FLORIDA STATE UNIVERSITY

A SEARCH FOR A RECALL MODEL FOR KOREAN LOCAL GOVERNMENTS:
An Analysis of Options Based on Types of Recall in the U.S.

AN ACTION REPORT SUBMITTED TO
THE FACULTY OF THE COLLEGE OF SOCIAL SCIENCES
IN CANDIDACY FOR THE DEGREE OF
MASTER OF PUBLIC ADMINISTRATION

REUBIN O’ D. ASKEW SCHOOL
OF
PUBLIC ADMINISTRATION AND POLICY

BY
JONG-JIN YOON

TALLAHASSEE, FLORIDA
APRIL 2004
# Table of Contents

Letter of Transmittal

List of Tables

Executive Summary

Chapter

I. Problem Statement 1

II. Background and Literature Review 3

   Background 3
   Literature Review 7

III. Methodology and Evaluative Criteria 12

   Methodology 12
   Evaluation Criteria 13

IV. Policy Options

   Option One. Legal Foundation 14
   Option Two. Officers Subject to Recall 17
   Option Three. Reasons for the Use 21
   Option Four. Recall Petition Requirements 24

V. Conclusions 27

References 30

About the Author
List of Tables

Table

1. Legal foundation                                                                                                  17
2. Officers subject to recall                                                                                      20
3. Reasons for the use                                                                                              23
4. Recall petition requirement                                                                                 26
5. Summary of alternatives and evaluative criteria                                                 27
April 25, 2004

Mr. Hyuk-In Kwon  
Director General  
Local Autonomy Administration Bureau of the Ministry of Government Administration and Home Affairs  
77-6 Sejong-Ro, Jongro-Gu,  
Seoul, Republic of Korea 110-760

Dear Mr. Kwon:

It is my pleasure to submit to you “A Search for a Recall Model for Korean Local Governments: An Analysis of Options Based on Types of Recall in the U. S.” This report is the product of empirical research during the 2003-2004 academic year. As you know, institutionalizing recall for elected local officers is an important political agenda in Korea. The policy options are intended to assist introducing recall reforms in Korea.

I examined alternative solutions to introduce recall in Korea. Legal foundations of the recall, officers subject to recall, reasons and petition requirement were evaluated according to political acceptability, administrative feasibility, and accountability criteria. To do so, I conducted survey with employees of your Ministry, interviewed several officers of provincial governments, and referred to many papers on recall.

My recommendation is that a national act is proper as legal foundation in order to introduce recall. Heads of local governments should be subject to the recall. If elected local officers are guilty of malfeasance, misfeasance, or nonfeasance, these may be reasons for recall. Finally, verified signatures equal to 25 percent of the voters should be required to trigger a recall election. If you have any questions or assistance on this report, please let me know.

Sincerely,

Jong-Jin Yoon
Executive Summary

Since the 1995 local elections, Korea has experienced scandals involving elected local officers associated with corruption, abuse of power, and neglect of duty. The malfunction of the strong mayor and weak council system, limited citizen participation channels, and voting based on the personal relationships to candidates contribute to the corruption of elected local officers. Above all, the Local Autonomy Act does not have provisions to remove elected local officers before the end of their terms in order to ensure accountability.

Beginning several years ago, citizen groups, politicians, and policy-makers have widened the belt of consensus that recall elections should be introduced to protect the public interest and to reflect the opinion of citizens in local government. Also, a recent public survey shows that 85 percent of citizens favor recall for elected local officers. The different types of recalls in U.S. state and local governments are considered as models for the recall in the Korean local governments. Most state and local governments in the U.S. that have institutionalized recall have different variations created by historically different legal systems.

The literature review shows that most Korean articles regarding recall use the policies of foreign countries as the basis for their arguments without giving sufficient evidence of their applicability to Korea. This paper examines alternative solutions to introduce recall in Korean local governments in terms of their legal foundations, which officials should be subject to recall, reasons for use, and petition requirements. Three criteria were used to evaluate the policy options: political acceptability, administrative feasibility, and accountability. A survey of government officers in the Ministry of Government Administration and Home Affairs (MOGAHA) was conducted to use as the source for evaluation. Questionnaires from 51 respondents were received from a total of 55. In addition, telephone and e-mail correspondence
was conducted with a staff member from MOGAHA as well as staff from Kyonggi and Kyongbuk provincial governments. Academic literature and government documents were also analyzed.

Based on analysis of the policy options in consideration of the evaluative criteria, integration of the policy options shows a desirable recall model for Korea, one appropriate to the circumstances of Korean local governments.

There are two options for legal foundations: a national act or local ordinances. The national act is recommended as the legal foundation of the recall. The national act scores high on the administrative feasibility and accountability criteria. There are two options for officers subject to recall: the recall of only heads of local government, and both of heads and councilors. Recall of heads and councilors is recommended. Recall of both heads and councilors scores higher on the political acceptability and accountability criteria.

There are two options for the use of recall: malfeasance, misfeasance, and nonfeasance or any reason is sufficient. Malfeasance, misfeasance, and nonfeasance option is recommended. This alternative scores higher on political acceptability and administrative feasibility criteria. Finally, there are three options for recall petition requirements: 15 percent of voters, 25 percent of voters, or 40 percent of voters. The verified signatures equal to 25 percent of the voters are recommended to trigger a recall election. The 25 percent of the voters option scores highest on political acceptability criterion. In conclusion, the adoption of the suggested recall model will widen citizens' participation in the local governments. As a result, it will improve responsiveness of elected local officers to citizens.
I. Problem Statement

In Korea, local governments are governed by “Heads” and “Councilors.” Since 1995, both positions have been elected directly by the local residents in accordance with the revised Local Autonomy Act of 1994. Korea grafted local autonomy into the political process because the people believed that local autonomy is the foundation of democracy (Moon, 1999). Although local autonomy has achieved positive effects, such as creating more compassionate local officers and improving the welfare system over the short term, it has revealed lots of systemic problems. Local autonomy has brought about corruption of elected local officers, along with economic unbalance within regions, and conflicts between local governments (Ministry of Government Administration and Home Affairs, 2002).

