

Local Government in Korea



Korea Research Institute for Local Administration

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- Written by: Dr. Sung-Ho Kim
Dr. Suk-Joo Cho
Dr. Chang-Ho Keum
Dr. Jae-Bok Joo
Dr. Sun-Ki Kim
 - Supervised by: Dr. Woo-Suh Park, Professor, Yonsei University
 - Edited by: Dr. Ah-Ran Hwang
Dr. Young-Hoon Ahn
Seonmi Kim
Eunice Kim
-

Chapter 1

Historical Review of the Local Autonomy System

I. The First Period (936 - 1948)

A. The Era of the Goryeo Dynasty

The Goryeo Dynasty had unified the successors of the Latter Three Kingdoms (Silla, Baekje, and Goguryeo) in 936 A.D. The Goryeo period had established a centralized government structure, which exercised the first implementation of a system of local autonomy in Korea.

During the Goryeo Dynasty, the *Sa-sim-gwan* system and the *Hyang-jik* system functioned as local autonomous organizations. In the *Sa-sim-gwan* system, the king appointed meritorious local residents as the chief or *Sa-sim-gwan* of the designated areas. These chiefs were responsible for protecting local residents and administering over jurisdictions. They were entrusted by the central government to govern local areas and to represent local residents.

Although the *Sa-sim-gwan* system exhibited a tendency toward decentralization to a certain degree, it represents a marked contrast to the present system of local autonomy. For instance, citizens were not allowed to participate in public administration and their welfare was not enhanced effectively.

Like the *Sa-sim-gwan* system, the *Hyang-jik* system also exhibited a tendency toward decentralization. The central government established the *Hyang-jik* system because the collection of levy, compulsory labor and tributary payments were very difficult without the cooperation of powerful local clans.

Therefore, this system was effective in that local clans were placed in charge of local administration, relieving the central government of local responsibilities. The *Hyang-jik* organization was composed of three sectors responsible for general administration, military administration and financial administration.

B. The Era of the Joseon Dynasty

The most distinctive characteristic of governing principles during the Joseon Dynasty can be described as a patrimonial central-ruling system that was based on the tenets of Confucianism. As the king was the prominent political figure, the Joseon government structure was highly centralized. However, there were various local autonomous groups that played important roles in the governing structure such as the *Hyang-cheong*, *Hyang-yak*, and *O-ga-jak-tong* systems.

As an advisory organization for the local chief executive, *Hyang-cheong* settled customs, informed the public of government ordinances and spoke for the will of the people. The head of *Hyang-cheong* and his assistants were recommended by local residents and accordingly appointed by the mayor.

The *O-ga-jak-tong* system was responsible for the maintenance of accurate information concerning civilian houses and families much like a census bureau. This system served to strengthen the welfare of the public and their neighborhoods. In order to keep record of all the inhabitants in a given area, the *O-ga-jak-tong* used a counting system using *ri*, *tong*, and *myeon*. As one *ri* was composed of five *tong* (each *tong* representing five households) one *myeon* was composed of five or six *ri*. The heads of *myeon*, *ri*, and *tong* were appointed in consideration of

the sentiments of the local residents.

In the latter part of the Joseon Dynasty, the administrative districts were set in motion to change through the execution of the *Hyang-yak* Act and the *Hyang-yak-byeon-mu* Act of 1895. An additional autonomous organization, *Hyang-hoe* was created to make decisions about local public affairs. This system established the joint meetings for *ri*, *myeon*, and *gun* which were held by local residents and regularly scheduled according to the regulations. The functions of these meetings were to make decisions on public affairs and to allow local residents to elect the heads of *myeon* and *ri*.

C. The Era of Japanese Ruling

Under Japanese supervision in 1914, the Japanese Governor General of Korea exercised political power and pursued a full scale enforcement of a variety of colonial policies. In 1930, the local administrative structure was again reorganized, reflecting Japanese practices of local autonomy. Japanese-imposed local autonomy, however, was not intended to enhance citizen participation in a wide-range of local public affairs, but was intended to appease and soften Korean antagonistic sentiment toward Japanese colonialism consequently. The local autonomy system was highly centralized and bureaucratic. Despite the self-serving purpose of the Japanese system of local autonomy, there is no doubt that this system was a milestone that later became the foundation of modern local autonomous system in Korea.

D. The Era of American Military Administration

Immediately following the end of World War II, the American Military Administration made a deliberate effort to create political, economic, social, and administrative order that aimed in the direction of democracy. The American Military Administration abolished undemocratic laws, improved the judicial system, introduced a democratic congressional body, and modernized the administrative system. For instance, in March 1946, Military Administration Order No. 64 dissolved local councils of provinces, cities, and townships that had been constructed during the Japanese rule. Also, in November 1946, Military Administration Order No. 126 stated that mayors and councilors of local governments were to be directly elected by local residents. However, this measure was not implemented due to the establishment of the Korean Government in 1948.

II. The Second Period (1948 - 1988)

A. Local Autonomy in the First Republic

The introduction of local autonomy, in the modern sense, has been derived from the enactment of the Local Autonomy Act (LAA) of 1949. This law regulated and designed the local government system, distinguishing the components into upper-level local governments (the Seoul Metropolitan City and Provinces) and lower-level local governments (cities, townships, and villages). The law also stipulated that the local government, following the principle of the separation of powers, are composed of two parts, the local council and the mayor, in order that these two institutions may implement a system of checks and

balances.

There were several revisions of the Local Autonomy Act. In preparation for the first local election in 1952, the First Amendment remedied any deficiencies and omissions of the act and introduced a measure that disallowed the appointment of a fixed number of local councilors. In 1956, the Second Amendment stated to improve the efficiency of local administration and to change the legally prescribed number of provincial councilors. Another revision followed in December 1958 to set up an appointment system for mayors of lower-level local governments and a restoration of the 4-year term for local councilors.

B. Local Autonomy in the Second Republic

The Student Revolution on April 19, 1960 was a pivotal event for Korea's political system because it provided stepping stones towards a more democratic governing system. The Democratic Party, which grasped political power through the revolution, passed the Fifth Amendment of the LAA on November 1, 1960. This time, the new revision of the LAA allowed local residents to participate in direct elections of local councilors and mayors. In application of this reform, a third local election took place in which councilors and mayors of all upper and lower-level local governments were voted into office in December 1960.

C. Local Autonomy in the Third, Fourth, and Fifth Republics

Although the Second Republic promised a progressive

movement toward the implementation of a modern form of democratized local administration, the local autonomy system that had been established was suspended by the Military Revolution in May 16, 1961.

Through the adaptation of Decree No. 4 of the Military Revolution Commission, all local councils were dissolved, and the Provisional Measures Law for Local Autonomy was formulated on September 1, 1961. The Provisional Measures concentrated on fortifying the political power of the central government. It ordered for modifications within the structure of the local government which included changing *eup* and *myeon* to *gun*, and the appointment of the mayors of local governments from those among national government officials. Also, designation of duties shifted as the Ministry of Home Affairs executed public affairs for upper-level local councils and the mayors of upper-level local governments acted on behalf of lower-level local councils. However, Seoul Metropolitan City was soon put under the direct supervision of the Prime Minister.

The Fourth and Fifth Republic also delayed the implementation of a democratic local autonomy. The Fourth Republic, established by the Yu-sin Constitution in 1972, postponed the construction of local councils until the time of national unification, by reason that the efficiency of state affairs had high priority. In 1973, the central government introduced and established articles on the administrative consultative council and local government associations to broaden the efficacy of administrative efforts. The Fifth Republic, established in 1981, also postponed the construction of local councils for the reason that they had to be constructed by taking the degree of their financial self-support into consideration so as to harmonize the efficiency of local administration with the

requirements of democracy. Consequently, local autonomy was dormant for thirty years until the reelection of local councilors in 1991.

III. The Third Period (1988 - Present)

A. Local Autonomy in the Sixth Republic

The initial events of the Sixth Republic are one of the major factors that enabled the realization of the progress toward democratization in Korea. On April 6, 1988, the Sixth Republic made sweeping revisions of the Local Autonomy Act for the revival of local autonomy. In particular, this revised act regulated the local government structure by reorganizing the sector into a two-tiered system: (1) upper-level local governments including Seoul Metropolitan City, *Jik-hal-si* (meaning a city under the direct control of the Ministry of Home Affairs) and *do* (province); (2) lower-level local governments including *si*, *gun*, and *gu* (cities, counties, and autonomous districts, respectively).

It also attempted to establish a clear-cut line between national and local government affairs, and adjust the power of the local council.

Subsequent to the adoption of the Local Autonomy Act of 1988, the Ninth Amendment to the LAA prescribed that the election of local councilors must be held by the first half of 1991, and mayoral elections held by the first half of 1992. In preparation for the voting day, election laws for local councilors and mayors were enacted, and finally, the upper- and lower-level local councils were restored by mid-1991. However, to the disappointment of all, mayoral elections were postponed.

Since the initiation of the Sixth Republic, there has been an

increasing demand for democratization among the people. In response to the public, the central government attempted to reform, not only at the national level, but also at the local level. As domestic demands for democracy grew stronger, the central government felt the urgent pressure to amend the LAA once more on March 16, 1994. In accordance with the new revisions, the election of the mayors and local councilors was held in June 1995, thus, ensuring the potential for a successful decentralized and democratic local autonomy system in Korea.

Although mayors and local councilors were elected in 1995 for four-year terms, the following local election took place in June 1998 to correlate with the election cycle of the National Assembly. The third local election was conducted in June 2002, in accordance with the four-year term of office.

Despite recent introduction of devolution laws, citizens continue to remain unsatisfied with the enactment of specific laws that focus on the decentralization of power. Nevertheless, new articles amended to the LAA demonstrate the progressive path to democratization in the local government structure. Exemplary measures include the legal basis of referendum, fine for negligence or offense in violation of Municipal Ordinance, strengthening the local council's right to inspect and investigate administrative affairs, establishment of the mediating committee for disputes between the central and the local governments and so forth.

The current government, which began in 2003, has plans to drive progressive efforts of decentralization for its realization. There are great expectations and hopes of a transformation of the local autonomy in Korea.

Chapter 2

Structure of the Local Government

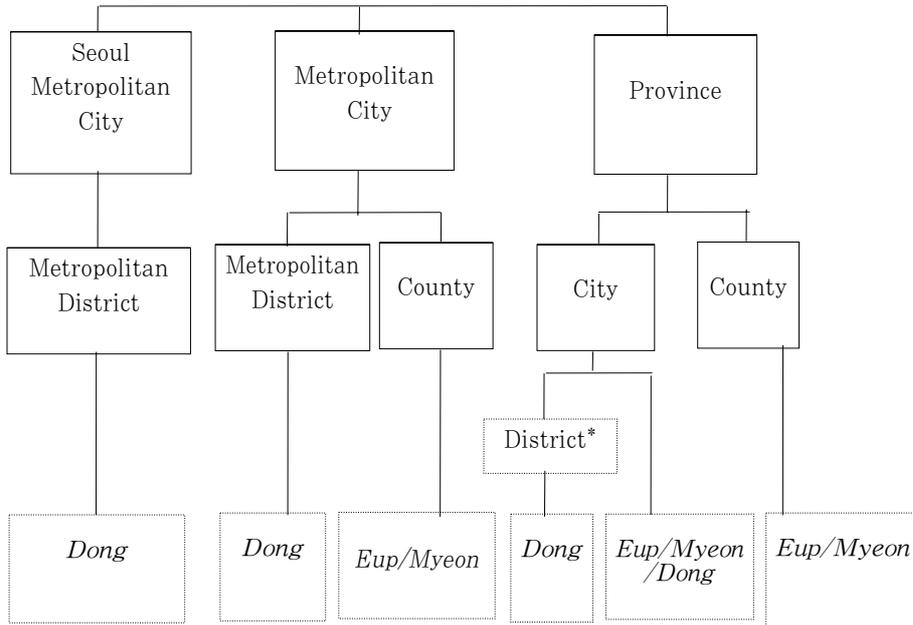
I. Kinds of Local Government

The local government in Korea is a clearly defined structure, essentially consisting of two tiers made up of 16 upper-level and 232 lower-level governments. According to the Local Autonomy Act (LAA), all residents in Korea are under a jurisdiction of the local government, either the upper-level which includes Seoul Metropolitan City, other metropolitan cities (*gwang-yeok-si*) and provinces (*do*); and, the lower-level which includes cities (*si*), counties (*gun*) and autonomous districts (*jachi-gu*). This system evolved in 1988 by the amendment to the LAA; before 1988, the autonomous district was not recognized as a local entity.

