mediation**
- ◆ **Korea Center for Social Conflict Resolution**
- ◆ **Dankook Center for Dispute Resolution**
- ◆ **Conflict Resolution Center, Women Making Peace**
- ◆ **Korea Christian Conciliation and Arbitration Institute**

Characteristics of Mediation in the Private Sector

- ◆ Professional mediators provide mediation services to public or private disputants.
- ◆ Mediation is conducted by a mediator rather than a mediation committee of three members.
- ◆ Mediation is likely to be combined with counselling or consulting.
- ◆ Mediators who are not lawyers hardly provide mediation services for profit probably because of the strict Attorneys-at-Law Act.

Mediators' Activities in Mediation Fields

- ◆ **Private mediation of public conflicts in nuclear waste, dam building, airport attraction, transmission tower, etc.:** A few organizations conduct research and mediation in governmental projects, while civil organizations are involved in mediation of regional conflicts.
- ◆ **Private mediation in collective labor disputes:** Labor attorneys deal with this mediation but completed very few cases.
- ◆ **Mediation in neighbor disputes:** Some apartments operate this mediation particularly for floor noises.
- ◆ **Mediation in family conflicts:** Counselors provide counselling and sometimes mediation to family conflicts.

Constraints of Private Mediation

- ◆ **Public mediation is provided for free under government control in almost all the fields of disputes, leaving rare rooms for private mediation.**
- ◆ **The qualification of public mediation committee focuses on social status and occupational experience but not on mediation knowledge and skills.**
- ◆ **The Attorneys-at-Law Act restrains mediators' private mediation as business, favoring for attorneys.**

Constraints of Private Mediation(cont'd)

- ◆ **People and enterprises do not like to pay for resolving their conflicts and disputes in Korea.**
- ◆ **Korean society has a culture people would conceal conflicts inside their own organization.**
- ◆ **Korean government does not support for private mediation systems and for training mediators.**

4. Tasks for Innovating Mediation Systems in Korea



Problems of Dispute Mediation Systems in Korea

- ◆ **Administration and courts have developed dispute mediation systems in Korea, causing overwhelming public mediation while contracting private mediation.**
- ◆ **Public mediation of disputes is conducted by mediation committees of three part-time members whose qualifications are social status and occupational experiences but not mediation expertise.**
- ◆ **Legal system including Attorneys-at-Law Act reveals a hard business environment for private mediators to provide mediation services.**

Problems of Dispute Mediation Systems in Korea (cont'd)

- ◆ **Mediation committee members are not required to have mediation expertise with proper education and experience in mediation.**
- ◆ **There are few qualified certificates or education systems to cultivate professional mediators. Positive promotions or financial supports are not provided for training mediators.**
- ◆ **People and enterprises do not like to pay for resolving their conflicts and disputes in Korea. They don't realize any inefficiency hidden in the conflicts and disputes.**

Tasks for Innovating Mediation Systems in Korea

- ◆ **Strengthen mediation expertise in the qualification of mediation committee members in the public sector.**
- ◆ **Provide sufficient training to mediation committee members after appointment to their positions.**
- ◆ **Employ professional mediators who can mediate disputes alone efficiently.**
- ◆ **Adopt laws and policies promoting private mediation of various disputes in the private sector.**
- ◆ **Revise Attorneys-at-Law Act so that private mediators could pursue mediation jobs.**

Tasks for Innovating Mediation Systems in Korea(Cont'd)

- ◆ **Encourage regional governments, schools, and enterprises to employ or utilize mediation experts in conflict resolution.**
- ◆ **Urge the government support for training and schooling of mediators and stimulate mediation in conflict resolution.**
- ◆ **Develop systems and networks to exchange mediation experience domestically and internationally.**



**Thank you
for your attention!**