Korea has experienced scandals involving elected local officers associated with corruption, abuse of power, and neglect of duty (Kim, 2001). Presently, many people realize that elected local officers do not always guarantee good local government. However, the current local autonomy system does not provide an effective method to ensure accountability of elected local officers (K. W. Lee, 2001). People have the common perception that the malfunctions of representative democracy should be quickly addressed in order to make the elected local officer more responsive to their voters. But voters can not reflect their opinions effectively in local government after elections (K. W. Lee, 2001). As some elected local officers have tried to pursue their personal interests instead of the public good, the public gradually became interested in removal of elected local officers (K. W. Lee, 2003). A recent public survey shows that 85 percent of citizens favor recall for elected local officers (Maeil Business, 2003). Institutionalizing recall became an important political agenda in Korea.
The different types of recalls in U.S. state and local governments are considered as models for the recall in the Korean local governments. Most state and local governments in the U.S. that have institutionalized recall have different variations created by historically different legal systems (Zimmerman, 1997).

Many elements of recall should be researched to institutionalize recall in Korea. The purpose of this Action Report is to examine alternative solutions to introduce recall in Korean local governments. This paper will identify the different types of recalls in the U.S. in terms of their legal foundations, officials subject to recall, specific reasons for use, and petition requirements. By analyzing policy options based on key elements of recall in the U.S. according to evaluative criteria, this report will find a recall model appropriate to the circumstances of Korean local governments.
II. Background and Literature Review

Background

Despite the mass interest in institutionalizing recall for elected local officers in Korea, little research has been done. To find a model appropriate for the circumstances of Korean local governments, it is necessary to understand current local autonomy in Korea. In particular, it is important to identify that some characteristics of the local autonomy system can lead to corruption of elected local officers. The background section begins with an explanation of local autonomy in Korea with regard to the causes of the corruption of elected local officers. It also describes the development of the recall in the U.S. in order to supply the necessary background information.

Current Local Autonomy in Korea. Today, local autonomy in Korea is guaranteed by the Constitution (117, Constitution). The fundamental law that regulates it is the Local Autonomy Act (LAA) of 1994. LAA prescribes matters concerning types, organization, and operation of local governments, and the relations between the national and local governments (118, Constitution). The Korean system differs here from the U.S. home rule system under which each local government is regulated by a set of different rules (Moon, 1999).

The LAA has adopted a two-tier local government system (2, LAA). There are 16 upper-level local governments (seven metropolitan and nine provincial governments) under the national government. There are also 232 lower-level local governments: 91 counties (rural local bodies, called Kun), 72 cities and 69 urban districts. Heads of local governments and members of local councils are elected by residents’ direct votes (26-2, 86, LAA). The terms of Head and Councilor of the local governments are four years, and they are eligible to hold office for three terms (31, 87, LAA).
All the local governments have a governing structure consisting of a strong chief executive and weak council system. The chief executive has the authority to generally control the administrative affairs including policy formation and implementation, personnel and financial management, organizational reengineering, and so forth (92, 96, LAA). Local councils have the authority to enact ordinances, to investigate local administration, and to review and decide budget proposals (35, 36, LAA). Local councils do not have enough authority to check the strong power of heads of local governments (Ministry of Government Administration and Home Affairs, 2003).

Citizens can participate in local administration through institutional mechanisms such as resident request for audit and investigation, participation in committee, and a petition to the local council (UN ESCAP, 2003). The LAA stipulates that elected local officers must leave from their offices: when they become ineligible to be elected because of serious violations of election laws, imprisonment, et cetera; when they hold a position which is prohibited by the LAA to be held simultaneously with their offices; and when local governments are abolished or consolidated (70, 90-2, LAA). However, the LAA does not have provisions to remove elected local officers such as recall and impeachment. An elected local officer, who is indicted without physical detention, keeps his or her position, and continues his or her duties until convicted.

For elections to serve as policy mandates, and for voters to exercise influence over public policy through elections, four conditions would be necessary: competing candidates would offer clear policy alternatives; voters would be concerned with policy questions; election results would clarify majority preferences on these questions; elected officials would be bound by the positions they assume during their campaign (Dye and Zeigler, 1990). Local elections do not fulfill the above requirements well because some voters cast their ballots based on whether they have the
same backgrounds in terms of regionalism, school relations, and kinship (Jeong, 2001). They are not much concerned with candidates’ policies

Therefore, the malfunction of the strong mayor and weak council system, limited citizens’ participation channels, lack of removal methods of elected local officers, and voting based on the personal relationship to candidates contribute to the corruption of elected local officers.

As the Korean government did not officially publicize the data of elected local officers in relation to corruption, it is difficult to get accurate information on elected local officers that have been convicted. But Joongang Daily (2002), one of major newspapers in Korea, showed that many heads of local government became the target of judicial settlement because of corruption or abuse of power. It revealed that from July 1998 through May 2002, of 16 heads of upper-level local governments, 5 heads (31% of total) were sentenced to be guilty, and of 232 heads of lower-level local governments, 49 heads (21% of total) suffered criminal punishments. The main reason for their convictions was receiving bribes.

