

**Reform of the Legal System of Local Autonomy
and Information Disclosure in Public Administration
in Taiwan**

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I. Ideas and Realities of the Guarantee for Local Autonomy in the Constitution of Republic of China (ROC)

(1) Structural Characteristics of Institutional Guarantee for Local Autonomy in the Constitution of ROC (For the use of ruling mainland China)

The Constitution of ROC was established to rule Mainland China, which possesses vast land, and four hundred million in population. There are the following characteristics of institutional guarantee for local system and local autonomy:

a. Considering the local system, two levels of system are adopted: one is the province and the other prefecture. Fundamental rules for autonomy of province and prefecture is called “general rule about province and prefecture.” According to this rule, basic law for autonomy of the province and prefecture is established, which is called “law about autonomy of province and prefecture.” In the institutional guarantee for local autonomy, there are legislative power and executive power for the province and prefecture, which is autonomy of local public entity. As for autonomy of residents, there are direct elections and referendum, stated in the Constitution.

b. Considering the allocation of administrative tasks, the tasks of the national government, province, and prefecture are divided into legislative and executive power. Each authority is defined in detail, where each level has legislative power exclusively; that is, legislative power belongs only to one type of government, whereas multiple governments can share executive power. This is why tasks dealt by the province are the province’s legislative tasks and/or executive tasks. Tasks dealt by the prefecture are prefecture’s legislative tasks and/or executive tasks. If allocation of tasks is ambiguous, the problem is to be judged by the principle of the nature of task (policies that should be applied to the whole nation should belong to the central government; policies that should be applied to prefecture, should belong to the prefecture). If a dispute still remains, the national legislature will make a final decision on it.

(2) Problems of Local Autonomy Stemming from Pre-modern Authoritarian Politics

and the Confinement of Kuomintang (KMT) Power in Taiwan

The Constitution of ROC, established in 1946 and enacted in 1947, came to be applied by force in Taiwan since the KMT evacuated to there, after the civil war with the Communist Party, in 1949. In this historical context, the Constitution of ROC (which originally was established to rule mainland China) was/is applied to Taiwan, without the consensus of Taiwanese people. Thus, many people raised questions to the legitimacy of the Constitution, which has been an issue of political confrontation. There are some problems regarding the government structure stated in the Constitution of ROC, especially the principle of division of five powers, separation of political power and executive power, and the establishment of the national convention. Moreover, there are many contradictions in the implementation of the Constitution, which result from the application of the Constitution of ROC to Taiwan. For several decades, these contradictions have been problems that need to be examined.

While the Constitution of ROC was enacted in 1947, so-called “super-constitutional wartime mobilization provisional ordinances” was established in the same year, while martial law was proclaimed in 1949. Taiwanese society became totally ruled by wartime martial law. This is the reason why the ordinance destroyed supremacy of the Constitution of ROC. The structure of the Constitution changed into one that adapted to martial law. Under the “super-constitutional ordinances,” laws for wartime mobilization and martial rule were established one after another, to violate democracy and basic human rights.

From this historical experience of pre-modern authoritarian politics, Taiwan developed its own unique local system and local autonomy, despite the institutional guarantee for local autonomy stated in the Constitution. This caused the following problems:

(A) Problems stemming from confinement of KMT power in Taiwan

a. Redundancy of the national government and the first-level local government

In Taiwan, KMT confined its rule in Taiwan and also regarded as a province of mainland China. When we look at the range of rules, first-level local government of the province of Taiwan rule 98% of ROC. When we look at the population of Taiwan province, it is over 80% of ROC. As a result, the first-level local government and national government are redundant, which is a peculiar system, without any parallel. This redundancy causes the problem of democratic legitimacy of the national and local government, since the President and Governor came to be elected directly since 1992. If the Governor gets more votes than the President, his/her democratic legitimacy becomes stronger than the President, and the ruling power of province also

may become stronger than the national government.

- b. From a two-tier system of the Constitution of ROC to a three-tier system of Taiwan

Although the Constitution of ROC establishes a two-tier system of province and prefecture, Taiwan actually has a three-tier system of province, prefecture, and municipality. The municipality is not a local public entity that is guaranteed by the Constitution. In addition, the vertical, authoritarian relationship between the national and local government caused inefficiency and irrationality in administration.

