

Devolution of Central Government's Functions to Sub-National Units in South Korea: Progresses and Prospects

Ik-Sik Kim (Kyonggi University)

<Contents>

- I. Introduction
- II. Revival of Local Autonomy: A Brief History
- III. Assignment of Governmental Functions Between Levels of Government:
Legal Provision and Current Status
- IV. Kim Dae-Jung Government's Devolution Efforts: Evaluative Analysis
- V. Conclusion: Prospects for the Future

I. Introduction

Historically Korea has kept an extremely centralized system of governance. The central government monopolized politico-administrative power and subordinated all local governments so that both diversity and autonomy of local communities became weakened and the whole country uniformed literally. High degree of centralization in Korea's governing system has further strengthened during the rapid economic development period from the 1960s through the 1980s.

Throughout the 1980s, however, Korean began to demand autonomy to the localities as a way of democratizing the country. What they wanted was to introduce a so-called 'grass-roots democracy' by reviving the system of local self-government which was ended abruptly by the military coup in 1961. After a long tug-of-war among political elites, the local council election was held again in 1991 and the chief executives of local government began to be elected by direct vote since 1995.

The current Kim Dae-Jung government vowed to increase the level of decentralization when it started at the end of 1997. Among other efforts to prove its commitment for a full-fledged system of local autonomy, it enacted a special law to accelerate the decentralization in 1999. And as required by the law, the Presidential Committee of Promoting Devolution (a.k.a. PCPD) was established so that lots of administrative functions delivered by central government could be devolved to local authorities.

This paper reviews the progresses of Kim Dae-Jung government's

decentralization efforts with a special focus on the PCPD activities since its establishment in late 1999. It analyzes critically the actual performance of PCPD in terms of the changes in assignment of functions between different levels of government and draws an implication for its future prospects.

II. Revival of Local Autonomy: A Brief History

In South Korea, the system of local autonomy in the modern sense was introduced right after the establishment of the Republic in 1948 and its evolution has undergone many ups and downs over the years (Moon, 1999: 29-33).

During the period of the 1st Republic (1948-60), the Local Autonomy Act was enacted in 1949 and local councilors were elected by direct vote. Indirect election of the chief executives of lower-tier local authorities was replaced by direct election through the Second Amendment in 1956. In 1958, the Fourth Amendment substituted the direct election of local chiefs with an appointment system.

The 2nd Republic (1960-61) passed the Fifth Amendment in 1960 so that both local chiefs and councilors were directly elected to realize the full-fledged local autonomy. However, the military coup in 1961 suspended it abruptly. The Act was replaced with the Provisional Measures for Local Autonomy by which all local councils were dissolved and local chiefs were fired. During the period of the 3rd through 5th Republic (1961-87), the system of local autonomy had been completely abolished and executed vicariously by the Ministry of Home Affairs.

In 1988, the 6th Republic made sweeping revisions of the still existing Act to revive the local autonomy. Subsequently, the Ninth Amendment stipulated that direct election of both local councilors and chiefs would be held in time. At last, direct election of local councilors was held in 1991. Later, all local chiefs were also elected by direct vote in 1995.

III. Assignment of Governmental Functions Between Levels of Government: Legal Provision and Current Status

1. Legal Provision for Functional Assignment

The Local Autonomy Act stipulates that both regional and local governments should not perform the functions for which only the central government has responsibility. The functions classified as 'national affairs' include: first, those that are necessary for the existence of the state (diplomacy, defense, judicature, tax administration, etc.); second, those that demands nationally-uniformed conduct (price-, finance-, export-policy, etc.); third, those that are performed on 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 forest, national physical development planning, large ports,

highways, national park, 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.): seventh, those that are beyond the capacity of local government (sophisticated test and experimentation, research and development, aviation management, weather service, nuclear development, etc.).

The functions that are assigned to regional and local governments in common are exemplified in the Act. They are classified as 'local affairs' which include: first, those related with jurisdiction, organization and management of local authorities; second, those related with welfare service for residents; third, those related with industrial development including agriculture, forestry and commerce; fourth, those related with physical development, and supply and management of amenities; fifth, those related with education, sports, arts and culture; sixth, those related with civil defense and fire.

The assignment criteria between regional and local governments are also specified in the Act. The functions for which only upper-tier regional governments are responsible include: first, those area-wide affairs whose conduct affect more than two lower-tier local governments; second, those affairs that need to be performed by the same standard on regional basis; third, those affairs that need to be uniformly conducted on regional basis; fourth, those affairs that require communication and coordination between national and local governments; fifth, those affairs that are beyond the capacity of local government; sixth, those affairs related with the public works that require a joint construction and management by more than two local governments.