As the lower-level is held accountable by upper-level local governments, cities are within the jurisdiction of provinces, counties within the jurisdiction of metropolitan cities or provinces, and autonomous districts within the jurisdiction of either metropolitan cities or Seoul Metropolitan City.

The local system is integrated into the national administrative structure through the upper-level local governments. Just as the upper-level oversees the activities of the lower-level local governments, the Ministry of Government Administration and Home Affairs (MOGAHA) has jurisdiction over Seoul Metropolitan City, metropolitan cities and provinces, all which have additional administration over *eup*, *myeon* and *dong* as illustrated in the following figures (Figure 2-1, Table 2-1).

〈Figure 2-1〉 The Layers of Local Government



Note: refers to local governments refers to administrative units
 * administrative districts in cities with a population of 500,000 or more

〈Table 2-1〉 Types and Number of Local Government

Names	Total	Upper-level	Lower-level			
			Subtotal	City	County	Autonomous district
Total	248	16	232	74	89	69
〈Metropolitan City〉						
Seoul	26	1	25	-	-	25
Busan	17	1	16	-	1	15
Daegu	9	1	8	-	1	7
Incheon	11	1	10	-	2	8
Gwangju	6	1	5	-	-	5
Daejeon	6	1	5	-	-	5
Ulsan	6	1	5	-	1	4
〈Province〉						
Gyeonggi	32	1	31	25	6	-
Gangwon	19	1	18	7	11	-
Chungbuk	12	1	11	3	8	-
Chungnam	16	1	15	6	9	-
Jeonbuk	15	1	14	6	8	-
Jeonnam	23	1	22	5	17	-
Gyeongbuk	24	1	23	10	13	-
Gyeongnam	21	1	20	10	10	-
Jeju	5	1	4	2	2	-

II. Upper-Level Local Governments

A. Seoul Metropolitan City

Seoul Metropolitan City, or *Teuk-byeol-si*, refers to Seoul's distinctive status as a special administrative unit, for it is the capital of Korea. Because of its size and status, Seoul has undergone modification of utility and instrumentation. In 1946, Seoul became a special city under the direct control of the central government of Korea. Soon after, when the 1949 LAA

was enacted, Seoul was upgraded to Seoul Metropolitan City while still retaining administrative power similar to that of other metropolitan cities. Following the establishment of the Act on Special Measures for the Status of Seoul Metropolitan City in 1962, which distinguished Seoul from other ordinary local governments, the city obtained a unique status by being placed under the direct control of the Prime Minister. Seoul's direct association with the central government was a decision that set Seoul apart from other local governments. It acquired political power similar to those of other central government organizations in executing administrative affairs. These measures were enacted because of Seoul's unique status as the capital of Korea, as well as the country's largest city. Furthermore, the current Act on Special Cases of Administration of Seoul Metropolitan City specifies the differentiation of status, organizational structure and operation of Seoul Metropolitan City to ensure the sound development of Korea's most important city and to effectively meet Seoul's large administrative demands. Due to its unique status, if the Ministry of Government Administration and Home Affairs (MOGAHA) intends to audit the affairs of Seoul Metropolitan City, it is required to work through the arbitration of the Prime Minister.

B. Metropolitan Cities

The metropolitan city, or *Gwang-yeok-si*, is the domain of the upper-level local government. Although laws and regulations associated with the detailed criteria on upgrading a city to metropolitan city have not yet been enacted, a city may apply for the legitimacy of self-provision under the guidance of the

central government when its population approaches one million. The primary reason to upgrade a city is to bring about specialization of metropolitan jurisdiction, distinguishing it from the responsibilities of agricultural administration of provinces. In addition, upgrading from a city to a metropolitan city improves the efficiency of areawide operations and eliminates the two-tiered supervision of central and provincial governments.

Due to their large population and industrial strength, several cities in the provinces of Korea were withdrawn from the jurisdiction of their respective regions and were given the status of metropolitan city. This placed cities under the direct control of the central government, thereby treating them as equal to province. Currently, there are six metropolitan cities in Korea: Busan, Daegu, Incheon, Gwangju, Daejeon and Ulsan. Each metropolis has districts and counties that function as lower-level local governments.

C. Province (*Do*)

Do can be regarded as an intermediate unit of administration stationed between the central government and the lower-level local governments, such as cities and counties. Each province consists of cities, or urban areas, and counties that are characteristically agricultural and fishing areas. Historically, the do administrative unit has been long-established, originating from the Goryeo Dynasty, and the provincial system stemmed from the 9-State-System of the Silla Dynasty. However, the 10-Province-System of the Goryeo Dynasty and the 8-Province-System of the Joseon Dynasty have influenced and provided the basis of Korea's present provincial borders. In 1933, the

jurisdictional nature of do was acknowledged, yet it was not until 1949, the year when the LAA was enacted, that do was admitted as a local government. Currently, the Korean land is divided into nine provinces, namely Gyeonggi-do, Gangwon-do, Chungcheongbuk-do, Chungcheongnam-do, Jeollabuk-do, Jeollanam-do, Gyeongsangbuk-do, Gyeongsangnam-do and Jeju-do.

III. Lower-Level Local Governments

A. City (*Si*)

The city, or *si*, is an urbanized area in a province equipped with the necessary administrative organization and budget to meet the demands of its citizens within its jurisdiction. Like the county, the city is a lower-level local government, a basic unit in local autonomy, which handles primary affairs directly related to the livelihood of its residents.

It has been a normal practice to upgrade an *eup* (township) to a city when it becomes large enough to meet some conditions set by MOGAHA. For instance, the establishment of a city generally requires a population of more than 50,000 and the fulfillment of standards such as per capita local tax, population density and growth rate. In addition, more than 60% of the total population should reside in the jurisdiction, and more than 60% of total households should be engaged in commerce or urban industries. The views and opinions of the provincial council, which has power over the relevant area, are also seriously considered. It is pertinent to consider the views of the provincial council, rather than those of the *gun* council, because they reflect the opinions of citizens on reorganizing the jurisdictional distinctions within

the province. Factors like population engaged in urban industries and financial status did not exist as prerequisites, but were newly created to strengthen the criteria.

Recently, integrated urban-rural cities have been developed to resolve urban problems caused by limited land space and overcrowding, as well as to promote regional development in rural areas. At present, there are seventy-four cities in Korea, out of which forty have been developed in the manner of urban-rural integration by 2002.

B. County (*Gun*)

The county or *gun* is a unit of the lower-level local government in rural areas and is said to date back about a thousand years to the Silla period. Most of the names and borders of present counties were formed in 1913 as a result of the local administration district reform. Originally, a county was not able to function as a lower-level local government unit because it was used as an instrument of local administrative organization for the central government. It was strategically placed in agricultural and fishing areas. However, after the promulgation of the Temporary Measure Law on Local Autonomy in 1962, the county headed the previous structures of lower-level governments, which were formerly presided by townships (*eup*) and county villages (*myeon*).

In 1993, the total number of counties amounted to 136. However, due to the expansion of urban-rural integration, at present, the numbers have been significantly decreased to 89 counties in Korea.

C. Autonomous District (*Jachi-gu*)

Districts of Seoul Metropolitan City and other metropolitan cities provided a balance of power in local autonomous administration in April 1988 with the enactment of the revised LAA. Before this act, the district or *gu*, was only an administrative unit within a city to which they belonged. However, as the affairs of city governments in these big cities became increasingly complex and cumbersome, it was imperative to allocate some of their functions to *gu* for decentralization. As there was also a rising demand for active citizen participation in local administration, in effect, these districts were granted autonomous power.

In the LAA, the following functions of autonomous districts are stipulated. The scope of autonomous power of these districts is distinguished from that of *si* and *gun*. To secure the financial resources of districts, mayors of Seoul and metropolitan cities distribute fixed amounts of funds taken from the city tax revenue and adjust the resources between the autonomous districts. However, these measures have not been formally established through the passage of city ordinances. At present, there are 69 autonomous districts in Korea: 25 under the jurisdiction of Seoul Metropolitan City and 44 under six other metropolitan cities.

IV. Structure of Local Government

The administrative strata usually consist of three levels: (1) Seoul Metropolitan City/metropolitan city/province; (2) city/county/autonomous district; and (3) *eup*, *myeon* and *dong*. In addition to these levels, administrative units, which have a population of more than half a million, will customarily have four levels. The structure of the local government in Korea is as follows:

A. Seoul Metropolitan City/Metropolitan City/ Autonomous District

Seoul Metropolitan City and other metropolitan cities are under the direct jurisdiction of the central government. They function under a two-tier system of local government and a three-tier system of local administration. Autonomous districts are structured within the jurisdiction of these cities; therefore, Seoul and other metropolitan cities are the intermediate authority between the central government and autonomous districts.

There are subordinate administrative organizations within the autonomous districts. These organizations are not local governments but are local administrative units. Seoul Metropolitan City and metropolitan cities, therefore, have a three-tier stratification of administration.

B. Province/City/County

Provinces, like upper-level local governments, have a two-tier system in the autonomy framework, but have three or four levels in the administrative structure. Provinces are under the direct control of the central government. Cities and counties are within the jurisdiction of a province, thus forming a two-tier stratification in the autonomy structure.

There exists a hierarchy of subordinate administrative organizations, called *dong* within cities. In this case, there are three administrative strata. Out of 74 cities, the nine largest have a total of 19 administrative districts; and, all cities, including those with districts, are further divided into a total of 907 *dong*. However, in the case of cities with a population of more than 500,000 people, *gu* (administrative district) stands between a *dong* and a city, thus forming a four-level structure.

In the case of counties, there are *eup* and *myeon* within a county, thereby forming a three-tier system. Currently, 89 counties are divided into 198 *eup* and 1,178 *myeon*.

V. Jurisdiction of Local Government

The administrative area of local governments is the area in which the influence of autonomous power and governing power of the local government is exercised.

In Korea, these areas are governed by upper-level local governments such as Seoul Metropolitan City, metropolitan cities, and provinces and the lower-level local governments such as cities, counties and autonomous districts, which are within the jurisdiction of the upper-level local government.

A. Administrative Areas

Currently, there are 16 administrative areas of the upper-level local government; Seoul Metropolitan City, six metropolitan cities, and nine provinces. Seoul and the other 6 metropolitan cities consist of 74 bodies of lower-level local governments—69 autonomous districts and 5 counties. The nine provinces consist of 163 bodies of lower-level governments—74 cities and 84 counties.

There is a range of difference in the size of lower-level local governments. The average area of the 74 cities in the lower-level local governments is 498km². While the largest city is Andong in Gyeongsangbuk-do with an area of 1,518km², the smallest city in Korea is Guri in Gyeonggi-do with 33km². In the case of counties, the average area comes to 656km². The largest county is Hongcheon in Gangwon-do with an area of 1,818km², and the smallest county is Ulsung-gun in Gyeongsangbuk-do with a territory of 73km². The average area of the 69 autonomous districts is 51km². The largest autonomous district is Gwangsan-gu in Gwangju Metropolitan City with an area of 223km², while the smallest autonomous district is Jung-gu in Busan Metropolitan City with 3km².

The average population of cities is 274,494 as of February 1, 2003. The city with the largest population is Suwon with 1,019,711, while the smallest city is Taebaek with a population of 55,154. In the case of counties, their average population is 61,542. Comparing the population, the biggest county is Ulju-gun with 171,321 and the smallest is Ulsung-gun with 9,615. The average population of the 94 autonomous districts is 325,220. The largest autonomous district is Songpa-gu in Seoul with 647,037, while the smallest is Jung-gu in Busan

Metropolitan City with 55,671.

Presently, the average account of the administrative districts in the lower-level local governments are as follows: Cities are composed with an average of 12 *dong*, counties with an average of two *eup* and 13 *myeon*, and autonomous districts with 17 *dong*.

B. Alteration of Local Jurisdiction

There are two forms of alteration in the administration area. The first type of alteration is reorganization: (1) abolition or establishment, (2) division or junction. The other is the modification of territorial boundaries. The difference between the two lies in the fact that the former accompanies a change in the juridical character of a local government, whereas the latter does not.