(B) Problems caused by pre-modern political institution

- a. Autonomy not defined by law but by ordinance or regulation

During the civil war, the legislature was not able to use its power, thus, they did not establish “general rules on local autonomy” that embodied constitutional guarantee for local autonomy. Neither “provincial autonomy law” nor “prefectural autonomy law” was established in the Constitution; therefore, executive orders established local autonomy in Taiwan from 1949 to 1994.

1. The executive branch of Taiwan province was established by “organization law of provincial government (November 1926),” and “provisional rules on administration of provincial government (1936).” Thereafter, “detailed rules on administration management in Taiwan provincial government,” was established by Taiwan province itself, based on a mandate from executive branch. Provisional assembly of Taiwan province was established by “rule of provisional assembly of Taiwan province,” proclaimed by the executive branch in September 1951; later, it was changed to assembly of Taiwan province, by the order of the executive branch, in June 1959. Fukien province of the ROC was similarly treated.
2. Concerning the structure of the local government in Taiwan, it is a three-tier system consisting of province, prefecture, and municipality. The legal basis of local government is “regulation on local autonomy by prefecture and municipality in Taiwan province.” Executive office of prefecture and municipality are established by “regulations about executive office of prefecture and municipality of Taiwan province” and similar rules for municipality are directed by prefecture. Legal basis of legislative organ of the prefecture and municipality is based on “regulations on assemblies of prefecture and municipality in Taiwan province” proclaimed by Taiwan province.
3. There are two “special cities”, Taipei and Takao. Taipei became a

special city in 1967, and its status is based on “regulations on Taipei city organization” established by the executive branch. Executive office and legislative organ of Taipei are established by “regulations of Taipei city government office,” and “regulations about Taipei city assembly.” Takao became a special city in 1978; its status and organization are defined by similar regulations established by the executive branch. Local autonomy based on these orders and regulations are authorized by Supreme Court (number 259, April 13, 1990).

b. The lack or decay of autonomous power

In the pre-modern authoritarian regime, party, military, politicians, bureaucrats, and business merged, and the centralized system encroached or undermined local autonomous power. For example, local governments have very limited powers in terms of legislation, because their autonomy was not based on laws but on ordinance and regulation by the executive branch. There are only few businesses that the local governments can deal with their own discretion. Most businesses were commissioned by the central government to the local government. Concerning the autonomy on public finance, although they had taxing power, but the portion of local tax is quite small, therefore the local governments depended on the subsidy from the central government for fiscal revenue. Concerning the authority of personnel management, the Governor of the prefectures and the mayors of municipalities are elected directly. Premier of province and mayors of special cities are appointed by the President, based on a list created by the executive branch. There was a vertical relationship between the central and local, and the latter was strongly supervised by the former.

(3) Problems of Local System in the Constitution of ROC in terms of Allocation of Tasks

Chapter ten of the Constitution defines the tasks of the central government, province, and prefectures in detail. If there is an ambiguity on the allocation tasks between the center and local, “principle of the nature of tasks” should be applied. This principle is derived from James Soong’s idea of “equal power principle” (neither tilting toward the center nor the local). However, the allocation of tasks based on these principles has the following problems:

A) Equal power principle is just a guideline for allocation of tasks, not a yardstick. Nobody denies that diplomacy, defense, legal system, and citizenship belongs to the central government, but we should investigate whether national railway, airline, post, telecommunication, tax, national enterprise, and national bank should be dealt with by the central government.

B) Regulations on allocation on tasks are not always a yardstick. The definitions of tasks of national, province, and prefecture, do not come from contents and nature of business, but from levels of administration. The same jurisdiction is shared by the central, province, and prefecture (for example, education, police, public health), or shared by province and prefecture (agriculture, water supply, fishery, public construction).

