

Local Government Inspections by the Korean National Assembly

-Future Directions-*

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This study was conducted in order to justify the need for parliamentary inspections undertaken by theoretical discussion; analyze the problems attending the operation of inspection systems undertaken by local authorities by focusing on the question of its maintenance or abolition; and present development plans for future local government inspections to be held by the National Assembly. The abolition of local government inspections held by the National Assembly has been suggested, for the following reasons:

1. Its violation against principle of divisions of powers.
2. Excessive number of target organizations.
3. Inspections conducted for political dispute.
4. Excessive request for witness attendance and document presentation.
5. Problems regarding the non attendance and false testimony of witnesses.
6. Poor condition of disposal of inspection results.
7. In the opinion of local authorities, its violation against performing a realistic local autonomy and repetitive inspections.

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However, the positive contribution that periodic parliamentary inspections make to government in Korea cannot be ignored, especially in view of problems such as the relationship between local authorities and the nation, the dependence of local authorities on government finance, and the insufficient number of self inspections carried out by local authorities, abolition of inspections by the National Assembly becomes harder to accept. In fact, even if inspections of local authorities are carried out by the Board of Audit and Inspection or the Executive Department, it is difficult to deny the existence of valuable inspection functions that monitor the responsibility and efficiency of local authorities in a way that does not damage local self governance, especially when the agent of such inspections is the National Assembly, the practical executive instrument and delegate of the people. Complementary measures on institutional strategies and alternatives are here proposed to improve the effectiveness of the parliamentary inspection system itself, on the basis of which local authorities, the National Assembly and the administration should coordinate their thinking and establish a consensus on rational improvement of the inspection system so as to fulfill the purposes of parliamentary inspection.

1. Introduction

Recently, many controversies about local government inspections have arisen as unions representing local authority workers have shown their opposition to these during the parliamentary inspection period. Even during the 2013 parliamentary inspection, civil service unions in metropolitan cities and provinces opposed local government inspections by the National Assembly, and a number of NGOs, also, requested the cancellation of parliamentary inspections performed by specific committees. The date of the parliamentary inspection itself was delayed and the inspection was eventually cancelled, which led to voices being raised against the purported uselessness of parliamentary inspections.

The parliamentary inspection system is a system whereby the Nation Assembly collects data and information so as to adequately exert its legislative power and finance related authorities, uncovers any wrongdoing occurring during government processing, criticizes national policies while demanding correction, and carries out observational work (Lim, 2011: 47). Since the parliamentary inspection system was reintroduced in 1987 it has been perceived as a very effective system whereby the

National Assembly can watch and control the government, yet criticisms have been made that during the past 25 years it has created disruption between ruling and opposition parties concerning party interests, owing to the brevity of the inspection period and inadequate inspections caused by the overwhelming number of agencies receiving inspection. Criticisms have also focused on the burden inspected agencies had to bear, owing to the inspection's tendency to punish any wrongdoing and request excessive data submission, and its lack of effort in solving problems.

Since the local autonomy system was revived beginning with the 1991 local council, local government inspections have exposed many problems, including conflict between local councils and the National Assembly, and have also cast doubts on the system's effectiveness. That is, from the National Assembly's point of view there are doubts about the appropriateness of delegated inspections supported by law and about the effectiveness of self inspections conducted by local authorities, while local authorities argue about the realization of local autonomy and the too frequent recurrence of inspections.

Despite opposition regarding local government inspections by the National Assembly, in reality, given the increasing proportion of subsidy businesses employed by local authorities,¹⁾ and the inadequacy of their self inspection systems,²⁾ simply abolishing local government inspections is not a recommended strategy, and also does not consort with the role and responsibility of the National Assembly as determined in the Constitution and related laws. Also, since the implementation of local governance, despite the expansion of autonomy and independence following increased local decentralization, the degree of responsibility, efficiency, and success in conflict management of local administrations have been evaluated as poor (Kim et al., 2002; Kong, 2009; Yeum, 2012). Scandalous events such as illegal budget execution and the

1) According to data from the office of assemblyman C. S. Kim (2008: 14), the proportion of assistance businesses in local authorities increased from 40.6 percent in 2010 to 43.4 percent in 2013, and even in Seoul, which had the lowest level of assistance, the 2013 business ratio increased by 5.6 percent compared to 2010. This means that while local finances are still in a poor condition, the dependence on national finance is high.