As corruption of elected local officers did not decline after the 1995 local election, elected local officers began to lose credibility in the eyes of the citizens. Beginning several years ago, reformers insisted that citizens need recall, which has had a long history of use in the U.S. and in the Japan (Citizens’ Coalition for Economic Justice, 2003). Most recently citizen groups, politicians, and policy-makers within the government have widened the belt of consensus that recall election should be introduced to protect the public interest and to reflect the opinion of citizens in the management of local government. In March, 2003, the Minister of the Ministry of Government Administration and Home Affairs (MOGAHA), which takes charge of local autonomy, briefed the research plan to institutionalize recall in the local governments at his annual meeting with the President (Chosun Daily, 2003). MOGAHA is now collecting citizens’
opinions on the recall through its internet homepage. To conclude, some characteristics of the current local autonomy system have caused corruption of elected local officers, and stakeholders are seriously considering recall elections as a viable option.

**Recall in the U.S.** The recall is designed to correct public officers’ errors of commission and omission by removing them from office prior to the expiration of their terms of office (Zimmerman, 1997). The recall is based on the assumption that the official’s interests can be conjoined with that of the people by making his tenure dependent upon his constantly meriting the office (Munro, 1920). The recall differs from impeachment in that the people, not the legislature, initiate the election and determine the outcome with their votes (Cronin, 1989). Procedures typically require that the petition be signed by 25 percent of those who voted in the last election, after which a special election is almost always required (Cronin, 1989).

In the early twentieth century, most states institutionalized the recall process. The charter amendments of the city of Los Angeles authorizing the initiative, referendum, and recall were approved in 1903 and it became the first charter to introduce the recall (Zimmerman, 1997). The first state to authorize the recall of elected state officials was Oregon, which adopted a recall constitutional amendment in 1908 (Beard & Shulz, 1912). Voters in sixteen states can recall elected state officers, and thirty six states permit the recall of various local officers (Cronin, 1989). Today the recall is not an issue in the U.S. Most people recognize the recall process as one of the methods of participatory democracy.

In the U.S., recall attempts at the state level usually have been unsuccessful; only two governors have ever been recalled. The recall of Governor Lynn J. Frazier took place in North Dakota in 1921 (National Conference of State Legislatures, 2003). California voters have initiated 32 gubernatorial recall attempts since 1911, but the recall of Governor Gray Davis in
2003 was the only successful one. Recall efforts against state legislators are more common, but still unusual. In California, where 107 recall efforts were initiated from 1911 to 1994, only four qualified for the ballot. The recall is used much more often at the local level of government than at the state level. In a 2001 survey, the International City/County Management Association (Wolpin, 2003) found that 60.9 percent of cities have recall provisions. Between 1996 and 2001, recall initiatives were filed against mayors in 4.1 percent of cities and recall elections of council members occurred in 5.3 percent of cities. In those cases, the mayor was recalled in 17.6 percent of the elections and 29.2 percent of the council members were removed.

In summary, some characteristics of Korea’s current local autonomy (which cause the corruption of elected local officers) make recall necessary. Recalls in most U.S. states (which are considered as models for the recall in the Korean local government) were institutionalized in the early twentieth century. Today, most people accept the recall as one of the methods of direct democracy.

**Literature Review**

The limited literature on this topic addresses four key elements: (1) legal foundations of the recall, (2) officers subject to recall, (3) recall reasons, and (4) recall petition.

First, is the legal foundation of the recall. In the U.S., the legal bases differ from state to state reflecting the different legal histories of each state. Sixteen states including California,
Oregon, and Georgia have provisions in their constitutions or statutes regarding the removal of state officers (Zimmerman, 1997). The states with the constitutional recall provision authorize, by statute, all or certain local governments to employ the recall. In addition, 20 states authorize the recall of local officers by law or charter.

In Korea, most researchers advocate the benefits of the recall being authorized by a national act, which is the Korean version of a statute (Choi, 2002; Yoon 2001; Y.K. Kim 2002; B. J. Kim 2001). The reason is that revising the Constitution would include a national referendum -- a rare event. There also is the possibility that local governments will not institutionalize recall through local ordinances because they are governed by the very same elected local officers that may be the recall targets. Yoon (2001) emphasizes the collection of citizens’ opinions through public hearings before passing the national act.

Lee (2001) believes that it is difficult to form a consensus on the types of recalls to implement through a national act. The disparities arise between members of the National Assembly, heads and councilors of the local governments, political parties, and policymakers within the administrative branch. He also states that each local government has its own special conditions and the national government needs to respect each local government’s diversity by giving them discretion in adopting the recall. Thus, he recommends local ordinances, which are created by the councilors of local governments, as legal foundation of the recall.

Second, the literature debates which officers should be subject to recall. In the U.S., constitutional, statutory, and local charter provisions typically place restrictions on the exercise of the recall. Sixteen state provisions apply recall to all elected officers, all elected officers except judges, or all elected and some appointed officers (Cronin, 1989). Thirty six states permit the recall of all or most local elected officers.
In Korea, most scholars desire that both heads and councilors of local government should be the targets of recall because no legal mechanism exists for addressing the wrongs of elected local officers during their terms (Lee, 2002; Yoon, 2001; B. J. Kim, 2001; Ha, 2001). Korea does not need the recall for appointed officers and civil servants since there are already laws in place that check the power of civil servants.