C) We cannot distinguish regulation about allocation of tasks from definition of autonomous tasks and commissioned tasks. For example, Article 123 says “prefecture resident has a right to referendum about autonomous tasks,” and Article 127 states, “governors implement commissioned tasks” from the central or provincial government. It is doubtful we can distinguish autonomous tasks and commissioned tasks based on Article 108-110. These articles allocate task on differentiation on legislative power and executive power, but it is not clear whether such differentiation can be a basis for distinction between autonomous tasks and commissioned tasks. In other words, it is not clear, tasks that local government that have executive power and legislative power, is classified as autonomous tasks and tasks that local governments have only executive power is classified as commissioned tasks. We still need to investigate whether tasks that the national government has legislative and executive powers or province has only executive power should be classified as task of the central government, not autonomous tasks of province. We have similar questions between province and prefecture.

II. Development of Local Autonomy in Taiwan

(1) Background

Taiwan was imposed pre-modern authoritarian, wartime mobilization martial law system for about fifty years, but there have been changes in politics, society, and the legal system of Taiwan, since the second half of 1980's.

In terms of politics, martial law was lifted in 1987, and the authoritarian regime collapsed. Taiwanese society has been moving from a pre-modern authoritarian society to a modernized democratic liberal society. In addition, the KMT that continued their authoritarian rule for about fifty years was ousted replaced by the Democratic Progressive Party (DPP) in 2000. Large-scale realignment is going on, and democratization and liberalization is accelerated. KMT tried to build a society based on Chinese identity through education policy based on reunification of China, since it came to Taiwan in 1949. However, as state power structure dominated by Mainland Chinese was undermined and political structure realigned, unified

Chinese identity becomes diversified and transformed and multiple identity is growing. Taiwan identity, which was suppressed for a longtime, is rapidly growing. At the same time, ethnic identity, including Hakka and aborigines, are becoming significant. Multi-ethnic society is developing in Taiwan, and each group is seeking respective identity. When we look at legal studies in Taiwan, there was no place for legal studies of sovereign states, since Taiwanese people did not have national sovereignty for a long time. During the colonization of Japan, 1895-1945, Taiwanese law system depended on the Japanese law system through “special law for the colonies”, and “principle of extension of Japanese law.” After 1949, KMT imported Chinese law to Taiwan, thus, genuine Taiwanese law and Japanese law system were destroyed. Taiwan history is a history with enforced, internalized foreign law. However, the collapse of the power structure dominated by Mainland Chinese, and the development of Taiwanese identity, promote study of Taiwanese law and legal system or the “Taiwanization” of legal studies. In this sense, Taiwan is set free from compulsory internalization of foreign law. Time has come to construct their own legal system.

Steps for gradual reform on local autonomy, since pre-modern authoritarian regime, are in motion.

(2) Development of Local Autonomy after the Revision of the Constitution in 1992—Local Autonomy based on Law

(A) Revision of the Constitution in 1992

Without a “general rule on local autonomy of prefecture and province,” local autonomy was established by ordinances and regulations. Considering this problem, they amended the constitution, to put off the “general rule.” Amendment clause 17 states that, “clause for general rule for local autonomy should not be applied and provincial autonomy should be supervised by the executive branch, and the prefectural autonomy should be supervised by the provincial government.” However, this amendment does not include rules about municipality, therefore, constitutional status of municipality still remains ambiguous.

(B) “Law of autonomy of province and prefecture” and “Law of autonomy of special city”

These two laws were established based on amendment clause 17, on July 29, 1994. Law of autonomy of province and prefecture consists of general rules, rights and duties of residents, autonomous tasks, autonomous organization, autonomous public finance, autonomous inspection, and attachments, which are stated in the total of 7 chapters and 66 clauses. The differences from the old system include the following:

- a. Province, prefecture, municipality are corporate bodies, which deal with

autonomous tasks, and commissioned tasks (clause 2, section 1)

b. Residents of province, prefecture, and municipality have rights for referendum on autonomous tasks, as well as disclosure of local governments (clause 10, section 3&4)

c. Autonomous tasks of province, prefecture, and municipality are defined from clause 12 to 14. If there is a dispute, the national legislature settles it (clause 15).

d. Premier of a province should be elected by public election (clause 35, section 1).