When either the alteration of the two types is to take place or the name of a local government is to be changed, the local council convenes for hearings before the modifications are legislated. Boundary changes pertaining to cities, counties and autonomous districts are settled by Presidential Decree.

In addition, the local government passes appropriate ordinances after obtaining approval from MOGAHA concerning alteration issues, such as changes in name and boundary of local administration bodies, or a proposal for an abolishment, establishment, division or junction.

MOGAHA must give approval to upper-level local governments for the establishment and relocation of local government offices or local administration bodies before the ordinance can be enacted. The approval of mayors and governors for cities,

counties and autonomous districts is also required. In the case of local administrative bodies, the city or county implements the ordinances of the changes to which they belong.

Chapter 3

Organizations and Roles of Local Government

I. Status of Local Government

According to Article 118 of the Constitution, the local government is responsible for representing local residents and administrating local policies. As one of its primary functions, the local government serves as a representative body consisting of councillors directly elected by citizens residing in a given area of jurisdiction. The local government also acts as a supreme decision-making body that administers legislations, which are independent of the central government, in such areas as public policies, bylaws, residents' duties, and local government operations.

II. Legislative Body: Local Council

A. Local Council Members

The local council exercises its power and functions by establishing organizations, such as the chairman of the council, standing and special committees and the secretariat. The size of each local council varies according to the size of the respective local government. For the 16 upper-level local councils, the number of councilors totals 682 (including 73 members elected by a proportional representative system), and for the 230 lower-level councils, there are 3,485 councilors.

Although membership in a local council does not provide a

regular stipend or salary, expenses accrued by local councilors due to activities related to the council, travel, and conference fees are absorbed by the local government. Local councilors have the additional authority to request that the chairman convene a special session; propose and initiate bills; attend, speak, and vote at plenary or committee sessions; and present resident petitions to the local council. Local councilors are elected by universal suffrage. Thus, while they receive financial benefits and authority, local councilors are obliged to execute their duties by giving precedence to the public interest.

B. Organization of Full Council

1. Chairman of the Council

The local council, according to bylaws, may establish its secretariat, consisting of a secretary-general and several administrative staffs who are recommended by chairman of the council and appointed by the mayor. The total number of staffs is designated by the pertinent ordinances.

2. Committees

In adjustment of the consistently changing duties and activities of the local administration, the local council establishes ad hoc committees made up of several specialists who efficiently deliberate bills. There are two types of committees: the standing committee which examines and processes bills and petitions; and the special committee which temporarily handles specific tasks.

a. Standing committees

Standing committees exist in all upper- and lower-level local councils that constitute of 13 or more councilors. They are required to examine and process bills or petitions under their jurisdiction. According to ordinances, each standing committee deals with matters that are associated, to some extent, with the executive branch. A standing committee consists of one chairman, one secretary and several councilors.

The chairman of a standing committee is elected from among the members of that committee at a plenary session, and his/her term of office is the same length as that of a committee member. The committee elects the vice chairman from among committee members, and his/her name is reported at the plenary session of the local council. The vice chairman executes official duties for the chairman when he/she is unable to preside. Members of the local council are appointed through either nomination by the local council chairman or designation at a plenary session of the local council.

The following table demonstrates the number of standing committees that are organized in lower-level local councils.

〈Table 3-1〉 Number of Standing Committees
in the Lower-Level Local Council

Size of Local Councils	Number of Standing Committees
· Local councils with 41 or more members	· Maximum 5 committees
· Local councils with 31-40 members	· Maximum 4 committees
· Local councils with 13-30 members	· Maximum 3 committees

b. *Special committees*

Local councils have the power to establish special committees in accordance with the specified criteria. For example, the Special Committee on Appropriation and Settlement of Accounts and the Special Committee on Reprimand and Eligibility are common to all local councils.

Special committees consist of a chairman, a secretary and committee members. They deal with specific tasks that cannot be resolved by the standing committee. Each special committee is expected to dissolve upon the completion of its appropriate task.

3. Secretariat

The local council, based on the bylaw, can establish its secretariat, which consists of a secretary-general and several administrative officials who are recommended by the council chairman and appointed by the mayor.

The secretary-general of the secretariat handles the documentation of the local council according to the direction of the council chairman. Matters concerning the appointment, salary, service and evaluation of administrative officials are regulated by the LAA and the Local Government Civil Service Act.

C. Powers of Local Council

1. Power to Enact Bylaws

As provided in the guidelines of the law, the local council has

the power to enact bylaws related to the affairs of the local government and the rights and responsibilities of local residents. According to the LAA, local governments handle affairs that are both inherent to local administration and lawfully delegated to them. The local council does not have the authority, however, to enact bylaws related to affairs delegated by law to the central government's or other specified public authority's jurisdiction.

2. Power to Manage Local Finance

According to the LAA, the Local Tax Law and the Local Finance Act, the local council enacts bylaws or makes decisions regarding various local financial matters as follows: the deliberation and determination of the local government's budget; the settlement of accounts; the imposition and collection of various fees and charges by the local government; the possession of properties, money reserves, and the establishment and management of funds; the use of the local government's properties; the establishment and management of public facilities, etc.

3. Power to Control Local Administration

While the local council acts as a legislative organ, the role of the chief executive is to function as an executive organ. These two sectors maintain accountability through a system of check and balance due to the independent nature of their functions. Thus, the local council has the power to control all administrative affairs of the executive body through the following measures:

- a. Auditing and inspecting administrative affairs
- b. Requesting the presence of the mayor or other public officials of the local government in council sessions
- c. Approving previous proceedings
- d. Requesting written documents, testimonies, or statements from the executive organ
- e. Presenting views and opinions on matters related to the welfare of local residents

4. Power to Deal with Petitions

Based on the presentation of the local councillors, the local council accepts and processes petitions initiated by citizens or corporations. However, petitions that should be processed by the chief executive are transferred appropriately with the statement of the local council's opinion. After processing the petition, the chief executive of the local administration reports the results to the local council immediately.

5. Power Related to the Establishment of Other Public Organizations

The local council participates in the establishment of other public organizations, such as the educational committee, by electing committee members to assist in the initial stages of the organization. The local council also has the authority to facilitate matters concerning the establishment of administrative organizations and local government unions.

6. Power of Self-control

The local council has full authority over its organizations and operations in the following areas:

- a. Election of the chairman and vice-chairman of the local council
- b. Construction of the standing and special committees
- c. Establishment and revision of council regulations necessary for council sessions
- d. Evaluation of the local councilor's qualification
- e. Punishment of the local councilors for malpractice or violation of the law

D. Local Council Sessions and the Legislation Process

1. Period of Sessions

The local council has two different types of sessions, the regular session and the special session. The period of a regular session does not exceed 40 days in the upper-level local council, and 35 days in the lower-level local council, and is held biannually. In a regular session, the local council performs duties such as the audit and inspection of the local administration, approval of closing of accounts and deliberations on the budget bill.

On the other hand, the period for a special session does not exceed 15 days. The mayor convenes the initial special session after a local general election within 25 days after the first day of the term of membership. Upon the request of the mayor or more than one-third of the total registered councilors, the local

council chairman must convene a special session within 15 days of their appeal.

In total, the period of regular and special sessions in a year should not exceed 120 days for upper-level local councils and 80 days for lower-level local councils.

2. Proposition and Decision of Bills

The local council can open its session upon the presence of a quorum, that is, more than one-third of the total registered council members. If the number of attendees is less than the required quorum, the council chairman must declare the suspension or the adjournment of the session.

Local bills are generally initiated by the mayor, more than one-fifth of the total registered council members or by more than 10 council members. The bills can be decided by a majority of registered councilors along with the approval of a majority of attendants. The council chairman has the right to vote, and if the ballots of approval and opposition are tied, the local bill is rejected. The LAA provides a guideline for additional various quorums of initiative and decision.

3. Operational Principles of Council Session

Generally, the session of the local council is open to the public. However, the session is closed with the approval of more than two thirds of the participating councilors or the judgement of the council chairman to maintain social order.

Although the time of session concludes, pending bills that have been referred to the local council may not be dismissed. However, bills may be shelved when councilors' terms of office expire.

In addition, previously rejected bills may not be initiated and submitted again within a period of the same session.

III. Executive Bodies

A. Chief Executive of the Local Administration

1. Position of the Chief Executive

Directly elected by local residents, the mayor is the representative of the local government and directs administrative affairs. In other words, the mayor is a lower-level administrative agent of the central government (or the upper-level local government) within the scope of conducting administrative affairs delegated by the central government (or the upper-level local government).

2. Power of the Chief Executive

The chief executive exercises authority in diverse areas of local administration to maintain legitimacy and stability in the following ways:

First, the chief executive represents the local government and directs local administrative affairs. Other public issues related to education, arts and sciences and physical education, on the other hand, are placed under the direction of the superintendent of education.

Next, the chief executive enacts ordinances within the limits permitted by laws or bylaws, to execute administrative affairs assigned to his/her jurisdiction. The chief executive's role is

not only limited to regulating affairs inherent to the local government, but is also instrumental in delivering those that the central government delegates to the local level.

Finally, the chief executive prepares the local budget and submits it to the local council each fiscal year. If the local council has not finalized the budget by the beginning of the new fiscal year, the chief executive executes expenditures based on the budget of the preceding year, for the following purposes:

- a. Maintenance and operation of public organizations or public facilities established by laws or ordinances
- b. Fulfillment of expenditure obligations provided in laws or ordinances, and continuance of public enterprises previously approved in the budget

The chief executive may proceed, prior to local council approval, to act on urgent matters and take preventive measures such as protecting the lives and properties of residents. This is only in the case where there is no time to convene a local council session or there is a prolongation in the local council's decision-making.

Such preemptive proceedings are reported to and approved by the local council during the next session. These sessions serve to formulate methods in which to restore and relieve damages caused by natural disasters or large fires, to support military security, to provide insight on precautionary measures against acute infectious diseases, and to protect the lives and property of local residents through emergency measures.

3. Obligations of the Chief Executive

The chief executive may not concurrently hold such positions as a member of the National Assembly, member of the local council, judge in the Constitutional Court or member of the education committee in a school board. In addition, he or she is to refrain from business transactions with the local government for profit-making. At the expiration of the term of service, the chief executive hands over all matters under his/her jurisdiction to the successor of the chief executive title.

B. Vice Executive

Each local government has a vice executive who is responsible for assisting the chief executive of the local administration, managing over-all administrative affairs, supervising public employees and acting as the substitute for the chief executive in his/her absence.

As an exception, Seoul Metropolitan City has three vice executives: while two are appointed by the President as national public officials in general service, the other is appointed by the chief executive as a local public official in political service. All upper-level local governments of other regions have two vice executives: one appointed by the President from among grade 1 national public officials in general service, and the other appointed by the chief executive as a grade 1 local public official in special service. The chief executive also selects the vice executive for each lower-level local government from among local public officials in general service.

C. Local Administrative Organizations

To perform its administrative duties, the local government establishes appropriate administrative organs according to the bylaws within the scope prescribed in the Presidential Decree. However, in establishing and operating administrative organs, the local government must maintain a balance with other local governments.

D. Attached Administrative Organizations

1. Directly Controlled Organizations

As needed, the local government establishes directly controlled organizations based on the provisions of Presidential Decree or bylaw. Such organizations include fire stations, educational institutions for local public officials, public health centers, research centers, guidance institutions for small enterprises, etc.

2. Business Offices

To perform special administrative affairs efficiently, the local government establishes business offices according to bylaws based on the provisions of the Presidential Decree. These business offices are often constructed for the departments of social welfare, agriculture and fisheries, forestry, construction, public parks, culture and physical education.

3. Administrative Branch Offices

For the convenience of local residents living in remote areas and to develop select areas, the local government establishes branch offices according to the bylaw based on the provisions of the Presidential Decree. These branch offices function as general administrative organizations managing most local administrative affairs.

4. Collegiate Administrative Organizations

For independently performing special administrative affairs, local governments establish collegiate administrative organizations as prescribed in the law or bylaw. These organizations are regional election management committees, personnel management committees, appeals commissions for local public officials, etc.