Choi (2002) insists that only the heads of local government should be subject to recall. The reason is that under the structure of a strong chief executive and weak council system, a chief executive has absolute power in running local governments, and the ethics of a chief executive are the biggest problem. Also recalling councilors is not effective because they can not participate in administrative affairs, including policy implementation. To recall councilors would make their positions much weaker than they already are.

Third, the articles review whether the charges for recall should be specific and definite. In the U.S., constitutional and statutory provisions and courts differ as to whether an officer subject to recall should be charged with cause. If viewed as a political process, there is no requirement that an officer subject to the recall be charged with cause. In contrast, impeachment is a judicial process with judicial guarantees. The California constitution (art. 2, §14.a) provides that sufficiency of reason is not reviewable. It makes clear that the process involves a political question rather than a judicial question. The Colorado constitution (art. 21, §1) stipulates that the registered electors shall be the sole and exclusive judges of the legality, reasonableness, and sufficiency of such grounds and they are not open to review. Contrarily, specific grounds for recall are required in seven states: Alaska, Georgia, Kansa, Minnesota, Montana, Rhode Island, and Washington (National Conference of State Legislatures, 2003). For example, grounds for the
recall in Kansas are conviction of a felony, misconduct in office, or failure to perform duties prescribed by law (§ 25.4302, statutes).

In Korea, most scholars do not discuss this issue in detail (Lee, 2002; Y. K. Kim, 2002; Yoon, 2001; Choi, 2002; Ha, 2001; B. J. Kim, 2001). However, they recognize that grounds for the recall should be limited because they worry about inadequate reasons for recall. They believe that the unlimited grounds could cause frivolous recall petitions, make the local administration unstable, and discourage elected local officers.

The last key element of the recall, the petition requirements, was reviewed by numerous sources. In the U.S., petition requirements of state officers range from 12% to 40% of voters in varying jurisdictions with 25% the most common (Cronin, 1989). Kansas has the highest statewide signature requirement, that is, 40 percent of the votes cast for the officer subject to recall at the last general election (§25.4325, statutes). California signature requirements are the lowest, 20 percent for members of the boards of equalization, judges, and state legislators and only 12 percent of the votes cast for the other state officers in the last general election (art. 2, §14.b, constitution).

In Korea, most researchers state that a low signature threshold encourages overuse of the recall and makes local governments unstable (Lee, 2002; Kim, 2002; Yoon, 2001; Ha, 2001). A high signature requirement discourages employment of the recall, and the recall becomes obsolete. Ha (2001) believes that petition requirements should reflect the average voting population of the district because Korea’s centralized populations are much larger than in other countries. He suggests that the percentage of voters voting for the petition be lower because of this. Lee (2002) states that local governments with large populations need a low signature requirement and local governments with small populations need a high percentage of signatures.
Each scholar has different ideas regarding petition requirements: 5-15% of voters (Lee, 2001); 20% (B.J. Kim, 2001); 10-20% (Yoon, 2001); 15-25% (Choi, 2002); 10% (Ha, 2001); 30% (Y.K. Kim, 2002).

In summary, the literature discusses four major elements of the recall model such as legal foundations of the recall, officers subject to recall, reasons, and recall petition. However, the material does not provide a detailed evaluation as a basis for reforms. This report will build upon the literature by comparing policy options for the recall model against specific criteria, and then recommend the most viable alternative.
III. Methodology and Evaluative Criteria

Methodology

Information for this report will be collected using the following methods:

◆ Analysis of academic literature, newspaper articles, utilizing the following databases:
  ✓ Lexis-Nexis Academic Universe (all available literature to date)
  ✓ Legal Trac (1980- present)
  ✓ Wilson Select Plus (1994- present)
  ✓ Internet search engines

◆ Review of government document, including
  ✓ State constitutions, statutes for recall, and judicial reports all with regard to recall in U.S.
  ✓ National Assembly’s and MOGAHA’s reports in Korea.

◆ Telephone and e-mail correspondence comprised of unstructured, open-ended questions with a staff member from MOGAHA responsible for researching and institutionalizing recall, as well as staff from Kyonggi and Kyongbuk provincial governments.

A survey of government officers in MOGAHA was conducted to provide insight into the policy options. Respondents are in charge of the Local Autonomy Act, the Local Finance Act, the Local Tax Act, and the Local Personnel Act. Most of them have knowledge about local autonomy because they were transferred from local governments. Transfers occur in Korea to provide opportunities for government-wide careers (Civil Service Commission, 2003). A career in the government can mean transferring several times to several different positions. Some of them will participate in institutionalizing a recall model by attending workshop and expressing their opinions on the policy-making process. Therefore, respondents have the expertise and the positions in government to help choose a model appropriate to the local government.

---

Staff from Kyonggi and Kyongbuk provincial governments occupied various important positions in local government and are well acquainted with local administrations under elected local officers.
A questionnaire was developed based on the policy options. Questionnaires were sent to a staff member through email who works at the Planning and Budget Office of MOGAHA. He gave questionnaires to 55 respondents person by person. He collected 51 questionnaires from respondents. He sent them back to the researcher through airmail. The information was analyzed by using the SPSS program and it was used as one of the sources for evaluating the policy options.

**Evaluative Criteria**

Three criteria were used to evaluate the proposed policy options: political acceptability, administrative feasibility, accountability. Each criterion is given a score of 1, 2, or 3 with 1 being negative and 3 being positive. A rating of 1 represents little or no agreement with the listed criterion; a rating of 2 exhibits an average accomplishment of the criterion; a rating of 3 portrays a thorough accomplishment of the criterion.