e. There is a hierarchy of legal system where law of national government is placed at the top, followed by provincial law, prefectural regulations, municipal regulations, consecutively. If resolution by provincial assembly on autonomous tasks is ruled unlawfully, that will be nullified. If resolution of provincial assembly on commissioned tasks is ruled, which goes against the law of the central government, this will also be nullified (article 28, section 1). Similar regulation should be applied to prefectural and municipal assembly. If there is a dispute whether a resolution goes against laws or ordinances, the Supreme Court will judge it (clause 28, section 5).

f. Supervising bodies of strong authority can nullify, modify, abolish or suspend decisions by local governments, on both autonomous tasks and commissioned tasks (article 54). Executive branch supervises province, province supervises prefecture, and prefecture supervises municipality (article 6). If there is a dispute whether administration by local governments goes against the law, the Supreme Court will judge it (article 54, section 7). Supervising bodies have authority of execution by proxy (article 55). If local governments neglect their duties, that duty is classified as a case where execution by proxy may take place.

“Law of Special City” is basically similar to “law of province and prefecture,” that are stated in the total of 7 chapters and 56 clauses; the province and prefecture are replaced by special city.

(3) Development of Local Autonomy after the Division of the Constitution of 1997—Downsizing of Taiwan Province

(A) Revision of the Constitution of 1997

The Constitution was revised in order to clear the redundancy of the national government and the province of Taiwan, as the first-level local government. The main contents of the amendment are as follows:

a. The relationship between the executive and the legislative branch in

Taiwan province was re-established. Amendment clause 9, section 2, states, “the tenth assembly of the Taiwan province and premier of Taiwan province will expire on Dec 20th, 1998, and from this time on, there will be no public election of provincial assembly or premier of the province.” That is to say, the amendment abolishes public election of premier of the province. Instead, it introduced head of the province, who is appointed by the president, based on a list submitted by the executive branch.

b. Considering the legislative branch, provincial assembly was changed to provincial council, and its members are appointed by the president, based on a list submitted by the executive branch.

c. Task of provincial government is limited to supervision of prefectural administration.

(B) Establishment of provisional ordinance on the role of Taiwan provincial government, and its tasks and organization in 1998

Amendment clause 9, section 3 states, “After the suspension of public election of members of provincial assembly and premier, the role, tasks, and organization of Taiwan provincial government should be determined by the laws. Based on this clause, the “provisional ordinance on the role of Taiwan provincial government, and its tasks and organization” was established on October 28th, 1998. The pillars of this provisional ordinance are as follows:

a. Taiwan provincial government is defined as a branch office of the executive branch, not an autonomous public entity (provisional ordinance clause 2, section 1).

b. Task of Taiwan province is limited to supervising prefectural administration, implementing provincial government administration, and implementing tasks commissioned by laws or orders of the executive branch. In other words, autonomous administration is totally suspended.

c. Head of province is appointed by the President, based on the list submitted by the head of executive branch.

d. Tasks that provincial government used to have should be transferred to the national government or prefecture and municipality according to nature of tasks and capability of governments. The tasks that the executive branch commission to the provincial government by order, are exceptions to this rule (clause 4, section1). The provincial government and other attached organs and public schools should be downsized, annexed, reorganized, abolished, or privatized through coordination of administration (clause 4, section 2).

e. The national government will undertake assets and debts of Taiwan provincial government (clause8, section 1).

f. The replacement of civil servants of Taiwan province is regulated from

clause 12 to 19.

g. Taiwan provincial assembly was abolished on December 21, 1998, and changed to Taiwan provincial council. Members of this council, between 21 to 29 people, should be appointed by the President based on a list submitted by the head of the executive branch. The term is three years (clause 20, section 1 & 2).

h. This provisional ordinance is valid from December 21, 1998 to December 31, 2000, but the amendment of the provisional ordinance is extended for another year.

Downsizing of Taiwan province consists of three stages. The first stage from December 21, 1998 to June 30, 1999; during this time, the executive branch placed the head of province, and established the provincial government committee. Organization of provincial government was status quo. The second stage was from July 1, 1999 to December 31st, 2000; the government was supposed to finish the coordination of the role, administration, organization, and personnel of the Taiwan provincial government. However, the coordination did not finish in time, so the second stage was extended for another year. In the third stage, the provisional ordinance will expire and new law on local system will be applied.