5. Subordinate Administrative Organizations

In allocation of its functions, the local government establishes a number of subordinate administrative organizations including *gu* (district), *eup* (township), *myeon* (county villages), and *dong* (district). As independent administrative entities, these organizations facilitate the intentions of local governments to the public and generate legal authority, unlike auxiliary organizations. Local chief executives appoint the head of these organizations among local public officials in general service and continue to oversee their management of local administrative affairs.

Chapter 4

Local Government Civil Service

I. Civil Service System of Local Government

The Korean civil service system is composed of national and local public officials. While national public officials are recruited to handle national administrative affairs and funded by the central government, local public officials are responsible for local administrative affairs and funded by local governments. The total number of local public officials in each local government is regulated by the bylaw based on the criteria prescribed by the Presidential Decree. The Local Government Civil Service Act (LGCSA) regulates the appointment, examination, qualification, wages, services, guarantee of status, disciplinary punishment, and educational training of local public officials. National public officials can also be employed in local governments according to the provisions of the law. While those who are of grade 5 or higher are appointed by the President, those not exceeding grade 6 are appointed by MOGAHA.

As of 2002, the number of national public officials, which accounted for 64.5% of all public officials, was 548,003 and local public officials, representing 35.5% of the total, amounted to 242,797.

II. Local Government Civil Service Act

Laws related to the local civil service system include the following: the Constitution, the Local Autonomous Act (LAA), the Local Government Civil Service Act (LGCSA), the Local Public Official Appointment Regulation, the Local Public Official Pay Regulation, the Local Public Official Allowance Regulation, etc.

In particular, the LGCSA, enacted in 1963, functions as a basic law of the local civil service system which stipulates the following major contents:

- a. Division between career and special-career service public officials
- b. Personnel functions of the chief executive and the personnel committee
- c. Assignment of all positions by grade and class to establish a system of rank classification
- d. Appointment, promotion, transfer, change of occupation, concurrent service, and examination of local public officials
- e. Status guarantee, disciplinary action, and training for local public officials

III. Classification of Local Public Official

According to the LGCSA, local public officials are classified into career and special-career service groups to define the basis of personnel administration and to promote the democratic and efficient operation of local administration.

Career service officials are employed based on their

performance and qualification, and their status is undoubted. There are three separate types of career service officials: general service officials dealing with administrative affairs related to technology, research, and general public administration; special service officials responsible for fire fighting services and special duties; and technical service officials classified by their respective roles and involved in technical tasks.

Special-career service officials are organized into four roles: political service officials who are either elected by the people, appointed with the consent of the local council or by stipulation of the law and bylaws; special service officials who are secretaries, chiefs of subordinate administrative organizations, or are stipulated according to laws and bylaws; professional service officials who are engaged in research and technology under contract with local governments for specified periods; and labor service officials who are engaged in tasks requiring physical labor.

While there are nine grades for local public officials in general service, in labor service there are ten grades.

IV. Personnel Management

The personnel management organization for local public officials is composed of the chief executive who has the power to appoint; personnel management committees that handle examinations, promotion and disciplinary action; and appeals commissions for the protection of local public officials' rights.

The chief executive of the local government has the proper authority to exercise, in fairness and efficiency, various powers concerning recruitment, promotion, change of occupation,

dispatch, demotion, leave of absence, temporary release from duty, removal, disciplinary action, etc.

The personnel management committee is a collegiate administrative organization established in order to secure fairness and objectivity in personnel administration by monitoring the chief executive's power to appoint. This committee manages the following functions:

- a. Prior deliberation of supplement plans for local public officials
- b. Operation of examinations for employment and promotion
- c. Prior deliberation of personnel management criteria and promotion
- d. Decision on disciplinary actions requested by the chief executive
- e. Prior deliberation of bills related to the personnel management of local public officials
- f. Other affairs provided by relevant laws

As a standing organization for the legal protection of local public officials, the appeals commission is another collegiate administrative organization which handles various appeals submitted by local public officials who state that the disciplinary punishments are unfavorable or unreasonable. On the other hand, the commission also administers to appeals requested by the chief executive who considers the decision of the disciplinary action committee to be too lenient.

Chapter 5

Local Elections

I. Voting Franchise and Electoral Eligibility

A person, who is twenty years of age or above and is registered as a resident in the district under the jurisdiction of the relevant local government, as of the record date of the electoral registry, shall have a voting franchise for the election of a local council member and the chief executive of the local government.

A citizen who is registered as a resident in a district under the jurisdiction of the relevant local government for sixty consecutive days or longer, as of the election day, and is twenty-five years of age or above, shall be eligible for election as a local council member and the chief executive of a local government. In this case, a period of sixty days shall not be interrupted by establishment, abolition, division, merging of local governments, or change in the boundaries of districts.

A person falling under any of the following sub-paragraphs, as of the election day, shall be ineligible for election and disfranchised:

- a. A person who is declared incompetent;
- b. A person who is sentenced to imprisonment without prison labor or to a heavier punishment, but whose sentence execution has not been terminated nor exempted;
- c. A person who commits an election crime, where five years have not passed since a fine of one million won or more was

- sentenced and finalized, or ten years have not passed since the suspended sentence was finalized, or where ten years have not passed since a prison term was sentenced and the decision not to execute the sentence becomes final or the execution of the sentence is terminated or exempted (including a person whose prison term becomes invalidated);
- d. A person whose voting franchise is suspended or forfeited according to a court ruling

II. Electoral Districts and Local Council Member

The chief executives of both the upper- and the lower-level local government are elected by direct popular vote for a four-year term in the territory under jurisdiction of the relevant local government as a unit. There is a three consecutive term limit in the case of the chief executive.

Local council members are also elected by direct popular vote for a four-year term. Upper-level local council members are elected by either a single-member district system or the proportional representation system. Nine out of ten are elected by the former system and the remaining one through the latter system. Out of this ten percent, the candidate gender quota requires half be women.

Lower-level local council members are elected by a single-member district system except in a few cases. Of the 3,459 city/county/autonomous district election districts, 3,435 are single-member districts, 23 are double-member districts and 1 is a 4-member district.

III. Number of Local Council Members

A. Upper-Level Local Council

In principle, the number of upper-level local council members are allocated two per city/county/autonomous district. However, in a case where a city and county are unified into a city of the urban and rural integration under the LAA, there are two local council members in each city and county before such unification.

In a metropolitan city and province there are fewer than 16 local council members, the total number of such metropolitan city/province council members amounts to 16.

The ratio of proportional representative city/province council members is $10/100$ of the total number of local constituency city/province council members. If this fraction is regarded as one, the total number of the proportional representative of the council members, if fewer than three, is three.

〈Table 5-1〉 Total Number of Local Council Members and Election Districts in Korea

	Gu/Si/Gun chief executives	Gu/Si/Gun council members		Metropolitan City/Do(Province) The Upper-level local council members			
	Election Ward	Election Ward	Full Number of Members	District Representative		Proportional Representative	
				Election Ward	Full Number of Members	Election Ward	Full Number of Members
Total (16)	232	3,459	3,485	609	609	16	73
Seoul	25	513	513	92	92	1	10
Busan	16	213	215	40	40	1	4
Daegu	8	140	140	24	24	1	3
Incheon	10	130	131	26	26	1	3
Gwangju	5	84	84	16	16	1	3
Daejeon	5	74	75	16	16	1	3
Ulsan	5	59	59	16	16	1	3
Gyeonggi	31	496	500	94	94	1	10
Gangwon	18	180	190	39	39	1	4
Chungbuk	11	150	150	24	24	1	3
Chungnam	15	209	209	32	32	1	4
Jeonbuk	14	236	237	32	32	1	4
Jeonnam	22	291	291	46	46	1	5
Gyeongbuk	23	334	339	51	51	1	6
Gyeongnam	20	314	314	45	45	1	5
Jeju	4	36	38	16	16	1	3

Source: http://hoobo.com/invote/votedata_list.html, 2003. Hoobo Bank.

Act on the Election of Public Officials and the Prevention of Election Malpractices, Article 22, Article 23.

B. Lower-Level Local Council

There is one local councilor in each *eup/myeon/dong* under the jurisdiction of city/county/autonomous district. However, a *myeon* with a population of less than 1,000 or a *dong* with a

population of less than 6,000 is unified with an adjacent *eup/myeon/dong* to elect a single local council member. In the case of an *eup* or *dong* with a population of at least 30,000 and 50,000, respectively, there is capacity available for one more local council member. The minimum number of council members is seven.

IV. Election Period and Election Day

A. Election Period

The term ‘election period’ refers to the period starting from the day of candidate registration to the election day. The local election period is as follows: 17 days for the election of local council members and the chief executive of a local government.

In the case of a reelection or a revote, the election period is for 15 days of the election of local council members and the chief executive of a local government.

B. Election Day

The election of local council members and the chief executive of each local government is held on the first Thursday from the 30th day before the expiration of the term of office.

Where election day falls on a traditional holiday or legal holiday widely observed by the people or if the day preceding or following the election day is a legal holiday, the election is scheduled for the following Thursday.

C. Special Election Day

Special election, reelection and election for an increase in the number of members, and the election of the chief executives of local governments due to an establishment, abolition, division or merger of local governments is conducted as follows:

The special election and reelection of local council members and chief executives of local governments, and the election to increase the number of local council members, is held on the last Thursday of April in the case where the cause for holding the relevant election becomes definite within the period from October 1st of the preceding year to March 31st, and on the last Thursday of October in the case where the cause for holding the relevant election becomes definite during the period from April 1st to September 30th.

The election of the chief executive of local governments due to an establishment, abolition, division or merger of local governments is held within 60 days from the time when the cause for holding the relevant election becomes definite, and its election day is publicly announced at least 23 days before the election day by the chairman of the competent election commission for the constituencies in consultation with the chief executives (including acting chief executives) of the relevant local governments.

V. Electoral Registration

A. Preparation of Electoral Registration

The pollbook includes the elector's name, address, sex, birth date, and other necessary information. No one may be entered in two or more pollbooks during the same election. The chief executive of city/*gu/eup/myeon*, upon preparing the electoral register, immediately sends a certified copy thereof (including a copy of computerized materials for preparation of the pollbook) to the competent *gu/si/gun* election commission.

B. Candidacy of Public Officials

A person who falls under any of the following sub-paragraphs and intends to be a candidate, must resign his post sixty days before the election day. The prospective candidate is required to resign his post before the candidate registration.

- a. A state and/or local public official, according to the State Public Officials Act and the Local Public Officials Act, respectively: Resignation 60 days prior to election does not apply in case of a public official who is eligible to become a party member with the exception of those in political service (as provided in the proviso of sub-paragraph 1 of Article 6 of the Political Parties Act);
- b. A member of an election commission or the educational committee;
- c. A person with the status of a public official as prescribed by other acts and subordinate statutes;
- d. A full-time officer of a government-invested institution

(including the Bank of Korea)

- e. A full-time officer of cooperatives in sectors such as agriculture, fisheries, livestock, forestry, tobacco production, or ginseng (including the central organization and federation of these cooperatives), or the chairman of the central organization or federation of these cooperatives;
- f. A full-time officer of a local public enterprise or local industrial complex of the Local Public Enterprises Law (LPEL);
- g. A private school teacher who is ineligible for a party membership according to the Political Parties Act;
- h. A journalist appointed by Presidential Decree.

The person is considered to have resigned his office at the time when the letter of his resignation is accepted by the head of the institution or committee to which he belongs.

Provided that the 60 day requirement does not apply to the case where an appropriate local council member or local chief executive runs in the election of local council members or chief executive of local government with his present post. This also includes the case where a member of the National Assembly runs in the election of the chief executive of a local government. In this case, National Assembly members need to submit their resignations before the candidate registration. But a chief executive of a local government, who intends to run for the National Assembly, equivalent to or overlapping with the jurisdictional area of the competent local government, is required to resign from his post no later than 180 days before the election day.

VII. Election Campaign and Its Expenses

A. Broadcast of Careers

In the election of chief executives of local governments, the Korean Broadcasting System broadcasts the candidate's photograph, name, number, and age, and the name of the political party to which the candidate belongs (in case of an independent candidate, he is indicated as 'independent'), occupation and other major careers provided by the competent constituency election commission. The elected candidates are introduced to voters by television and radio broadcasting facilities during the election campaign period for up to two minutes per showing for each candidate. In the meanwhile, if there are other elections, a relevant local broadcasting station is used.