◆ Political acceptability examines the political support of a policy alternative. It shows preference of political parties, the administrative branch, elected local officers, citizen groups, and scholarly groups, which are influential groups in the process of rule-making. A policy option rates low if it is not well supported by these groups. If a policy alternative is determined to be politically acceptable, policy-makers including law-makers will focus an increased amount of time on the policy alternative. The data sources for public support will be based on surveys, interviews, government document, academic literature, and newspaper articles.

◆ Administrative feasibility gauges the practicality of a policy option for recall given current budget and manpower resources without damaging the stability of the local administration. If a policy option’s scores are low, it can not be effectively administered. The data sources for administrative feasibility will be based on surveys, interviews, government documents, and academic literature.

◆ Accountability refers to the degree to which a policy option for recall will contribute in preventing abuse of power of elected officers. The data sources for accountability will be based on researcher’s knowledge in the subject, surveys, interviews, and academic literature.
IV. Policy Options

Section identifies four policy option areas for key elements of recall. Legal foundations of the recall, officers subject to recall, reasons and recall petitions are evaluated according to the following criteria: political acceptability, administrative feasibility, and accountability. Policy options are based on types of key elements of recall in U.S. The options chosen are only those that are relevant to Korea’s situation.

Option One: Legal foundation: National Act or Local Ordinances

The purpose of this section is to determine the legal foundations of the recall. As local autonomy has a short history in Korea, the scope of the legislative power of local governments frequently becomes an issue. The recall can be authorized by an act stipulated by the National Assembly (the Korean version of a statute) or local ordinances (created by the councilors of local governments). The National Assembly usually passes an act dealing with an important nationwide rule. The councilors of local governments make ordinances regarding localized matters under the delegation of a national act. The policy options will therefore be either a national act or local ordinances.

The survey of government officers in MOGAHA in regards to legal foundations shows that 52.9 percent of respondents chose ordinances, and 47.1 percent of respondents preferred a national act. There is no significant difference in their preference regarding a national act or ordinances.

Political acceptability

Political parties, the administrative branch, and citizen groups have different positions about which one is appropriate. Some citizen groups are obtaining signatures to establish ordinances
because they recognize that their elected local officers have problems that cannot be fixed without the recall (Puchon Y Citizen Group, 2004; K.J. Reform Consolidation, 2004). Since there is no action to make the law regarding recall from the National Assembly, the groups are working to see it done locally. For example, in 2000 the mayor of the city of Koyang issued permits for hotels in a residential area despite the opposition of most residents (Hankook Daily, 2000). Citizen groups insisted on the introduction of recall along with the resignation of the mayor. Local governments could not make ordinances without delegation from a national act due to the current law. Therefore, they wished to apply constant pressure to the National Assembly.

Political parties disagree with this claim. Thirty members of the Assembly, who belong to the Grand National Party (the majority party in Korea) submitted the bill for recall in 2001 (“bill number 1305,” 2001); it did not pass. However, because it included important elements of recall, such as persons subject to recall and petition requirements, it shows that the Grand National Party has a preference for a national act for the recall (Views of other political parties have not been made public).

The administrative branch under the current President has not expressed its position regarding the legal foundations for recall. However, the President promised, as a candidate during the 2003 presidential election, that he would introduce recall in order to enlarge citizen’s participation in local autonomy (“promise for the 16th presidential election,” 2003). Seong-Hwan Byun, government officer of MOGAHA, emphasized that the recall model reflects the suggested intent of the President during the presidential election (personal communication, March 1, 2004). Therefore, there is a strong possibility that the administrative branch will try to fulfill the President’s promise by making a national act instead of a delegation to local governments.
mentioned in the literature review section, most scholars advocate the benefits of the recall authorized by the national act.

Administrative feasibility

Jang-Joo Kim, a staff member from Kyongbuk provincial government, was concerned about expertise of local government officers (personal communication, March 5, 2004). Most local governments have limited rule-making abilities because the most important rules are institutionalized by national acts, and they did not have many opportunities to make controversial rules due to a short history of local autonomy. Recall is politically complicated because there is no precedent. As a result, it is not easy for local governments to institutionalize recall by themselves.

He also expressed that the stability of local governments could be damaged in the process of introducing recall because it is difficult for stakeholders within local areas to form consensus on recall model. In addition, from the efficiency perspective, the national act is more cost-saving because local ordinances need similar rule-making processes by each local government.

Accountability

A national act can apply the recall to all local governments without exception. It could be helpful in preventing abuse of power by elected local officers. However, in the case of ordinances, some local governments could delay the introduction of recall, or neglect to make ordinances for recalls. Or, although they make ordinances, they can set loose conditions. The other possibility is that local governments which experienced serious corruption of elected local officers could adopt a strict recall model to improve accountability.
Table 1. Legal foundation

<table>
<thead>
<tr>
<th>Policy options</th>
<th>Political acceptability</th>
<th>Administrative feasibility</th>
<th>Accountability</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>National act</td>
<td>2</td>
<td>3</td>
<td>3</td>
<td>8</td>
</tr>
<tr>
<td>Local ordinances</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>6</td>
</tr>
</tbody>
</table>

Ranking Scale: 1 to 3 with 1 being negative and 3 being positive

In summary, a review of the policy options for legal foundation shows that a national act is appropriate. It is slightly different from the result of the survey of officers in MOGAHA. The national act scores higher than local ordinances, with its highest scores in administrative feasibility and accountability criteria. An act has advantage over ordinances because local governments have the limited rule-making abilities and the act will contribute to reducing instability of local administration. In addition, it will be more effective in preventing abuse of power by elected local officers.