(4) Establishment of the Law of Local System (January 25th, 1999) and Relating Orders

With the organizational reform of the province, based on amendment clause 9 of the Constitution and the establishment of the provisional ordinance, “the law of autonomy of province and prefecture,” and “law of special cities” established in 1994, should be re-considered. When the provisional ordinance expires, construction of legal system of local government is urgently required. In this context, law of local system that integrates and rationalizes the above laws was established on January 25th, 1999. This new law has the following regulations:

a. There is a clear definition about autonomous tasks and commissioned tasks (clause 2, section 2 & 3). Autonomous tasks mean tasks that local government can legislate and execute, based on the Constitution or this law, or tasks that local government can implement or coordinate based on regulation of laws. Commissioned tasks mean tasks that local government implement under the supervision of superior government, based on laws or ordinances.

b. Names of local rules are classified as the following: “Autonomous ordinance” is rules that local legislature establishes on autonomous tasks. “Autonomous regulations” are rules local executive branch establishes on autonomous tasks (article 25). In local ordinances, the name of the local government should be placed at the top (clause 26, section 1). Local

regulations are established, based on delegation of executive powers or authorities given by laws.

Subjects of autonomous ordinance are defined as follows in clause 28: “Subjects that local legislature should decide based on law or autonomous ordinances”; “subject that establishes control, deprive, or limit rights of residents or impose duties on residents”; “Organization of enterprise managed by local governments”; “other subjects that local legislature regards as tasks of local governments”.

Rules about commissioned tasks are rules that special cities, prefectures, and municipality establish in order to implement commissioned tasks from superior government, based on legal authority, law, or delegation from the central government (article 29)

Autonomous rules mean a rule that local legislature establishes as an ethic code for assembly member, similar to the “code of conduct of members of national legislature” (clause 31, section 1).

_____local legislature: autonomous ordinance
Autonomous tasks | _____local executive branch: autonomous regulation

_____local legislature: no rules
Commissioned tasks | _____local executive branch: commissioned regulation

Ethical code of local assembly: autonomous regulation

If autonomous ordinance is ruled against the constitution, law, order based on law, or autonomous regulations of superior local government, it will be nullified (article 30, section 1). Autonomous regulations have similar restraints. If commissioned regulation is ruled against the constitution, or the law of the central government, it will be nullified. If there is a dispute on whether rules of local governments go against the constitution, law, orders based on law, or autonomous regulations of superior local government, local government can appeal to the Supreme Court (clause 30, section 5).

c. General guideline on local administration and local legislature were established and enacted on August 12th, 1999 (Clause 54, 62).

d. Special city and prefecture can be fined up to hundred thousand Yuan or they may have their permit suspended or nullified, and/or be ordered to action or inaction for the violation, for a specific period of time (clause 26, section 2 &3)

III. Local Autonomy in Taiwan in terms of Globalization based on Information

Disclosure

(A) Effort for electronic government and information disclosure in Taiwan

Since the 1990's, information technology has been the common challenge for many countries, because information technology has penetrated into the entire government or all fields of public administration. The idea of "electronic government" is one of the most remarkable aspects of globalization, which will exchange the mutual relationship among the state, local government, society, and the people.

Globalization in the context of this paper means "globalization of public policy" not "globalization of ideology."

Many countries share the purpose of "electronic government"; that is to say, making public administration more effective and efficient, making public administration more open and transparent, improving the quality of public services, democratizing public administration, and building a fair and just society that people can trust. In other words, electronic government aims at reliable government that reduces administrative costs and provides effective and high quality public services, by using information technology as much as possible.

However, I would like to confirm that "electronic government," although quoted very often in present day, the concept of "electronic government" is far from being uniform or solid. It depends on the level of democratization, internationalization, or liberalization of each country, and therefore, must be a plural and fluid concept.