- a. The frequency of career broadcasts is based on any of the following sub-paragraphs by television and radio broadcast:
- b. Two or more times for the lower-level elections of the chief executives:
- c. Three or more times for the upper-level elections of the chief executives.

Where a career broadcast is aired, the frequency and contents presented thereof are impartial to all candidates in the constituency as a unit, and the expenses, therefore, are borne by the Korean Broadcasting System, a public television station.

B. Public Officials, etc. Prohibited from Acts Having Effects on Election

A public official (excluding a National Assembly member, his assistant, chief secretary, secretary, and a local council member), full-time officer or employee of a public institution, head of *tong/ri/ban*, executive officer higher than a platoon leader of the Homeland Reserve Forces, full-time officer or employee of a nationwide quasi-public organization established pursuant to a special act and contributed or subsidized by the state or local governments (referring to the Moral Life Movement, the Saemaul Movement Council, the Korea Freedom League), and of National Commission for Rebuilding Korea, and president of these organizations, etc. (including city/province organizations and city/county/autonomous district organizations), or full-time officer or employee of an association and the Federation of Medical Insurance Associations established under the National Health Insurance Act (NHIA), and of the National Health Insurance Corporation (NHIC) established under the National Health Insurance Act are restricted from any actions provided in the following sub-paragraphs:

- a. An act of promoting the achievements of a specific political party or a candidate (including one who intends to be a candidate; toward the personnel under his supervision or the electors, regardless of the pretext of education or all other backgrounds;
- b. An act of participating in the planning of an election campaign or in the implementation of such planning;
- c. An act of surveying or publishing a support rate of the electors for a particular political party or candidate;

- d. An act of offering or promising to offer money, goods, or interests other than those as prescribed by the acts and subordinate statutes to the personnel under his supervision or to the electors during the election campaign period, notwithstanding the pretext: Provided that cultural ceremonies including coming-of-age, marriage, funeral or ancestor memorial, or other acts by courtesy or on duty as prescribed by the National Election Commission Regulations are excepted;
- e. An act of holding a ground-breaking ceremony, during the election campaign period for a construction work which will not immediately proceed the pending projects that will be executed out of the budget of the state or local governments;
- f. An act of taking a business trip for something other than a normal business purpose during the election campaign period;
- g. An act of visiting certain institutions or facilities related to his duties, on leave, during an election campaign period.

C. Election Expenses

Each constituency election commission is required to expend within the restricted amount for total election expenses, accounting for the expenses required for election campaigns which are legally allowed by each election, and announce it publicly no later than 10 days before the beginning of the election campaign period (in the case of a special election, three days from the date when the election day is publicly announced). The expenses which the State or a local government

provides on behalf of a political party or candidate as prescribed by this act, is also publicly disclosed therewith.

The method of calculation and procedure for public announcement for the restricted amount of the election expenses and other necessary matters are prescribed by the National Election Commission Regulations.

〈Table 5-2〉 Standard of Local Election Expenses in Korea

(Unit: million won)

Local Election Expenses	Current Cost	Deposit Money
The chief executive of a city/ <i>do</i> (province)	20,000 + a	5,000
The city/ <i>do</i> (province) council members	1,500 + a	400
The chief executive of autonomous <i>gu/si/gun</i>	2,800 + a	1,500
<i>Gu/si/gun</i> council member	800 + a	200

Source: Act on the Election of Public Officials and the Prevention of Election Malpractices, Article 122, Article 56

Chapter 6

Participation in Local Government

I. Residents

A. Qualifications of Residents

Persons who domicile within the jurisdiction of a local government are residents of the respective local region. There is a dispute on whether a juridical person should be recognized as a resident. However, according to regulations such as the right to vote and the right of a resident, only a natural person may be interpreted as a resident.

Generally, residents of the local government hold two positions. One is the status of the subject of sovereignty for the local government. With this status, residents can join local government organizations and exercise the right to vote. Residents also hold the position of a member of the local government. Unlike the subject of sovereignty, each resident is entitled to this status as an individual, such as the status of beneficiary, obligator, governed person, and informal governor, etc.

B. Rights and Duties of a Resident

1. Rights of a Resident

a. Right to use public facilities

Residents have the right to use the public property and facilities of their local governments. Generally, property refers to both an object and the right that have monetary value, but here, property includes public facilities that are open to all residents, as well as facilities established and managed by the local government for the welfare of the people.

b. Right to equal benefits from administration

Residents have the right to benefit equally from the administration of local governments under the conditions prescribed by the appropriate acts and subordinate statutes.

c. Right of election

Residents who are nationals of the country shall have the right to participate in the local council and chief executive elections held by the proper local governments under the conditions prescribed by the acts and subordinate statutes.

d. Right to a referendum

Residents have the right to participate in a referendum organized by the chief executive of the local government concerning abolition, establishment, division or consolidation of

local governments, local government decisions on major matters or policies, which will cause an excessive burden, or have a significant effect on the residents. The object, proposer, requirements for proposal, procedure and all other details concerning the referendum are prescribed separately by the acts.

e. Right to request enactment and revision/abolition of Municipal Ordinance

Residents of at least 20 years of age (those who have no suffrage pursuant Article 18 of the Act on the Election of Public Officials and the Prevention of Election Malpractices are excluded) may request the enactment or revision/abolition of Municipal Ordinances under the joint signature of more than 1/20 of the total residents (who are at least 20 years old) determined by the Presidential Decree.

The following are exceptions of this request:

- ① Imposition/collection or reduction/exemption of local taxes, user fees, commission, and charges;
- ② Establishment/alteration of an administrative institute or opposition to the establishment of public facilities.

f. Right to request for audit

In cases where the disposition of affairs belonging to the local authority and chief executive has violated the acts and subordinate statutes or has notably impaired public interests, residents, 20 years of age or older, may request an audit under the joint signature of more than 1/50 the number of residents

(who are at least 20 years old) as determined by the Municipal Ordinance of the local government concerned, to the competent Minister in the case of city/province, and to the chief executives of the upper-level local government in the case of city/county/autonomous district. The following matters are excluded from the request for an audit:

- ① Criminal investigation or trial;
- ② Violation of a person's privacy;
- ③ Matters which have been previously inspected or are under inspection by other agencies.

g. Right to petition

Residents may submit a petition to the local council with the recommendation of a council member. However, petitions interfering in trials or violating statutes are not accepted.

2. Duties of the Resident

a. Duty to share the expenses of the local government

Residents are obliged to share the expenses of the local government under the conditions as prescribed by the acts and subordinate statutes. Expenses are not distributed equally among residents, but according to their ability. These expenses include local taxes, user fees, commission, charges, etc. Administrative compulsory executions are enforced if and when residents fail to carry out this fiscal duty.

b. Duty to observe the law

Residents have a duty to observe laws, municipal ordinances, and regulations to facilitate all areas of communal life including security, maintenance of social order, and welfare of residents. When not carrying out this duty, administrative compulsory measures will be executed.

II. Citizen Participation in Local Government

A. Participation

Residents participate in policy making and implementation by taking a series of actions and exercising their influence over it directly and indirectly. At large, participation of residents can include activities related to the political process such as election and request of residents. However, it generally focuses on participation related to the administrative process.

B. Types of Participation

1. Unofficial Participation

Unofficial participation developed actively after local autonomy had been resurrected in 1991. Effective in influencing issues, resident movements are group actions with the aim to influence a decision or modification related to a particular request that has yet to be realized or is an issue to be settled.

Resident movements are various and characteristically indefinite because they unofficially develop individual, specific, and regional issues. For that reason, it is difficult to calculate the actual statistics.

2. Official Participation

This is an institutional device established by the local government to accept officially the demand of residents.

According to the level of participation, this is categorized as non-participation, formal participation, and influential participation.

Nonparticipation is a level of basic citizen involvement. Through citizen involvement, local governments observe public reaction and opinions on a policy decision to minimize conflict and misunderstanding. At this level of involvement, however, residents do not have the ability to amend or modify policies.

The level of formal participation focuses on positively reflecting the intention and purpose of residents on a regular administrative procedure. At this level, inquiry commission, committee, discussion with residents, negotiation with resident movement groups are officially secured.

At the level of influential participation, residents have the power to manage not only the policy making process but also post-policy decisions. Currently, participation in Korea is characterized as formal participation.

C. Channels of Participation

There are many channels of participation, and each local government has different methods. Widely used channels are as follows:

1. Committee

A committee is the most widely used system as a means of participation. While there are a variety of committees, the most important are the inquiry, advisory and administrative committees.

2. Administrative Proceeding

Local governments in administrative planning or disposition enforce administrative proceeding laws to prevent fallacy and infringement of rights by collecting prior views of the related people. Public hearings and the submission of opinions are essential stages of participation in this process.

3. Civil Petition

Residents participate in policy decision-making and implementation with requests, representation, and proposals. When rights are violated by unreasonable administration actions, residents can participate with a formal objection or a collective civil petition.

4. Community Cooperation

Residents can discuss and resolve important matters related to the community through cooperation such as small community meetings and resident autonomy centers.

5. Hearings

Local governments realize the participation of residents through public hearings. Hearings, including public-opinion polls, opinion monitors and social meetings are used to understand the views, attitudes, and requests of residents.

Chapter 7

Functions and Affairs of Local Government

I. Kinds and Distribution of Local Government Functions

Local governments must promote the convenience and welfare of citizens in the course of managing their affairs. And for that, local governments have to rationalize their organizations and management, and optimize their size.

Local governments must not manage their affairs in violation of acts, subordinate statutes or Municipal Ordinances of upper-level local governments. The Local Autonomy Act stipulates that both upper- and lower-level local governments should not perform the functions for which only the central government has responsibility.

A. Central Government Function

Article 11 of the Local Autonomy Act enumerates the functions classified as national affairs as follows: first, those that are necessary for the existence of the state (diplomacy, defense, judicature, tax administration, etc.); second, those that demand nationally-uniformed conduct (price-, finance-, export-policy, etc.); third, those that are performed on a national-scale (supply control of agriculture, import-export control, etc.); fourth, those that are of national-scale or equivalent (national economic development planning, big rivers, national forests, national physical development planning, large ports, highways,

national parks, etc.); fifth, those that require national standard and coordination (labor standard, weight and measurement system, etc.); sixth, those that are of national-scale or equivalent (postal service, railway, etc.); and seventh, those that are beyond the capacity of the local government (sophisticated test and experimentation, research and development, aviation management, weather service, nuclear development, etc.).

B. Local Government Functions

1. Responsibilities of the Upper-Level Local Government

Generally, local affairs are allocated to upper-level local governments and lower-level local governments in a manner consistent with avoiding functional overlap. Accordingly, the upper-level local government must take charge of the following affairs:

- a. Metropolitan administrative affairs which could affect more than two lower-level local governments
- b. Affairs requiring uniformity by each unit of the upper-level local government
- c. Affairs regarding local peculiarities which must be consistent with some unit of the upper-level local government
- d. Affairs related to communication and coordination between the central government and the lower-level local governments
- e. Affairs which are inappropriate for lower-level local governments to manage independently
- f. Affairs concerning the installation and management of public facilities whose scale is considered to be appropriate for joint installation by more than two lower-level local governments

2. Responsibilities of the Lower-Level Local Government

The lower-level local government, on the other hand, take charge of all the local affairs excluding those dealt with by the upper-level local governments. However, cities with a population of 500,000 or more can manage a portion of provincial affairs such as health care, local public enterprise, housing and zoning.

The Local Autonomy Act prescribes that the upper- and the lower-level local governments should not conflict with each other in the course of managing local affairs. If conflicts occur, lower-level local governments have precedence.