2) Cho (2010) states that even if inefficiencies caused by repetitive inspections by the National Assembly, the Board on Audit and Inspection, central departments, metropolitan local authorities, local councils and self organizations, and by residents' calls for inspection, are acknowledged, problems such as the independence of local authorities' self inspection organizations, insufficient professionalism of inspectors, self inspections focused on minor organizations, paternalism and insufficient result disclosure show that there is still a need to modify the inspection system relating to local authorities.

corruption of civil servants have continually occurred and are even seen sometimes as being on the increase, and these serve as a crucial obstacle to the revitalization of the local autonomy system (Yeum, 2012: 1). Even after the establishment and enforcement of the Public Audit Act, the self inspection system used by local authorities still manifests problems regarding the independence of auditing institutions, the professionalism of audit personnel, and lack of administrative control by local councils (Kim et al., 2002; Kong, 2009; Cho, 2010). There are even arguments that the administrative control and monitoring function of local authorities should be added to.

Therefore, in a climate where monitoring and controlling functions to secure the administrative responsibility and efficiency of local administrations are not fully established, asserting the uselessness of parliamentary inspections by the National Assembly is seen as an argument which serves only to emphasize local decentralization. Unlike in other countries, in Korea government investigations and inspections are guaranteed by the Constitution, and given the effective functioning of parliamentary inspections (Lee, 2002; Lim, 2011; Jung, 2009), at this time the need for local government inspections should be reaffirmed and discussions concerning future improvements should take place.

Accordingly, the present research aimed at reasserting the need for parliamentary inspections via theoretical discussion, analyzing the management problems faced by local government inspections (including those conducted by the National Assembly focused on discussion on the question of maintenance or abolition of the system provided by existing preceding research), and presenting development plans for local government inspections by the National Assembly. A literature review on domestic and foreign local government inspections was conducted to provide supplementary information.

II. The significance and current status of local government inspections of the National Assembly

1. The significance of parliamentary inspections

The parliamentary inspection system is an activity whereby the National Assembly examines and questions overall state affairs (Lee, 2002: 295). Parliamentary inspections

accurately comprehend overall state affairs, and elicit data and information that are required for legislation and for budget examination. Furthermore, by exposing and correcting any mistakes made in the field of administrative affairs, they serve to efficiently carry out the main roles of the National Assembly as designated by the Constitution: legislation, budget examination, and government control.

In addition, parliamentary inspections, as well as parliamentary investigations, enshrine the people's right to know, the principal condition for the realization of popular sovereignty; those conducting them serve as agents of the people, gathering information about the state's activities that people wish to know. This is a useful means of helping people to make political decisions (Kim, 2008: 1350; Jung, 2011: 134). Nevertheless, although parliamentary inspections have similar functions, stages and means to those of parliamentary investigations, which are continuously conducted by the National Assembly, the fact that they are conducted every year without any special resolution to this effect marks a distinction between them. They are used more frequently than parliamentary investigations in the National Assembly as a means of checking and controlling the administration. In addition, they differ from inspections conducted by the Board of Audit and Inspection in that the inspectors are assemblymen elected by the people, who thus reflect the will of the people (Korea Legislative Studies Institute, 2006: 39, *requoted*).

Following its introduction with the establishment of the first Constitution, the parliamentary inspection system was temporarily abolished during the 4th Republic as a consequence of the 7th amendment of 1972. It was revived in 1980, during the 5th Republic, via the 8th amendment; and in 1988, during the 6th Republic, the 9th amendment divided it into two parts, parliamentary inspections and investigations.³⁾

Article 61 of the Constitution provides grounds for the National Assembly to inspect or investigate specific administrative affairs. Articles 127 - 9 define the basic data for parliamentary investigations and inspections, and more specific details are included in the law on parliamentary investigation and inspection. According to this, the first clause of Article 2 of the law on parliamentary investigation and inspection determines that inspections of overall state affairs will be conducted 20 days a year on a periodic basis. They are conducted by the responsible standing committee mentioned in Article 37 of the National Assembly law, and in principle are targeted on all aspects of administrative affairs: legislation, administration, and jurisdiction. Also, under Article 12

3) For specific data on changes in parliamentary inspection system regulations see Jung (2011).

of the law on parliamentary investigation and inspection, the findings are made public and duties are given to inspected agencies such as administrations. Meanwhile, the law has legal force to guarantee implementation.

As long as specific regulations on reports, document submission, requests for witness attendance and verification relating to parliamentary inspections do not exist, the relevant persons or agencies must oblige, and in cases of disobedience, noncompliance, oath swearing or perjury, accusations can be made. Also, the administration or related agencies must report the results of parliamentary inspections to the National Assembly when correction or disposal of information is requested, and the National Assembly can take adequate measures to implement these reports (Jang, 2004: 45).