Taiwan began their policy implementation for electronic government and information disclosure in the second half of the 1990s, in the trend of IT revolution and electronic government. The first step began by declaration of the executive branch, which called for "mid-term promotion plan on electronizing the government and the proliferation of the Internet" (1998-2000). The plan aimed in connecting the government and the people, building a comprehensive communication system and providing universal, rapid, and effective service for the people, through the development of information and telecommunication technology. There are several slogans that called for the establishment of the infrastructure on building electronic government and the internet, such as: "systematization of information transfer"; "systematization of electronized public documents"; "comprehensive classification of government service, the extension of terminal of public services and the introduction of one stop service"; "reliable and safe infrastructure for telecommunications". The second stage began by the introduction of "ordinance to promote electronic government (2001 to 2004)". It aims at improving efficiency of public administration and quality of public services, as well as constructing an advanced knowledge-oriented government to the whole nation, by fully utilizing the information technology. There are concrete slogans as follows: "building reliable

and safe infrastructure for information”; “promotion of internet in the government and civil servants”; “starting transfer of electronized public documents”; “the use of the electronic network to submit application for 1500 licenses and permissions”; “abolition of paperwork on person and land”. The electronic government is a “slim government” that can provide various services effectively, without limits on time and space. It also aims for an effective, planned, competitive, and cooperative government, and in general, aims at a modernized knowledge management government. The recent project for the purpose of electronic government is becoming clearer at the second stage than the first. Although downsizing and efficiency is emphasized in the idea of electronic government, openness, transparency, improvement of public service, and democratization of public administration are also thought to be included in the project of electronic government.

B) Meaning of information disclosure from the viewpoint of public administration law

Information disclosure consists of internal disclosure and external disclosure, for public administration. Internal disclosure means information disclosure between government branches or between government and business that is commissioned for official work. External disclosure means not only information disclosure between the government and the people, but also active provision of policy information through the Internet, disclosure of administrative procedure and process, and participation through the Internet. However, the dichotomy of internal and external is relative and fluid. In the following, information disclosure in Taiwan will be described in more detail.

a. Internal disclosure in the public administration

Internal disclosure aims at downsizing and enhancement of efficiency of the government, by promoting disclosure between central and local governments, and constructing system of communicating information. We have such specific projects in Taiwan:

- 1) Government Structure Network (GSN) will connect network centers of government branches and with respect to this structure, they are systematizing common information and transfer orders, notice, and opinions through the Internet;
- 2) In order to achieve efficient and smooth administration, government office will introduce electronic communication system of public documents, legal office will introduce electronic index system of statutes, accounting office will introduce electronic procurement system, personnel information will introduce electronic personnel management system, and policy

evaluation office will introduce delivery management system of electronic publications;

- 3) In order to provide convenient terminal for the people, the government will set up information system in each neighborhood.

Although these projects regarded as internal disclosure, they have some relations with the people. For example, electronic index system of statutes, electronic procurement system will provide important information to the people.

b. One of the most important elements of external disclosure is disclosing information unilaterally, actively, and positively through the electronic media. That is to say, since the bureaucracy should not conceal or abuse information, which is a common asset of the people, the government should disclose information before the claim. This disclosure realizes the idea of people's sovereignty or their right to know. Disclosure of public administration means not only using sophisticated information technology, but also realizing effective, simple, and transparent public administration and democratization of public administration; thus, active disclosure rather than disclosure on demand will be much more significant in pursuing this purpose. For example, disclosing such information as laws and orders, minutes of meeting before policy decision, or the standard of discretion on licensing and permissions will enhance credibility of public administration, which will give more opportunities to the people to control and inspect public administration. This will also prevent unlawful and unjust public administration, thoroughly. Since the disclosure policy needs vast amount of budget and will utilize sophisticated information technology, benefit of its implementation should be returned to the people. Benefit in this case means strengthening control and inspection of public administration by the people, and giving basic values for various kinds of activities of people and enterprises. Otherwise, the reason and legitimacy of disclosure policy will be questioned.

Freedom of Information Act (FOIA) of US is the most famous example of legal institution for active and electronic disclosure of public information. FOIA regulates that place, requirement, procedure, and rules about information disclosure should be placed on official documents of the government (US statutes volume 5, clause 552, section 1). Any opinions on policy decision, statement interpretation, and manuals of civil servants should be available for the public at libraries (section 2). FOIA expresses the idea of active disclosure clearly. As electronic information technology develops, more information will come to be disclosed.