II. Affairs of Local Government

The local government manages most of the administrative affairs which are closely related to the daily life of local residents. The Local Autonomy Act prescribes that the following affairs must be seen to by local governments:

A. Affairs concerning the Jurisdiction, Organization and Administrative Management of Local Governments:

- a. Coordination of the denomination, location and size of the administrative area within the jurisdiction
- b. Enactment, revision, annulment, management and administration of bylaws and rules
- c. Organization and administration of subordinate administrative organs
- d. Direction and control of subordinate administrative agencies and organizations

- e. Management of personnel matters, welfare and education of public officials under its jurisdiction
- f. Imposition and collection of local taxes and revenues other than local taxes
- g. Formation and execution of a budget, audit, and management of properties
- h. Management of administrative equipment, computerization of administration and improvement of administrative management
- i. Management of public properties
- j. Management of census registration and resident registration
- k. Execution of various kinds of inspections and preparation of statistics necessary for local governments

B. Affairs to Improve the Welfare of Local Residents:

- a. Activities concerning the welfare of local residents
- b. Establishment, management and operation of facilities for social welfare
- c. Protection and assistance of the poor
- d. Protection and promotion of the welfare of old people, infants, mentally and physically handicapped persons, the young and women
- e. Establishment and management of medical treatment institutions
- f. Prevention of epidemics and other diseases
- g. Management and operation of cemeteries, crematories, and burial vaults
- h. Guidance for the improvement of the sanitary conditions of public entertainment businesses

- i. Cleaning, removal and disposal of sewerage
- j. Establishment and operation of local public enterprises

**C. Affairs concerning the Development of Industries
including Agriculture, Forestry and Trade:**

- a. Installation and management of agricultural irrigation facilities such as small water pools, reservoirs, etc.
- b. Assistance in production and circulation of agricultural, forest, livestock and marine products
- c. Management of agricultural materials
- d. Management and guidance of complex agriculture
- e. Support and guidance of non-agricultural, profitable businesses
- f. Encouragement of agricultural side businesses
- g. Management of public forests
- h. Projects for development of small-scale livestock raising, and for promotion of dairy farming
- i. Prevention of livestock epidemics
- j. Support and assistance of local industries
- k. Protection of consumers and encouragement of savings
- l. Support of small and medium enterprises
- m. Development, promotion and assistance of local specialized industries
- n. Development of superior local products and folk art products for tourism

D. Affairs related to the Local Development, Establishment and Management of Living Environment Facilities for Local Residents:

- a. Local development projects
- b. Execution of local public works and construction projects
- c. Execution of urban planning projects
- d. Construction, repair, and maintenance of local roads
- e. Encouragement and assistance in the improvement of residential environments
- f. Improvement of rural houses and community structure
- g. Activities for protection of nature
- h. Management of local rivers and streams
- i. Installation and management of water supply and sewage facilities
- j. Installation and management of simplified water supply facilities
- k. Installation and management of sightseeing and resort facilities such as parks, and green zones established by provinces, counties and cities
- l. Operation of local railroad projects
- m. Installation and management of traffic facilities such as parking lots, traffic signs, etc.
- n. Formulation and execution of precautionary measures against calamities
- o. Support and assistance of the local economy

E. Affairs concerning the Promotion of Education, Athletics, Culture and Art:

- a. Establishment, operation, and guidance of day-care centers, preschools, primary schools, middle schools, high schools and other kinds of schools of similar levels
- b. Construction and management of public educational, athletic and cultural facilities such as libraries, playgrounds, public squares, gymnasiums, museums, performance centers, galleries, concert halls, etc.
- c. Designation, preservation and management of local cultural properties
- d. Promotion of local culture and art
- e. Support of local cultural and art organizations

F. Affairs related to Regional Civil Defense and Fire Fighting:

- a. Organization, operation, guidance and supervision of regional and workplace civil defense forces including a voluntary fire brigade
- b. Fire prevention and fire fighting

III. Efforts of Power Devolution

In 1994, the Ministry of Home Affairs conducted a survey¹⁾ to find the total number of administrative functions performed by the whole machinery of government and its distribution between central and local governments. The total number of functions was found to be 15,744. Among them, 75% (or 11,744 work units) were performed directly by the central government, with 25% (or 4,030 work units) conducted by local governments. Out of 4,030 work units, only 13% (or 2,110 work units) were identified as purely local affairs for which local governments have full discretion in performing them. The remaining 12% (or 1,920 work units) were merely delegated to them by the central government.

Recently, two research institutes conducted another comprehensive survey with the same purpose (MOGAHA, 2002).²⁾

The survey conducted in 2001 by both the Korea Research Institute for Local Administration (KRILA) and the Korea Institute for Public Administration (KIPA) was based upon the text interpretation of a total 3,353 acts and regulations. For this time, the total number of work units was found out to be 41,603. The work units actually refers to the unit of administrative affairs, which was defined as any public activity for which each level of government exercises both powers and responsibilities to execute. Among them, 73% (or 30,240 work

1) The Ministry of Home Affairs's survey was based upon the functional division of central departments and a total of 3,169 relevant laws and regulations were analyzed.

2) The survey conducted in 2001 by both the Korea Research Institute for Local Administration (KRILA) and the Korea Institute for Public Administration (KIPA) was based upon the text interpretation of a total 3,353 acts and regulations.

units) were performed directly by the central government, with 27% (or 11,363 work units) conducted by local governments. Out of 11,363 work units, 15% (or 6,306 work units) were purely local affairs, while 3% (or 1,311 work units) were delegated by the central government and 9% (or 3,746 work units) were shared with central and local governments.

In 1999, a special act of the promotion of the devolving central governmental authority to local government was enacted not only to accelerate the speed of devolving central governmental functions to local authorities, but also to redistribute them between the upper- and the lower-level local governments. According to the act, a special committee, the Presidential Committee of Promoting Devolution (PCPD) that has decision-making authority for devolution, was established directly under the President.

At the end of 2001, the total number of units of administrative affairs that have been either devolved or redistributed by the PCPD was 493. The total number includes those of 23 in 1999, 244 in 2000, 226 in 2001. As of late July 2002, 133 unit affairs were additionally resolved by the PCPD, which was equivalent to 100 governmental functions once they were bundled according to their nature.

Out of 100 governmental functions, 46 (or 46%) functions were devolved from the central government either to the upper- or the lower-level local governments, while 44 (or 44%) functions were redistributed between the upper- and the lower-level local governments. The remaining 9 (or 9%) functions were shared jointly by national and sub-national governments. Only 1 function that had been conducted at the local level, the census registration function, was exceptionally centralized to the Ministry of Justice.

Among the 46 devolved functions, 42 were devolved from the central to the upper-level local government, while the remaining 4 from the central to the lower-level local government. And among the 9 functions shared, 5 were shared between central and local governments, while the remaining 4 between the upper- and the lower-level local governments.

In terms of the Ministries, most functions were devolved from three ministries such as the Ministry of Construction and Transportation (10 functions), Ministry of Environment (8 functions), and Ministry of Industry and Natural Resources (8 functions). Whereas the functions redistributed between the upper- and the lower-level local governments were mostly under the jurisdiction of the Ministry of Health and Social Welfare (8 functions), Ministry of Agriculture and Forestry (7 functions), Ministry of Environment (7 functions), and Ministry of Construction and Transportation (6 functions).

The list of functions that were devolved from central government either to the upper- or the lower-level local governments are as follow:

A. Functions Devolved from Central to the Upper-Level Governments

1. Ministry of Government Administration and Home Affairs
 - Local Government-Owned Vehicles Management
 - Approval of Revising the Regulation of the Fire Fighter Training School
 - Approval of Establishment and Abolition of Firehouse Branch

2. Ministry of Education and Human Resources

- Notification of Designating Private Educational Academy
- Divestiture and Reissue of Teachers' License
- Determining Number Limits and Recruiting Vacancy of Local Officials

3. Ministry of Finance and Economy

- Authorization for Establishing Consumers Co-Operative

4. Ministry of Culture and Tourism

- Approval of Planning and Revision of Tour Site
- Supervision of General Tourism Business
- Registration of Free Periodicals
- Approval of Establishing Private Museum and Art Gallery

5. Ministry of Environment

- Installation of Sewage Processing Facilities
- Installation and Management of Livestock Waste Processing Facilities
- Disposal of Livestock Wastes
- Registration of Sewage Processing Equipment Manufacture
- Air Quality Control of Underground Shopping Mall
- Authorization for Installing Terminal Sewage Processing Facilities
- Authorization for Developing Spring Water
- Authorization for Selling Spring Water

6. Ministry of Industry and Natural Resources

- Authorization for Developing Saltpans and Salt Works
- Stop Order for Special Type Elevators
- Stop Order for General Type Elevators
- Public Hearing for Nullifying Registration of Elevator Maintenance Business
- Registration of Electric Work Business
- Registration of Design/Supervision for Power Supply Works Business
- Receipt of Energy Consumption Report
- Improvement and Destruction Order for Electric Appliances

7. Ministry of Construction and Transportation

- Registration and Supervision of General Construction Business
- Registration of Freight Business
- Registration of Complex Carriage Business
- Registration of Housing Development (Site Construction) Business
- Management of Architect Related Affairs
- Approval of Basic Urban Redevelopment Planning
- Restricting Order for Construction at Airport and its Vicinities
- Licensing Housing Managers Certificate
- Registration of Surveying Business
- Registration of Construction Supervision Company

8. Ministry of Health and Social Welfare

- Restriction of Restaurant Business

9. Ministry of Agriculture and Forestry

- Authorization for Land Exchange Plan
- Production and Supply of High Quality Seed

10. Ministry of Maritime and Fishery

- Authorization for Land Reclamation of High Sea

11. Cultural Assets Agency

- Registration of Cultural Assets Repair Specialists

B. Functions Devolved from Central to the Lower-Level Local Governments

1. Ministry of Culture and Tourism

- Restriction and Stop Order for Movie Theater Business

2. Ministry of Health and Social Welfare

- Designation of Model Food Processing Business

3. Ministry of Agriculture and Forestry

- Liquidation Request for Agricultural Co-operative

4. Ministry of Maritime and Fishery

- Authorization for Fishing Port Facilities Usage

Chapter 8

Intergovernmental Relations

I. The Relations of the Central and Local Governments

It is clear that the central government bears the responsibility to coordinate national interests and local interests. The central government also plays a role in helping local governments because of their increased financial and technical needs in coping with growing administrative functions which have become more complex and sophisticated. In addition, central intervention comes with the growing number of local services.

There are three principal instruments with which the central government can intervene: legislative, judiciary, and administrative intervention.

A. Legislative Intervention

Bound by the doctrine of *ultra vires* the local government has no authority other than that conferred by acts and statutes. In Article 117 and 118 of the Constitution, it stipulates that “matters pertaining to the organization and operation of local governments shall be determined by law,” allowing legislative controls on the organization and operation of local governments.

The Constitution also permits other legislative controls on the local government regarding the structure, the organization and distribution of powers, and local elections.

And, according to the National Assembly’s power prescribed in

Article 61 of the Constitution, the National Assembly can inspect and investigate national public affairs managed by and delegated to the local governments and the chief executive of the local government.

Finally, the Local Autonomy Act also states that local governments may enact Municipal Ordinances concerning their affairs within the purview of acts and subordinate statutes.

Accordingly, the Korean National Assembly can compel local governments through the legislative power to regulate the organization and operation of local governments, the right to investigate and inspect local affairs, and the right to enact the Municipal Ordinances.

B. Judiciary Intervention

The conditions of judicial intervention are set forth in Article 107 of the Constitution: “The Supreme Court shall have the power to make a final review of the constitutionality or legality of administrative decrees, regulations or actions, when their constitutionality or legality is an issue on trial.”

Ultra vires behavior can be judged by the courts and the central government can apply for the High Court or the Supreme Court writs compelling local governments to act or preventing them from doing so.

The Local Autonomy Act stipulates judicial control in the following cases. First, a person who objects to the levy or collection of rents, fees or contributions, can raise an objection to the chief executive of a local government within sixty days from the day of receiving notification of the disposition. Then the chief executive has to make a decision and give notice on the

objection within sixty days from the day of receiving the objection. If the decision is not made within this period or the decision is not satisfactory to the party who made the objection, the person can file a lawsuit with the competent high court within sixty days after the period has expired, or within sixty days of receiving the decision notice.

Second, if an order or disposition of the chief executive of the local government concerning local government affairs is deemed to violate laws and regulations or be detrimental to the public interest because the order or disposition is obviously unjust, the competent Minister can order, in writing, the chief executive to correct the order or disposition within a specified period. In the case of the lower-level local government, the chief executive of an upper-level local government can order such a correction. If the chief executive fails to make the correction within the designated period, the competent Minister or chief executive of an upper-level local government can cancel or suspend such an order or disposition. If there is an objection against such cancellation or suspension of an order or disposition, then the chief executive of the local government can file a lawsuit with the Supreme Court within fifteen days from the day it was notified of such cancellation or suspension.