2. Distribution of Functions: Current Status

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

Recently, two research institutes conducted another comprehensive survey with the same purpose (MOGAHA, 2002). For this time, the total number of functions was found out to be 41,603. Among them, 73%(or 30,240 functions) were performed directly by central government, with 27%(or 11,363 functions) conducted by both regional and local governments. Out of 11,363 functions, 15%(or 6,306 functions) were purely 'local affairs', while 3%(or 1,311 functions) were delegated by central government and 9%(or 3,746 functions) were shared among central, regional and local governments.

IV. Kim Dae-Jung Government's Devolution Efforts: Evaluative Analysis

1. Operational System of Devolution

In 1999, a special law was enacted not only to accelerate the speed of devolving central governmental functions to local authorities, but also to redistribute them between regional and local governments. According to the law, a special committee that has a decision-making authority for devolution was established directly under the president.

The PCPD consists of two chambers: main commission and secondary commission. The former makes the final decision on whether a certain function should be devolved or not, while the latter makes the initial decision before reaching the main commission. At the secondary commission, three acting committees separately deal with the agenda for each of three functional areas.

The procedures for devolving governmental functions at the PCPD take three steps: the first step is conducted by one of three acting committees in which eight committee members review a certain function to decide whether it should be devolved or not; at the second step, the secondary commission gives a second thought to the decisions that were made by the acting committees; at the end, the main commission makes a final decision on whether a function should be either devolved to local units, or redistributed between regional and local governments.

The PCPD formulates the Basic Devolution Plan every two years and reports it to the president after the cabinet meeting. Once the president approves the Plan, the PCPD sets up the Implementation Guideline by November 30 each year and notifies it to both the ministers of central departments and chief executives of regional and local governments. The details stated in the Guideline include the basic direction for devolution and redistribution of functions, subjects of priority being investigated, ways and means of investigating the agenda for the PCPD, and so on.

The resolution at the PCPD is passed by the majority vote. The representatives from the interested parties including both central and local governments may participate and state their case at every meeting. If the heads of either central or local governments raise an objection to the resolution, they can request for its re-examination within the 30 days period.

Once notified by the PCPD, the ministers of each central department should present their implementation plan for each function within 30 days and take necessary measures to revise relevant laws and regulations. If they don't obey the follow-up procedures within the fixed time-period, the PCPD may request for the Prime Minister to correct it.

2. Performance of the PCPD

As of the end of 2001, the total number of "unit of administrative affairs"

that have been either devolved or redistributed by the PCPD was 493, which was equivalent to 100 governmental functions once they were bundled according to their nature (PCPD, 2002: 119-144).

<Number of Devolved or Redistributed Functions by Ministries and Types>

Ministries	Devolved Functions			Redistributed Functions		
	Shared Functions			Centralized Functions		
	Total					
	CG→RG	CG→LG	RG→LG or LG→RG	CG +RG +LG	RG	
+LG	RG/LG→CG					
Gov't Admin. & Home Affairs	3		2	1	1	
	7					
Education & Human Resources	3					
	3					
Justice				1	1	
Finance & Economy	1					1
Culture & Tourism	4	1	4	1	10	
Environment	8	7				15
Industry & Natural Resources	8		4		1	
	13					
Construction & Transportation	10		6	1		
	17					
Health & Social Welfare	1	1	8	1		
	11					
Agriculture & Forestry	2	1	7	2		12
Maritime & Fishery	1	1	3			5
Fair Transaction Commission				1		
	1					
Forestry Agency			2	1	3	
Cultural Assets Agency	1					
	1					
Total	42	4	44	5	4	1
	100					
	46	44	9	1		

<Legend> CG(Central Government); RG(Regional Government);
LG(Local Government)

Out of 100 governmental functions, 46 (or 46%) functions were devolved from central government either to regional or local governments, while 44 (or 44%) functions were redistributed between regional and 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 was exceptionally centralized to the Ministry of Justice.

Among the 46 devolved functions, 42 were devolved from central to regional government, while the remaining 4 from central to local governments. And among the 9 functions shared, 5 were shared between central, regional, and local governments, while the remaining 4 between regional and 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 regional and 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 lists of functions that were devolved from central government either to regional or local governments are as follows.

(1) Functions Devolved from Central to Regional Governments

<Ministry of Government Administration and Home Affairs>

- Local Government-Owned Vehicles Management
- Approval of Revising the Regulation of Fire Fighter Training School
- Approval of Establishment and Abolition of Firehouse Branch

<Ministry of Education and Human Resources>

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

<Ministry of Finance and Economy>

- Authorization for Establishing Consumers' Co-Operative

<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

<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

<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

<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 Manager's Certificate
- Registration of Surveying Business
- Registration of Construction Supervision Company

<Ministry of Health and Social Welfare>

- Restriction of Restaurant Business

<Ministry of Agriculture and Forestry>

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

<Ministry of Maritime and Fishery>

- Authorization for Land Reclamation of High Sea

<Cultural Assets Agency>

- Registration of Cultural Assets Repair Specialists

(2) Functions Devolved from Central to Local Governments

<Ministry of Culture and Tourism>

- Restriction and Stop Order for Movie Theater Business

<Ministry of Health and Social Welfare>

- Designation of Model Food Processing Business

<Ministry of Agriculture and Forestry>

- Liquidation Request for Agricultural Co-Operative

<Ministry of Maritime and Fishery>

- Authorization for Fishing Port Facilities Usage

3. Evaluation of the PCPD Activities

Until now, the PCPD has actively performed its role of devolution for more than two years and achieved some significant results. Considering both the relatively short period of time and a lot of resistance from the central government, its level of performance, at least in shape, seems to be more than originally expected.