In Taiwan, administrative procedural law, which was enacted in January 2001, has regulations on active disclosure as follows:

1. Law and order;
2. Documents about administrative guidance;
3. Standards on license and permission;
4. Policy planning, statistics, and reports on research;
5. Budget and audit documents;
6. Public construction and procurement contracts, and diplomatic documents;
7. Allocation and reception of subsidy,
8. Minutes of councils.

The above information should be actively disclosed (clause 45). Since these regulations on disclosure in administrative procedural law are general rules, the government should establish specific rules for disclosure of public information. We have “provisional rule about disclosure of public information” proclaimed by the executive branch and personnel management authority on February 21st, 2001, as a provisional rule, before the establishment of Taiwanese FOIA. In this provisional rule, there are more specific regulations on the eight subjects mentioned above. For example, standards on license and permissions mean administrative regulation on the standard of license of permissions (clause 4, section 2). Information on minutes of councils must contain cases deliberated by the respective organs and names of the members of the councils (clause 5). Information on law and order must contain only executive orders based on law. Laws or decisions in the court are not contained, therefore, the coming disclosure law should re-examine this point. Concerning the media of disclosure, the government can choose official documents or electronic devices at the present time however, if electronic government is accomplished totally, information will be disclosed through electronic device only.

c. The second meaning of external disclosure is using information technology in all procedure or process of public administration. Disclosure in this sense will have significant influence on public administration.

First, application and reporting procedure will be electronized. Application and reporting procedures were done through paper documents, but it will be accessible online, as well as become electronized. In this system, citizens make access to public administration through the information technology. Moreover, one stop service brings about change to the relationship between citizens and public administration. Up until now, people had to go to the government office to submit applications and other documents, get inspected at each office, then finally either get rejected or receive permission from the government. Application must be submitted at

each office, which caused heavy burden on the people; the process was time consuming, and was a red tape. This system was also the reason for ineffective administration of the bureaucracy. If we introduce one stop service, citizen can submit any kind of application to one office, and can know the result of the application for the license and permission at the same office. It saves time and is also cost efficient; citizens can use this service wherever he/she lives in the country. Similar service can be applied to the process of reporting and claims.

According to the “plan for promoting electronic government” with regard to the 1500 matters concerning application, the government will electronize 10% by 2001, 20% by 2002, 30% by 2003, and 40% by 2004. At the same time, reporting procedure to the Census Registration Office can also be made through the electronic media. By this reform, application procedures will become more simplified and administration will become more efficient.

Second, electronic media is involved in administrative procedure. Generally speaking, administrative procedure contains hearing, explanation, disclosure of reason, establishing and disclosing of standard of decision and discretion, notification, etc. For example, disclosure of reason, establishing and disclosing of standard notification can be processed through electronic media. This information will be sent by the electronic media, instead of being notified orally or by statement. However, there are some elements that cannot be processed through the electronic media. For example, hearing of a semi-judicial procedure consists mainly of oral debates. This face-to-face procedure is indispensable for finding the truth and clarifying an issue. We cannot imagine a hearing through an artificial media. Therefore, involvement of electronic media into administrative procedure has some limits. Information technology in administrative procedure should not obstruct the idea of fair administration.

Third, electronic media also involves administrative means. Typical example is using electronic media in public contract, or a so-called electronic procurement. If the government introduces information technology in competitive procurement, selection of contractor and bidding is done through the electronic media. If the procedure of procurement is electronized, the process of procurement will be much more transparent and more fair. Also, we can introduce information technology in the formation of orders or executive ordinance. In the formation process, the government can gather opinions through electronic media and disclose proposal through it.

Fourth, procedure on public duties can be improved by information technology. For example, people can pay tax, commission, and any other related charges through the electronic media.