Option Two. Officers Subject to Recall

There are two policy options: the recall of only the heads of local governments and both heads and councilors of local governments. There are 248 heads of local governments, such as mayor. Each local government has a different number of councilors according to its population and area. Kyonggi provincial government, which is the biggest upper-level province in Korea, has 104 councilors (National Council Association of Chairman, 2002). Small counties or cities have a minimum of 7 councilors (23, the Election for Public Offices and Election Malpractice Prevention Act). Councilors are elected from their electoral districts.
The MOGAHA survey shows that 70.6 percent of respondents preferred to recall both heads and councilors, and 29.4 percent of respondents preferred to recall only heads. Respondents support the recall of both heads and councilors overwhelmingly.

**Political acceptability**

The bill submitted by Grand National Party representatives states that only the heads of local governments should be subject to recall (“bill number 1305,” 2001). The reason can be inferred from the fact that most heads and councilors of local governments belong to political parties. Political parties reflect opinions from heads and councilors in the law-making process. It suggests that the Grand National Party considered the complaints of most councilors who do not want to apply the recall to them.

Major citizen groups in Korea, such as Citizens’ Coalition for Economic Justice, consistently insist on applying recall to all elected officers including members of the National Assembly (Citizens’ Coalition for Economic Justice, 2003). In 2001, the National Association of Mayors, which consists of most mayors in Korea, recommended the adoption of recall for all elected local officers including councilors as well as heads of local governments to MOGAHA (the National Association of Mayors, 2001). As mentioned in the literature review, scholarly groups, by and large, desire that both heads and councilors of local government should be the targets of recall.

**Administrative feasibility**

The major concern is the stability of the local administration while introducing and implementing recall. Recall elections also incur direct and indirect governmental costs. The Local Autonomy Act, which introduced local elections in 1994, focuses on the efficient performance of local affairs (J. C. Cho, 2001). To attain these purposes, the head of local
government is responsible for carrying out daily local affairs without councilors’ interference, and the local council can only check the power of the head of local government. In addition, the LAA does not permit impeachment of the head by the local council or dismissal of local council by the head because the urgency of economic development, security issue with North Korea, and political immaturity of citizens have affected current governing systems (J. C. Cho, 2001). Recall of both heads and councilors could cause local governments to face frequent recall attempts. Local governments could get caught up in political struggles over recall. Therefore, it contradicts the purpose of the LAA, which regards the stability of the local administration as important.

Another concern is the management of elections. The National Election Commission (NEC) is mandated by the Election for Public Offices and Election Malpractice Prevention Act to oversee and manage all national and local elections. The NEC is an independent constitutional agency commensurate in status with the National Assembly, the executive branch of the government under the President, the courts of Justice, and the Constitutional Court (111, 112, 113, Constitution). During non-election period, the NEC maintains a limited staff and offices nation-wide. During the election period, according to the Election for Offices and Election Malpractice Prevention Act, the NEC gets cooperation from national governments as well as local governments. Many local government officials and teachers help the management of the election under supervision of staff members of the NEC. It is possible for them to help manage the election because elections are infrequent. However, if a recall election against heads and councilors is institutionalized, the current system is not sufficient because local government officers and teachers have their own duties to perform. In the case of adoption of recall of heads and councilors, the NEC needs to recruit personnel. In this aspect, it will bring an increase in governmental costs because it will cause the reorganization of the NEC.
Accountability

The primary reason against recall is the existence of other and more effective means of removing a public officer from office that do not suffer the disadvantages of the recall. In the U.S., the other removal methods include the impeachment process, a joint resolution of the state legislature or a resolution of one house directing the governor to remove a named officer, and statutory or constitutional authorization for the governor to remove an officer (Zimmerman, 1997). In this aspect, the current local autonomy system does not provide any effective method to ensure accountability of heads and councilors. Both of them are automatically removed from office only if convicted of a felony. It is necessary that recall is introduced against both of them in order to improve accountability before the end of their term.

Another concern is whether there is a difference in the degree of corruption between heads and councilors of local governments. Heads of local governments are seriously involved with corruption as stated in the background section. However, from July, 1998 until March, 2001, 255 councilors were indicted, and 18 councilors were imprisoned (J. K. Lee, 2003). Pertaining to the numbers related to corruption, it suggests that councilors appear to participate in corruption less than heads of local government. The main reason is that they have almost no power in the daily implementation of local affairs because of strong mayor-weak council system.

Table 2. Officers subject to recall

<table>
<thead>
<tr>
<th>Options</th>
<th>Political acceptability</th>
<th>Administrative feasibility</th>
<th>Accountability</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heads of local governments</td>
<td>2</td>
<td>3</td>
<td>2</td>
<td>7</td>
</tr>
<tr>
<td>Heads and councilors</td>
<td>3</td>
<td>2</td>
<td>3</td>
<td>8</td>
</tr>
</tbody>
</table>

Ranking Scale: 1 to 3 with 1 being negative and 3 being positive
In summary, a review of the policy options shows that heads and councilors should be subject to recall. Recalling both scores higher than only recalling heads with highest scores in political acceptability and accountability criteria. Although there could be difficulty in implementing this, it could improve accountability. Most stakeholders tend to support it.

**Option Three. Reasons for the Use**

One policy option is that malfeasance, misfeasance, and nonfeasance are the only reason for recall. The other option is that grounds for recall need not specify misconduct in office or any reason is sufficient. In other words, all that is required is that the reason for the recall be stated, regardless of whether the reason is a specific one or a good one. The survey of government officers in MOGAHA shows that 90.2 percent of respondents preferred malfeasance, misfeasance, and nonfeasance, and 7.8 percent of respondents preferred no specified misconduct in office.