Third, if a resolution of the local council is deemed to violate laws and regulations or be remarkably detrimental to the public interest, in the case of an upper-level local government, the Minister of Government Administration and Home Affairs can cause the chief executive to request re-deliberation, and in the case of a lower-level local government the chief executive of an upper-level local government can do the same. The chief executive of the local government who receives a request for

re-deliberation, then has to request the local council to re-deliberate the resolution and provide reasons for their decision. However, if the same resolution as the previous one is adopted with the attendance of a majority of all the councilors and by a concurrent vote of two-thirds of councilors present as a result of the re-deliberation by the request, the resolution becomes final. If it is judged that this final resolution is contrary to laws and regulations, then the chief executive of the local government can institute a lawsuit to the Supreme Court within twenty days after it is made. In this case, if it is deemed necessary, he or she may request a decision to suspend the execution. If it is judged that laws and regulations are violated, and the chief executive of the local government concerned fails to institute a lawsuit, the Minister of Government Administration and Home Affairs or the chief executive of the upper-level local government can direct the chief executive of the local government to institute a lawsuit directly, or directly request a decision to suspend the execution of the resolution.

C. Administrative Intervention

The central and local relations can often be stimulated more effectively by the administrative approach rather than legislative or judiciary approaches. Legislative intervention usually focuses on an act before it occurs while judiciary involvement deals with the aftermath of a dispute. By comparison, administrative intervention may have a concurrent aspect.

Much of the involvement of the central government in local affairs comes through a rather elaborate system of central administrative supervision and assistance. The central and local

administrative relations are particularly important in that they may affect the local government's decision-making and implementation process. The following is a discussion on central government intervention through administrative discretion which is called delegation of legislation, *i.e.*, congressional grants of power to the executive branch, and on the various means of compulsory and non-compulsory measures of the central government, which often shape the central-local relationship.

1. Governmental Legislation

Entering the twentieth century, the role of the executive branch grew enormously. The National Assembly, through a process called delegation of powers, now gives the executive branch more responsibility to administer programs that address various problems. The latitude that the national assembly gives agencies to make policies in the spirit of their legislative mandate is called governmental legislation. Also in Korea the National Assembly usually sets general and broad outlines while the more detailed and specified legislations are often made through the delegation of legislation, *e.g.*, Presidential Decree.

The Local Autonomy Act which allows the administrative law-making, *i.e.*, Presidential Decree, can be applied to many different cases. With its discretionary authority, the central administration can affect the policy making and implementation of the local governments. The following are a few examples:

First, Article 2 of the Local Autonomy Act states that matters necessary for the establishment and operation of special local governments shall be determined by the Presidential Decree.

Second, Article 102 of the Local Autonomy Act states that administrative organizations necessary for taking partial charge

of the administrative affairs of the local government shall be established, but such organizations shall be prescribed by the Municipal Ordinance of the local government concerned within the limit as prescribed by the Presidential Decree in the case of city/province, and shall be prescribed by the Municipal Ordinance of the local government concerned within the approval of the chief executive of the upper-level local government, according to such criteria as prescribed by the Presidential Decree in the case of the city/county/autonomous district.

Third, Article 102 of the Local Autonomy Act states that the local government shall have local public officials who are paid with the expenditure of the local government; the number of such officials shall be prescribed by the Municipal Ordinance of the relevant local government in accordance with standards prescribed by the Presidential Decree.

Finally, the autonomous right to constitute a local government is regulated by the Local Autonomy Act: (1) Article 104 states that the local government may, if necessary within the scope of affairs under its jurisdiction, establish, as a subordinate organization, a fire fighting organization, training organization, medical organization, test and research organization, and an organization directing small and medium enterprises, etc. under direct control according to the conditions prescribed by the Presidential Decree or the Municipal Ordinance of the local government concerned under the conditions prescribed by the Presidential Decree; (2) Article 105 states that the local government may establish an office in accordance with the Municipal Ordinance of the local government under the conditions prescribed by the Presidential Decree, when the local government deems it necessary to perform efficiently, specific

affairs: (3) Article 106 states that the local government may establish a branch office in accordance with the Municipal Ordinance of the local government concerned under the conditions prescribed by the Presidential Decree, when the local government deems it necessary for the conveniences of remote residents and for promoting the development of specific areas.

2. Compulsory Measures

National administrative intervention into local government affairs is often done by using the following compulsory measures of national supervision and guidance: order, inspection, personnel control, prior approval, designation, etc. First, the entrusted national affairs managed by a local government or its chief executive are guided and supervised by a competent Minister in the case of the upper-level local government. If it is deemed that the chief executive of a local government obviously neglects the management and execution of the national delegated affairs included in his/her duties under laws and regulations, the competent Minister may order, in writing, to be fulfilled by the upper-level local government concerned that the matter be redressed within a fixed period of time. In the case that the chief executive of the local government fails to comply with the order issued, the competent Minister may vicariously execute such matters at the expense of the local government concerned, or take any administrative and financial measures required.

Second, if an order by or disposition of the chief executive of an upper-level local government concerning affairs of a local government is deemed to violate laws and regulations or be detrimental to the public interest because it is obviously unjust,

a competent Minister can order the chief executive to correct and even cancel or suspend the order or disposition. Also, if a resolution of the local council in the upper-level local government is deemed to violate laws and regulations or be remarkably detrimental to the public interest, the Minister of Government Administration and Home Affairs can request re-deliberation.

Third, the Minister of Government Administration and Home Affairs has the authority to receive a report on the performance of local affairs, or inspect its documents, books or accounts.

In addition, the President has the power to appoint the vice executive in the upper-level local government. MOGAHA has the power to approve local bond issuance and designate the limitation of local affairs and properties of local governments which may be concerned in the case of alteration, abolition, establishment, division or consolidation of the jurisdiction of a local government.

3. Non-Compulsory Measures

National administrative intervention in local government affairs can take the form of non-compulsory measures such as guidance, technical and financial support, recommendation, report, provision of standards, and mediation of disputes, etc. The Local Autonomy Act states that the chief executive of the central administrative organ may advise, recommend or guide in the affairs of local governments and may, if necessary, request the local government to present materials.

The Local Autonomy Act also states a clear and strong relationship between the central and the local government. In the event of enactment, revision or annulment of bylaws or

regulations, the chief executive of the upper-level local government should report it to MOGAHA. The number of local public officials who are paid by the local government is determined by the bylaws of the local government, but it should be done in accordance with standards as prescribed by the Presidential Decree. The central government does not only provide, if necessary, financial or technical support to the local government, but it also may take the role of mediator to solve a dispute among local governments. The Minister of Government Administration and Home Affairs can mediate such disputes if the parties concerned are upper-level local governments and if they request mediation.

In the long run, some have argued that the use of these non-compulsory measures may be more effective to gain the compliance of the local government, encouraging voluntary cooperation with little conflict. However, it should also be noted that the trend of decentralizing power toward the local government is closely related to the development of the local government itself, especially regarding its personnel and financial resources. As local governments retain considerable discretion over the way in which they provide their services, the emphasis on central-local administrative relations encourages assisting local units rather than supervising them.

II. Relations Among Local Governments

A. Relations between the Upper- and the Lower-Level Local Governments

The administrative relations between the upper- and the lower-level local government are quite similar to central and local government relations.

First, entrusted national affairs managed by a lower-level local government or chief executive should be guided and supervised primarily by the chief executive of its upper-level local government, and secondly by a competent Minister. If it is deemed that the chief executive of a lower-level local government obviously neglects the management and execution of the delegated affairs, the chief executive of the upper-level local government can order in writing that the matters be redressed. And if the chief executive of a lower-level local government fails to comply with the order issued, the chief executive of its upper-level local government can execute vicariously such matters at the expense of the local government concerned or take any administrative and financial measures required.

Second, if an order or disposition of the chief executive of a lower-level local government is deemed to violate laws and regulations or be detrimental to the public interest because it is obviously unjust, the chief executive of its upper-level local government can order in writing the chief executive to correct, cancel or suspend such orders or dispositions. Also, when a resolution of the lower-level local council is deemed to violate laws and regulations or be remarkably detrimental to the public interest, the chief executive of the upper-level local government can request for re-deliberation.

Third, the chief executive of an upper-level local government can receive a report on the performance of local affairs of the lower-level local government, or inspect its documents, books or accounts.

In addition, the chief executive of an upper-level local government has the power to approve the establishment of an association among the lower-level local governments, and the association is directed and controlled by the chief executive of an upper-level local government. Also, if it is difficult to divide local affairs and properties of local governments in the cases of the alteration, abolition, establishment, division or consolidation of the jurisdiction of a lower-level of local government, its upper-level chief executive can designate the limitation of such affairs and properties of the local government with the approval of the Minister of Government Administration and Home Affairs.

On the other hand, the upper-level local government is closely connected to the lower-level one by its supportive role. The Local Autonomy Act states that the chief executive of an upper-level local government may advise, recommend or guide concerning affairs of the lower-level government and may, if necessary, request the local government to present materials.

The Local Autonomy Act also indicates a hierarchical relationship between the upper- and the lower-level local governments by stating that in the event of an enactment, revision or annulment of bylaws or regulations, the chief executive of the lower-level local government should report it to the chief executive of the upper-level local government. The upper-level local government does not only provide, if necessary, financial or technical support to the lower-level, but it also takes the role of mediator to solve disputes among the lower-level local governments.

B. Cooperative Relations Among Local Governments

Cooperation between lower-level local governments has been of great significance in the development of intergovernmental relationships. The need to construct a cooperative system among them is particularly important in that it contributes to increased efficiency and lower costs, improving the administration and services of local governments. Because of this necessity, the Local Autonomy Act prescribes the cooperation among local governments and dispute mediation. Article 139 of the Local Autonomy Act states that if a local government receives a request to jointly manage affairs or to consult, mediate, approve or support the performance of affairs from another local government, then it shall cooperate with the other local government within the limit of Acts and subordinate statutes. Also it is stipulated in the Local Autonomy Act that local governments can organize an Administrative Consultative Council, establish a local governments association, or entrust other local governments to deal with a part of the local affairs.

1. Administrative Consultative Council

A local government may form an Administrative Consultative Council in order to handle jointly part of the affairs related to two or more local governments. In this case, the chief executive of the local government shall report it to MOGAHA and the chief executive of the central administrative agency concerned if the city/province is a member, and to the chief executive of the upper-level local government if the city/county/autonomous district is a member.

If a local government wishes to form an Administrative

Consultative Council, it shall notify it publicly after establishing the rules in consultation with the local government concerned, and through a resolution of the local council concerned. Also the Minister of Government Administration and Home Affairs or the chief executive of the upper-level local government may recommend that the relevant local government form the Administrative Consultative Council if it is necessary for public welfare. Finally, if the chief executive of the local government concerned requests mediation of matters that have not been agreed upon by the Administrative Consultative Council, such matters may be mediated by MOGAHA if they are to be consulted between city or providence, or by the chief executive of the upper-level local government if such matters are for consultation among city/county/autonomous district: Provided that if the city/county/autonomous district concerned extends over two or more city/province, MOGAHA may mediate such matters. The local government concerned, which has organized the Administrative Consultative Council, shall handle its affairs according to the matters decided by the administrative Consultative Council.

2. Local Governments Association

Local governments may establish a local governments association to handle the problems they share or to provide all or part of certain public services. Namely, the Local Autonomy Act stipulates that if it is necessary to handle jointly one or more affairs, two or more local governments may establish a local governments association, after establishing rules and obtaining the approval of MOGAHA in the case of the city/province through a resolution of the local council concerned, or

the approval of the chief executive of the upper-level local government in the case of the city/county/autonomous district. Provided that if the city/county/autonomous district that is a member of the local governments association extends over two or more city/province, the approval of MOGAHA shall be obtained.

The local governments association shall be a juristic person, and shall have a board committee, a president and clerical personnel. Its board committee shall deliberate and decide important affairs of the local governments association under the conditions as prescribed by the rules of the local governments association.