In spite of the formal appearance, however, its actual outcome shows that there is still a long way to go before arriving at the desirable level of decentralization. As surveyed by two research institutes, 73% of total governmental functions are assigned directly to central government and its number amounts to 30,240 in terms of the unit of administrative affairs. If both delegated and shared functions are added to them, the total number of unit affairs for which sub-national governments have little autonomy mounts up to 35,297 (or 85% of the total government functions).

As of late 2001, however, the number of unit affairs that have been decided by the PCPD to be either devolved or redistributed reached only to 493, which are equivalent to merely 1% of the total centralized unit affairs. It means that despite of more than two years of hardships and endeavors by a large number of PCPD members, it could have changed merely the token level of centralization in functional assignment.

What is more important is the nature of functional decentralization that has been conducted by the PCPD. In order to make a rational functional assignment policy, two issues should be considered necessarily: assignment criteria and nature of a function itself (ACIR, 1974II: 15). First of all, it is critical to formulate criteria by which governmental functions can be assigned

rationally. And it is also necessary to analyze a function itself and determine what aspects of it should be assigned to different levels of government.

How have these factors been handled by the PCPD?

(1) Formulation of Assignment Criteria

Assignment criteria are important both for classifying functions and for selecting government candidates who deliver them. The principles of devolution currently specified in the special law, however, reveal the problems of both ambiguities and inconsistency. In practice, they are of no use in making a functional assignment since they are not actually principles but a kind of political declarations. Besides, some conflicts between them occur frequently making a functional assignment decision even more difficult.

Moreover, the law requires that a functional assignment either between national and sub-national governments, or between regional and local governments follow the criteria stipulated in the Local Autonomy Act. But the matter of trouble is that they are too ambiguous to be employed in practice. Particularly, the criteria for national functions are so either overlapped or broad that they can be interpreted arbitrarily by the central government. In case of local functions, those suggested in the Act are actually not criteria, but an exemplification of possible candidates for local governments.

In order to solve these problems and set up rationally both principles and criteria for functional assignment, we need to learn from the lessons of advanced country. One study identifies seven criteria under two main principles for the assignment of urban functions (ACIR, 1963: 41-61). Another study later specifies a more detailed set of criteria on which functional assignment should be based. Identifying four basic criteria (or principles) such as economic efficiency, fiscal equity, political accountability and administrative effectiveness, it suggests many criteria for functional assignment that need to be considered (ACIR, 1974I: 8-14):

First, three criteria such as economy of scale, public sector competition, and public pricing should be satisfied to meet the economic efficiency principle. Second, two criteria such as economic externalities and fiscal equalization should be satisfied to meet the fiscal equity principle. Third, two criteria such as access/control and citizen participation should be satisfied to meet the political accountability principle. Finally, five criteria such as legal adequacy, general-purpose government, geographic adequacy, management capability, and intergovernmental flexibility should be satisfied to meet the administrative effectiveness principle.

As suggested by the ACIR, the rational allocation of functions among different levels of government should be approached comprehensively with the concrete values (or goals) to be achieved. In other words, it should be dealt with political, economic, fiscal, and administrative perspective by setting up the goals of accountability, efficiency, equity, and effectiveness. Being among the above four principles and twelve criteria for functional assignment recommended by the ACIR, therefore, it needs to adopt some of

them by revising both the Promotion Law and the Local Autonomy Act. Besides, an effort needs to be made to develop specific indicators for each criteria so that they can be employed by the PCPD.

(2) Analysis of the Nature of Function Itself

Functional assignment policy not only involves functions but also sub-functions and activities that comprise a function as well. These components of a function sometimes need not be assigned exclusively to a single level of government. While some aspects of a function may be provided best at one level, others may be better performed at another level of government. Thus, it is critical to analyze the nature of the function and its discrete components, and then, specify the criteria most important in the performance of the function (ACIR, 1974I: 26). With such analysis, a decision should be made whether to perform each element of the function on a national, regional or local basis.