**Political acceptability**

Political parties, citizen groups, and the administrative branch have not showed their positions on reasons for use. However, interview with Seong Hwan Byun, government officer of MOGAHA shows the necessity of limiting reasons for recall (personal communication, March 3, 2004). According to his opinion, unlimited grounds for recall promote that a candidate who lost in the general election may use a recall election. Also, unless a particular allegation of the violation is stated, the elected local officer has no opportunity to refute the charge. The specific grounds stated in a recall petition allow an elected local officer an opportunity to prepare a statement in justification of his or her conduct in office. In addition, unlimited grounds for recall also may have a negative effect upon highly qualified persons who will not seek elective office.
for fear this will be employed against them as elected officers if they take a unpopular stand on a controversial issue.

Administrative feasibility

Cheong Sik Cho, staff from Kyonggi provincial government, expressed that the unlimited grounds could cause frivolous recall attempts and it would make the local administration unstable (personal communication, March 5, 2004). It might cause taxpayers to fund the increase in governmental costs associated with calling and holding a special recall election. However, it is not easy to decide whether the law requiring a specific reason is fulfilled because although petitioners have different reasons irrelevant to malfeasance, misfeasance, and nonfeasance, they may insist on specific grounds while concealing their real intentions.

Accountability

The purpose of recall is to remind public officers that corruption, inefficiency, or failure to represent adequately the views of the majority of voters will not be tolerated. The device clearly encourages him or her to perform duties in an ethical and responsible manner. Considering this aspect, unlimited grounds for recall will better ensure accountability of elected local officers.

However, in U. S., seven states provide specific grounds for recall:

(1) Alaska: lack of fitness, incompetence, neglect of duties or corruption (§15.45.510, AK Stat.);

(2) Georgia: act of malfeasance or misconduct while in office; violation of oath of office; failure to perform duties prescribed by law; willfully misusing, converting, or misappropriating, without authority, public property or public funds entrusted to or associated with the elective office to which the official has been elected or appointed (§21-4-3(7), GA Code);

(3) Kansas: conviction for a felony, misconduct in office, incompetence, or failure to perform duties prescribed by law (§25-4301, KS Stat.);
(4) Minnesota: serious malfeasance or nonfeasance during the term of office in the performance of the duties of the office or conviction during the term of office of a serious crime (Art. VIII §6, Constitution);

(5) Montana: physical or mental lack of fitness, incompetence, violation of oath of office, official misconduct, conviction of certain felony offenses (§2.16.603, MT code);

(6) Rhode Island: authorized in the case of a general officer who has been indicted or informed against for a felony, convicted of a misdemeanor, or against whom a finding of probable cause of violation of the code of ethics has been made by the ethics commission (Art. IV §1, Constitution);

(7) Washington: commission of some act or acts of malfeasance or misfeasance while in office, or who has violation of oath of office (Art. I §33, Constitution). (National Conference of State Legislatures, 2003)

From the grounds of recall described above, malfeasance, misfeasance, and nonfeasance are valid as causes of recall in Korea because they are major violations against duties performed conscientiously in accordance with the highest ethical standards. For example, after the 1995 local election, some elected local officers made contract with a specific company for construction work at the cost of a bribe, gave permission or approval in opposition to citizens’ majority opinion, or neglected their duties, such as the prevention of green-belt destruction and cracking down on illegal parking. These troubles caused by elected local officers are related to their malfeasance, misfeasance, and nonfeasance.

**Table 3. Reasons for the use**

<table>
<thead>
<tr>
<th>Options</th>
<th>Political acceptability</th>
<th>Administrative feasibility</th>
<th>Accountability</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Malfeasance, misfeasance, nonfeasance</td>
<td>3</td>
<td>3</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>Any reason is sufficient</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>6</td>
</tr>
</tbody>
</table>

Ranking Scale: 1 to 3 with 1 being negative and 3 being positive

In summary, a review of the policy options shows that the malfeasance, misfeasance, nonfeasance option act is appropriate. Malfeasance, misfeasance, and nonfeasance score higher
than the other option, with highest scores in political acceptability and administrative feasibility criteria. By making frivolous recall attempts difficult, it will be better in the terms of the stability of local administration. Unlimited grounds for recall show several problems that can not be accepted by stakeholder groups.

**Option Four. Recall Petition Requirements**

To apply petition requirements for recall in Korea, options include 15 percent (low signature requirement), 25 percent (moderate signature requirement), and 40 percent of voters (high signature requirement). The survey of government officers in MOGAHA shows that 58.8 percent of respondents chose 25 percent of voters, 19.6 percent of respondents chose 40 percent of voters, and 17.6 percent of respondents chose 15 percent of voters.

**Political acceptability**

The bill submitted by representatives affiliated with the Grand National Party requires signatures of 30 percent of the voters for a recall attempt ("bill number 1305," 2001).

Interview with Seong Hwan Byun, government officer of MOGAHA, shows that citizen groups tend to prefer lower petition requirement in order to check power of elected local officers (personal communication, March 2, 2004). They also want to keep their influence on local affairs through the recall device. Citizen groups can intimidate an elected local officer in the form of the recall if he or she adopts a policy opposed by the group.

Jang Joo Kim, a staff member from Kyongbuk provincial government, forecasted that in the light of his working experiences under elected local officers, they liked high petition requirements in order to protect their vested interests (personal communication, March 4, 2004).
As stated in the literature review section, scholarly groups had different ideas regarding petition requirements. However, on the whole, these groups prefer low signature requirement below 30 percent of voters because most local governments have large populations due to the high density of population.