A local governments association in which the city/province is a member shall be directed and supervised by MOGAHA, and an association, in which the city/county/autonomous district are members, shall be directed and supervised primarily by the chief executive of the upper-level local government, and secondly by MOGAHA. Provided that if the city/county/autonomous district which is a member of the association, extends over two or more city/province, the association shall be directed and supervised by MOGAHA.

If it is necessary for the welfare of the public, MOGAHA may order the establishment or dissolution of the local governments association or modification of its rules.

3. Contracting-Out and Intergovernmental Agreements

In addition to the legislation permitting cooperative arrangements, individual local governments can take the lead in initiating various types of cooperative undertakings through contracts and agreements between local governments.

Namely, the Local Autonomy Act states that a local

government or its chief executive may entrust part of the affairs under its competence to any other local government or its chief executive to manage such part of its affairs. In this case, the chief executive of the local government shall make a report thereon to MOGAHA a relevant central administrative agency if a party entrusted with such affairs is the city/province or the chief executive; and to the chief executive of the upper-level local government if a party entrusted with such affairs is the city/county/autonomous district or its chief executive. If a local government or the chief executive wishes to entrust affairs, the local government or its chief executive shall establish the rules and notify such rules publicly in consultation with the local government concerned.

For example, one governmental unit may contract with another to perform specific services. For another example, two or more governmental units may jointly purchase equipment or operate some facility under contractual arrangements.

C. Dispute Mediation Among Local Governments

Finally provisions about dispute mediation among local governments is also included in the Local Autonomy Act. If a controversy (or dispute) arises due to different views on disposition of affairs among local governments or the chief executives of the local governments, the Minister of Government Administration and Home Affairs or the chief executive of the upper-level local government may, upon request of the parties concerned, mediate the dispute. Provided that in a case where the dispute notably impedes public interest and rapid mediation is deemed necessary, the dispute may be mediated *ex officio*

even if there exists no application from the parties concerned.

In order to deliberate and resolve matters necessary for the mediation of any dispute, a Central Dispute Mediation Committee shall be established under the jurisdiction of MOGAHA, and a Local Dispute Mediation Committee under that of the chief executive of the upper-level local government.

The Central Dispute Mediation Committee shall deliberate or resolve the disputes falling under the following sub-paragraphs: disputes among city/province or their chief executives; disputes among city/county/autonomous district which belong to different communities and provinces or their chief executives; disputes between a city/province and a city/county/autonomous district or among their chief executives; disputes between a city/province and a local governments association or their chief executives; disputes between a city/county/autonomous district which belongs to a different city/province and a local governments association or among their chief executives; and disputes among local governments associations which belong to different city/province or their chief executives. The Local Dispute Mediation Committee shall deliberate or resolve the disputes among the local governments, local governments associations or their chief executives not falling under the Central Dispute Mediation Committee.

The chairman of the dispute mediation committee may, in a case where he deems it necessary in connection with the mediation of disputes, hear the opinion of those officials or specialists concerned, or request for the presentation of data or opinion to the agencies concerned.

Chapter 9

Educational Administration of Local Government

With the promulgation of the local authority law in 1991, educational autonomy at the local level was promoted and new modes of operation were implemented. Accordingly, educational administration became decentralized and the Ministry of Education and Human Resources delegated much of the budget planning process and major administrative decisions to the local government.

In response to heightening concern for the diverse needs of local education and the skills required, educational offices, distinct from the general administration, have been established in seven metropolitan cities and nine provinces, as well as subordinate educational offices in cities, counties and equivalent administrative areas.

I. Superintendent of Education

A superintendent represents the educational offices responsible for the administration of education, art, and science. Elected by the School Steering Committee (SSC) at the elementary, middle, and high school levels, the superintendent serves four years. The qualifications for a superintendent are provided by law: the prospective superintendent should have at least five years of experience in the education profession.

The superintendent has the status of an executive organ to

execute administrative affairs related to education, arts, and science in the local government. Therefore, he or she has a diversity of powers which include: initiating bylaw bills, preparing and proposing budgets, requesting the reconsideration of the local council's decisions, instituting lawsuits against the local council, etc.

If necessary, the superintendent of education can establish affiliated educational institutions according to a Presidential Decree or bylaw. To allot some portion of administrative affairs related to education, arts, and science in the upper-level local government, a number of educational agencies are established in lower-level local governments.

II. Vice-superintendent and Assisting Organizations

The vice-superintendent is positioned under the superintendent and is recommended by the superintendent of metropolitan cities or provinces, and appointed by the President with request of the Minister of Education and Human Resources.

The vice-superintendent works in assistance to the superintendent and represents him in case he cannot function. On the other hand, the superintendent keeps subsidiary organizations and decides how they will operate according to the regulations of the city or province within the limit of the Presidential Decree.

III. The Subordinate Educational Office

An educational office is set up to be in charge of one or two cities, counties or autonomous districts in order to control its

affairs in relation to education and arts of metropolitan cities or provinces. The educational office keeps the regional educational superintendent and it controls and supervises operation and management of kindergartens, primary schools, middle schools, high schools and such miscellaneous schools as civil schools or civil high schools in relation to education and arts of the city or province.

IV. The Board of Education

The board of education reviews and determines important matters related to education, art, and science independent of the local governing bodies. Members of the board are elected by a selection committee composed of members from the school council at the elementary, middle, and high school levels in each election district: two to four selection committee members are elected from each district and the total number on the selection committee is 146.

Each board of education for metropolitan cities and provinces consists of 7 to 15 persons. The board member serves four years and should have at least at least ten years of experience in the education profession.

As of 2002, there are 16 educational offices in metropolitan cities and provinces. At the city and county level, there are 180 subordinate educational offices.

The educational committee deliberates and decides the following matters concerning education, arts, and science in local government:

- a. Proposing bylaw bills and budgets to the upper-level local council
- b. Imposing and collecting various fees and charges
- c. Establishing and managing basic properties or reserve funds
- d. Acquiring and disposing important properties
- e. Establishing and managing public facilities
- f. Bearing liabilities unprovided for in the budget or abandoning the obligatory rights
- g. Accepting and processing petitions
- h. Performing matters under the authority of an educational committee according to laws or bylaws

Chapter 10

Local Development

I. Field of Local Development

Local development can be seen as including all kinds of activities to improve the quality of life and environmental conditions of a certain locality to a higher level. Central and local governments can directly undertake local development-related activities ranging from planning to execution. In some instances, they support and subsidize the private sector in formulating and executing development plans.

Fields of local development would be determined depending on the way in which the objects of local development are restricted. An understanding of the objects of local development in a broader sense may include, within its objects, public and private activities leading to development in the fields of local economy, community, culture, education, environment, etc. In this case, fields of local development administration can be divided into four major categories exemplified by public works administration, industrial and economic administration, social welfare administration and culture and physical education administration. However, such categorization seems to be broad in scope and sometimes, immeasurable so that it can introduce functional confusion and overlap among the categories. Once we narrow-down the objects of local development to those of a physical and visible nature by deleting “static and invisible” constitutions from the four categories, fields of local development can be restricted to two major categories, including public works as well as industrial and economic development.

〈Figure 10-1〉 Fields and Functions of Local Development Administration

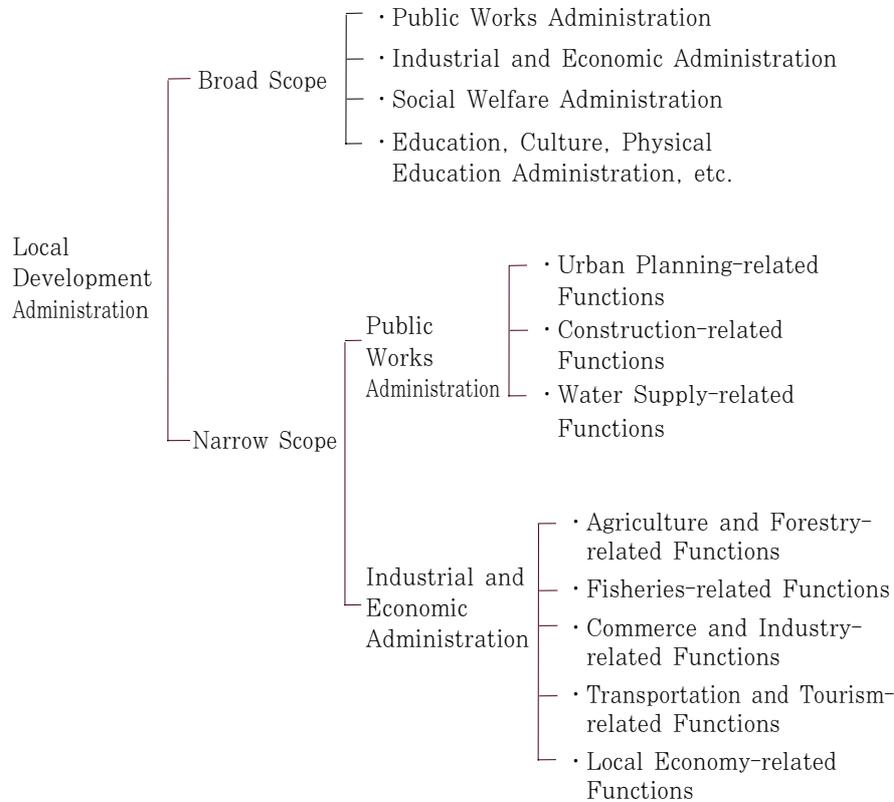


Figure 10-1 gives a list of detailed functions specific to each category when public works become major components of local development. The former category, a part of local development administration, is composed of functions dealing with urban planning, construction and water supply. Functions related to agriculture and forestry, fisheries, commerce and industry, sightseeing and transportation and the local economy are encompassed in the latter category.

II. Organization of Local Development Administration

A. Organization Structure on the Central Government Level

Central ministries in charge of administrative functions related to public works as well as industry and economy are probable to be the Ministry of Finance and Economy (MOFE), the Ministry of Construction and Transportation (MOCT), the Ministry of Government Administration and Home Affairs (MOGAHA), the Ministry of Agriculture and Forestry (MAF) and the Ministry of Commerce, Industry and Energy (MOCIE). It is very difficult to guarantee effective planning and execution of local development projects at the central government level because functions related to them tend to be distributed over various central ministries. For example, the MOCT assumes the responsibility for drafting physical plans for comprehensive national development and area-wide development, whereas MOGAHA sets up plans for developing underdeveloped regions. It is MOFE that decides as to whether or not budget subsidies will be given to a variety of development plans formulated by such ministries. Likewise, the local governments may receive instruction, control and supervision simultaneously from several central ministries.

The central government establishes the field office of central government as another administration organ on the local level, with a view to undertaking national affairs disposed of by the central government in the provinces--those affairs unable to be entrusted to the local governments. At the present time, the Local Construction and Management Office under the control of the MOCT may be typical of local development-related field

offices established by the central government on a local level.

A field office of the central government would be an indispensable organ in order to assure specialized execution of administration affairs. However, it often introduces overlap and confusion in local administration because there are frequently existing cases in which the affairs dispensed of by the sections concerned duplicate those handled by the executive organs of the local governments.

B. Organization Structure on the Local Level

The executive organs dealing with local development-related functions in a metropolitan city government are the Urban Planning Bureau, the Construction Bureau, the Housing Bureau, the Transportation and Tourism Bureau, etc. Especially in several metropolitan cities such as Seoul, Busan and Daegu, the Urban Development Corporations of local government's public enterprises have been established in order to handle public development-related affairs such as housing construction. In the case of the provincial government, the Agriculture and Forestry Bureau, the Local Economy Bureau, the Construction Bureau, Urban Management Bureau, etc. are representative of executive organs undertaking local development-related affairs.

The organization structure of local development administration on the city government level is diverse, varying with its population size. Generally, three major categories would become remarkable: one is typified with establishing a 'bureau system' consisting of two to four bureaus among the Local Economy Bureau, Urban Planning Bureau, Construction Bureau and Water Supply and Sewage Bureau; the other takes the form of a

'development manager system' whereas another category chooses to establish a 'section system' including Industry Section, Construction Section, Urban Management Section, Water Supply Section, Landscape Section, Local Economy Section, etc. Although a couple of categories can be identified on the county government level as observed in the case of the city government, one category in which Industry Section, Construction Section, Urban Management Section, Rural Development Section, etc. dispose of local development-related affairs would be distinct.