Fifth, important information for the people will be stored and shared through the electronic media. For example, information concerning employment, information on traffic violations, information on medicine and hygiene, information concerning census registration, information on land, and information on police will be stored on database.

d. Participation through electronic media: Disclosure has another meaning--people can get necessary information from the electronic media and express opinions through it, in the process of policy formation. In the administrative process, introduction of electronic media aims at protecting people's rights and disclosing the public administration. In the political aspect, introduction of electronic media aims at enhancing meaningful public participation in administration.

Under the conventional representative democracy, information on legislature and administration is monopolized by the legislature and the bureaucracy. It was often criticized that people have difficulty in expressing their opinions or participating in the process of legislation and administration. As Internet becomes more popular, people can express their opinions directly and participate easily through the Internet. This change will reduce the distance between the government and the people, as well as prevent autocratic decision of the legislature or the bureaucracy.

However, there is no specific project on participation through the electronic media, in terms of policy making, in Taiwan yet. Although administrative procedural law gives the people right to propose a draft of ordinance (clause 152) that clause does not force the government to accept such proposal. Therefore, we do not have an effective method of participation through the electronic media. In the process of policy formation, we have opportunities to express opinions through the homepage of each organ, in some cases, but participation through a homepage is not legally institutionalized yet.

(C) Globalization as disclosure of public information and local autonomy in Taiwan

a. Relationship between disclosure and autonomy by residents

Since the modern parliamentary democracy was based on representative democracy, people have always complained that they were not able to participate in political decision-making. The issue of how to embody the idea of people's sovereignty and provide effective opportunity of participation to the people has been important problems for a long time. Disclosure of public administration or electronic government enable the people to express their opinions freely in the process of policy formation, and participate directly in policy making process. Moreover, as people have more opportunity to participate in politics and public administration, they are required to behave

actively and autonomously, more than ever. People should develop the ability of logical discussion and rational judgment, as well as attitude of fair and democratic citizens. Thus, electronic government is expected to solve the problem of inefficiency of representative democracy, to some extent. In particular, in local governments, residents can easily express their opinions and participate in the process of decision-making on issues that closely relate to their own rights and interests. That will cure inadequacy of local assembly and lead to the notion of autonomy by residents.

However, direct participation by the people raises serious questions to the meaning of parliamentary democracy or representative democracy. When we devise an institution of participation through the electronic media, we should deliberate on the meaning of participation, in the process of administration and legislature, in terms of equality in participation method, participation eligibility of people, and legal effect of participation.

In Taiwan, autonomy by residents will be transformed by internal disclosure of administration, electronic disclosure of public information, disclosure of administrative procedure and process, and participation through the electronic media.

b. Problem of digital divides

So-called digital divides undermine the right to access and equality on government information. Before electronic government or disclosure of information is fully accomplished, people cannot acquire information equally. Even if information disclosure is completely accomplished, in terms of information technology, it is doubtful whether all the people can get the necessary information adequately. That is to say, so-called digital divides can do damage to a fair and just society. In Taiwan, level of disclosure is different from prefecture to prefecture, according to the standard of public finance, education, and income. It is also a very important question whether government should guarantee the real right to access and equality to all. This problem includes reestablishment of human rights. To solve this problem, we should search for the nature of digital divides and its reason. In my opinion, differentiation of people is unavoidable because information technology is always accompanied by technical limits. It is almost impossible to clear the gap of information. The important thing is to provide real right to access government information, by legal guarantee to those people who cannot use information technology. When we think about legal guarantee, we should take into consideration the budget, and also the reason for digital divides.

c. Relationship between the central and local

Information disclosure will make reallocation of authority and tasks

inevitable. For example, if the government introduces one stop service completely, it should remove organizations and powers that obstruct efficient handling of applications; that is to say, annexation, abolition, and coordination of organization is necessary in order to proceed with tasks efficiently and smoothly. The government should seek for the same reform between the central and local.

If information exchange is systematized between the central and local, administration will become more simple and efficient. However, the central government might strengthen control and intervention by emphasizing convenience, efficiency, and uniformity of administration. We should take note of this problem.

In Taiwan, we do not have a sustainable system of local finance, and local governments depend heavily on subsidy from the central government for revenue. In this context, the central government might use information disclosure to enhance intervention to the local government.