Parliamentary inspections by the National Assembly are essentially policy inspections aimed at central government, and corruption inspections aimed at frontline enforcement institutions. Local government inspections by the National Assembly contain a strong element of compulsion and control that is aimed at uncovering corruption and illegal behavior on the part of local authorities (Park, 2002: 52). As a result, they are conducted in accordance with regulations set out in the Constitution so as to reveal and correct errors made by local authorities, the true site of state affairs, where more than half of the national budget is spent (Bae, 2002: 143). According to research on the attitudes of assemblymen towards parliamentary inspections by the National Assembly including judgment of bills, budget and account examination, parliamentary inspection, and activities including district activities, civil complaints and petitions, 30.28 percent of assemblymen selected parliamentary inspection as being the most important (Lim and Ham, 2000: 70).⁴⁾ This shows that of all the primary legislative functions of assemblymen, parliamentary inspections are held to be among the most important.

2. Practical operation of parliamentary inspections

1) Timescales and methods

Under the law on parliamentary investigation and inspection, the standing committee independently decides upon enforcement of the investigation in the 30 days prior to

4) According to Lim and Ham (2000), the percentages of assemblymen considering parliamentary inspections, legislation evaluations, budget and settlement evaluations, and other activities, the most important were, respectively, 30.28, 21.19, 18.73 and 29.80. In other words, parliamentary inspections were considered to be the most important functions of the National Assembly.

the date of the ordinary meeting. The place where parliamentary inspections are to be carried out is decided by the committee, and is usually the site of the inspected agency or the National Assembly.

The committee can conduct preliminary investigations with experts who are not members of the Secretariat of the National Assembly or the inspected agencies (Article 9 of the same law, line 2). Also, the committee can request submission of related reports and documents by the responsible personnel or agency, the attendance of witnesses, appraisers and testifiers, and may conduct examinations. However, the approval of at least one third of the committee members is required should the committee wish to make a request for documents related to the investigation or inspection. The committee can open a hearing to select evidence from the documents relating to the inspections or investigations, or conduct investigations (Article 10). A hearing consists of a summoning of witnesses and listening to them when a committee of the National Assembly screens an important issue or conducts a parliamentary investigation or inspections, and is held in order to obtain information or data that will be used as a basis for judgment prior to the taking of decisions.

Hearings, both private and public, can be held when a request for them is made by at least one third of the members, in the case of standing committees. Data such as the issue in question, date, time, place, and names of witnesses should be announced five days before the opening.

The stages relating to the appraisal and testimonies of witnesses, appraisers and testifiers are specifically defined in the Law on Testimonies and Appraisal in the National Assembly. They include the obligation of witnesses to attend (Article 2), refusal to give testimony (Article 3), problems regarding testimonies, and document submission of official secrets (Article 4), along with the attention requirement of witnesses (Article 5).

2) Targets of parliamentary inspections

Although the target organizations for parliamentary inspections are divided into those selected by the committee and those selected at the plenary session, since the selection of organizations is in both cases conventionally done by agreement of assistant administrators of the ruling and opposition parties, if there is agreement between the administrators at each standing committee, the plenary session selection can be considered official. The target organizations determined by the law on

parliamentary inspection and investigation are shown in <Table 1>.

<Table 1> Parliamentary inspection: target organizations

Distinction	Target organizations
Target organizations selected by committees	National organizations established according to the National Government Organization Act and other laws
	Metropolitan cities and provinces
	Bank of Korea, the National Agricultural Cooperative Federation, the National Federation of Fisheries Cooperatives and government investment institutions according to Article 2 of the framework act on the management of government investment institutions.
Target organizations selected during the plenary session	Local administrative agencies and local authorities other than those selected by committees.
	Organizations belonging to the target organizations under the Board of Audit and Inspection Act which are seen as requiring inspection by the plenary session.

Inspections of first tier local authorities, such as those of metropolitan cities and provinces, are limited to nationally delegated affairs and businesses financially supported by the Government, such as via subsidies (Article 7, issue 2). Inspection of local authorities can be conducted by a combined group of two or more committees (Article 7, issue 2).⁵⁾As shown in Table 1, the number of local authorities to be inspected by National Assembly could be not many but limited in practice.