Examining the nature of functions that have been devolved by the PCPD, most of the functions devolved from central government to regional or local governments are composed of extremely heterogeneous activities such as approval, notification, authorization, supervision, registration, installation, disposal, order, management, licensing, hearing, receipt, and so on. It indicates that no systematic functional analysis has been conducted by the PCPD to identify the components of each function.

For those functions that are actually packages of sub-functions and activities, activities that could be centralized include financing, standard setting, training, planning and coordination. On the other hand, implementation, budgeting, personnel selection, and local supplementation of financing and planning policies may still be performed at the local level (ACIR, 1974I: 23). In our case, the central government could perform such activities as supervision and licensing, while those purely implemental activities could be assigned to local governments.

There could also be a group of functions in which national and local interests are either coincided or overlapped. They usually need to be shared by central and local governments. In fact, the PCPD has made many functions to be shared by national, regional and local governments without any guideline. Consequently, confusion and conflicts may occur in conducting them.

The sharing of function among levels of government may be conducted by a variety of ways (Watts: 67): first, a function may be subdivided with different aspects assigned to the central or local governments; second, a function may be made concurrent allowing both governments to operate in the field, at least until central government pre-empts it; third, a function may be assigned to either central or local governments, but with the proviso that the government responsible for the function must obtain the consent or undertake prior consultation with the other level of government before exercising its authority.

V. Conclusion: Prospects for the Future

In terms of the devolution, the Kim Dae-Jung government has made some nominal progresses through both enactment of the special law and establishment of the PCPD. But it is another question to ask whether it has arrived at the expected level of decentralization. This analysis of the PCPD activities comes to a conclusion that despite its commitment it failed to change the functional assignment among levels of government substantially.

As previously stated, out of total 41,603 units of administrative affairs, 85% of them (or 35,297 units) are currently centralized in one way or another. For more than two years, however, the PCPD could have either devolved or redistributed merely 1% (493 units) of them. To make matters worse, even administrative affairs have not been implemented in effect because of the hesitancy and resistance central governments. In order to deal with the problem of delayed implementation by many of central departments, therefore, the Ministry of Government Administration and Home Affairs now plans to enact another special law that deals with the already resolved functions *en bloc*.

The term of Kim Dae-Jung government will end by early next year and the presidential election will be held this year in December. Whatever the result may be, it seems to be quite clear that the drive toward decentralization cannot be stopped under the new government. In the same context, the functional devolution efforts begun by the current government will continue with some ups and downs.

Based upon personal experience as a member of the PCPD, the task of dividing functions especially between the center and periphery is not a technical matter, but a political process. In other words, the distribution of functions among levels of government should be seen, not as an exercise of rationality, but as a dynamic mechanism. It is a kind of power struggle between the vested interests and their challengers. As Hoffmann once put it, the actual division of powers in a country is often a compromise that makes as much sense as a synthesis of water and fire (Hoffmann: 139).

But does that mean that a rational assignment policy is impossible to make? Technically, our task is how to find a way to reconcile area and function. The achievement of a balance between functional centralization and decentralization may be possible by perfecting the machinery for vertical coordination of a single function among levels of governments. For instance, broad policy decisions are made centrally for a vast area, while subordinate policy decisions and application of the policies to individual cases are made at sub-national levels.

As Fesler pointed out, area and function will be reciprocally adjusted not by a single solution but by many, and the adjustment is a continuous and imperfect process, not one to be realized once and for all (Fesler: 152).

References

- Advisory Commission on Intergovernmental Relations. (1963). *Performance of Urban Functions: Local and Area-wide*. Washington, DC: Government Printing Office.
- Advisory Commission on Intergovernmental Relations, *The Challenge of Local Governmental Reorganization*, Sub-State Regionalism and the Federal System, Vol. III. Washington, DC: Government Printing Office, 1974I.
- Advisory Commission on Intergovernmental Relations, *Governmental Functions and Processes: Local and Area-wide*, Sub-State Regionalism and the Federal System, Vol. IV. Washington, DC: Government Printing Office, 1974II.
- Chang-Soo Moon. (ed.). (1999). *Local Government in Korea*. Seoul: Korea Local Authorities Foundation for International Relations.
- James W. Fesler. (1949). *Area and Administration*. Chapel Hill, NC: University of Alabama Press.
- Ministry of Government Administration (MGA). (1994). *Inventory of Central and Local Functions*. Seoul: MGA.
- Ministry of Government Administration and Home Affairs (MOGAHA). (2002). *Report of the Whole Government Functions*. Seoul: MOGAHA.
- Presidential Committee of Promoting Devolution (PCPD). (2002). *Report of the PCPD activities*. Seoul: PCPD.
- Ronald L. Watts. (1970). *Administration in Federal Systems* (London: Hutchinson Educational LTD.
- Stanley Hoffmann. (1959). The Areal Division of Powers in the Writings of French Political Thinkers, in Arthur Maass (ed.), *Area and Power*. Glencoe, ILL: The Free Press.