**Administrative feasibility**

Petition requirement is directly connected with stability of local administration. Seong Hwan Byun, government officer of MOGAHA, inferred that a low signature threshold obviously encouraged employment of the recall (personal communication, March 2, 2004). As a result, frequent recall attempts may damage continuity of local administration. During the recall attempt, local elected officers cannot devote themselves to their work. Thus, from the administrative feasibility perspective, as signature requirement increases, it is desirable to prevent the disability of local administration.

Another concern is related to the management personnel and cost of recall election. If a low signature requirement leads to recall, frequent recall attempts cause an increase of governmental costs along with an increase of personnel for management of recall. This demands the change of the current election management system, which receives cooperation from officers of local governments under supervision of the National Election Commission.

**Accountability**

Extremely high petition requirements may prevent recall attempts. These requirements make it impossible to strengthen popular control of the government by not allowing voters to remove elected officers who are corrupt or incompetent or who fail to reflect accurately the views of voters on major issues. In the aspect of accountability, as petition requirements become low, elected local officers become more responsive to the grievances of citizens.
Table 4. Recall petition requirement

<table>
<thead>
<tr>
<th>Options</th>
<th>Political acceptability</th>
<th>Administrative feasibility</th>
<th>Accountability</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>15 percent of voters</td>
<td>1</td>
<td>1</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>25 percent of voters</td>
<td>3</td>
<td>2</td>
<td>2</td>
<td>7</td>
</tr>
<tr>
<td>40 percent of voters</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>5</td>
</tr>
</tbody>
</table>

Ranking Scale: 1 to 3 with 1 being negative and 3 being positive

In summary, a review of the policy options shows that the 25 percent of voters option is appropriate. 25 percent of voters scores highest, with a highest score in political acceptability criterion. It will guarantee accountability of elected local officers while not damaging stability of local administration.
V. Conclusions

The report presented four policy areas for key elements of recall. Each policy was evaluated based on political acceptability, administrative feasibility, and accountability. Table 5 summarizes the results.

Table 5. Summary of alternatives and evaluative criteria

<table>
<thead>
<tr>
<th>Alternatives</th>
<th>Criteria</th>
<th>Political acceptability</th>
<th>Administrative feasibility</th>
<th>Accountability</th>
<th>Total score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal foundation</td>
<td>National act</td>
<td>2</td>
<td>3</td>
<td>3</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>Local ordinances</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>6</td>
</tr>
<tr>
<td>Officers subject to recall</td>
<td>Heads of local governments</td>
<td>2</td>
<td>3</td>
<td>2</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>Heads and councilors</td>
<td>3</td>
<td>2</td>
<td>3</td>
<td>8</td>
</tr>
<tr>
<td>Reasons for the use</td>
<td>Malfeasance, misfeasance, nonfeasance</td>
<td>3</td>
<td>3</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>Any reason is sufficient</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>Recall petition requirement</td>
<td>15 percent of voters</td>
<td>1</td>
<td>1</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>25 percent of voters</td>
<td>3</td>
<td>2</td>
<td>2</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>40 percent of voters</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>5</td>
</tr>
</tbody>
</table>

Ranking Scale: 1 to 3 with 1 being negative and 3 being positive

After reviewing applicable scores, integration of the policy options show a desirable recall model, one appropriate to the circumstances of Korean local governments.

First, a national act is recommended in order to introduce recall. The national act option scores higher than local ordinances in administrative feasibility and accountability criteria. Local
ordinances are weak, due to limited expertise of local officers on rule-making and concern about the stability of local government in the process of adopting recall. The national act can apply the recall to all local governments.

Heads and councilors of local governments should be subject to recall. Recall of both scores high in political acceptability and accountability criteria. Major citizen groups, most scholars, and the National Association of Mayors support recall of heads and councilors. Although there is a difference in the degree of corruption between heads and councilors, the necessity of their recall is recognized because the current local autonomy system does not provide any effective method to ensure accountability.

If elected local officers are guilty of malfeasance, misfeasance, or nonfeasance, these may be reasons for use. The malfeasance, misfeasance, or nonfeasance option scores high in acceptability and administrative feasibility criteria. The specific grounds allow an elected local officer an opportunity to prepare a statement in justification of his or her conduct in office. It will reduce the possibility of the abuse of recall by a loser in the general election. Because this makes frivolous recall attempts difficult, it will be better in the terms of the stability of local administration.

Finally, the verified signatures equal to 25 percent of the voters should be required to trigger a recall election. The 25 percent of the voters option scores highest in political acceptability criterion. It will improve accountability of elected local officers while not damaging stability of local administration.

In conclusion, since many citizens believe that most elected local officers have not performed their duties in accordance with the ethical standards and have not been responsive, the
adoption of the recall model suggested above will promote citizens’ participation in the local governments and will improve responsiveness of elected local officers to citizens.
The Reference


xxxvi


xxxvii


About the Author

Jong-Jin Yoon received a Bachelor of Art in Public Administration at Yonsei University, Seoul, Republic of Korea. He also received an MPA degree at Florida State University. He has served over 10 years at the Ministry of Government Administration and Home Affairs, one of the administrative branches of the national government, and the Kyonggi Provincial Government in Korea. Jong-Jin is interested in reforming local autonomy and reinventing government in Korea. Jong-Jin is married to Hee-Jeong Shin, and they have an 11-year old daughter named So-Ye.