3) Institutional proceedings for parliamentary inspections

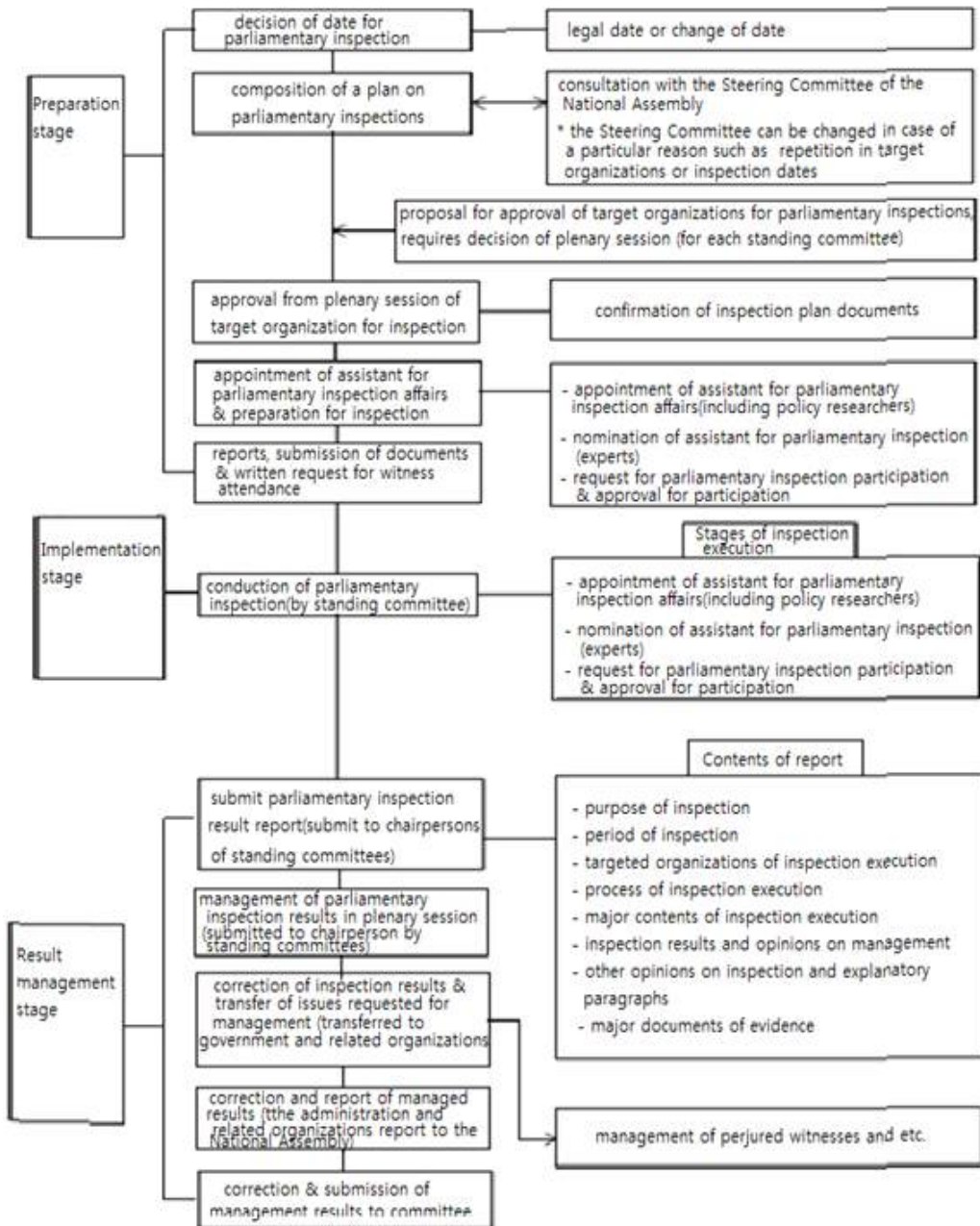
The proceedings for parliamentary inspections can be divided into three stages: preparation, inspection stage, and result management. As regards the specific proceedings, given that the X is unchanged, the chair of each standing committee consults with the steering committee, and prepares an inspection plan document that contains information about the target organizations, the formation of an inspection team, the inspection date, and so on. These are decided in committees by vote. However, in the case of authorizing institutions that require the authorization of the

5) In the case of metropolitan local authorities, since they perform tasks entrusted by central government, they receive around 2-4 inspections. Also, small scale administrative organizations are considered according to their task burden and receive inspections on a biennial basis (Korea Legislative Studies Institute, 2006: 6).

plenary session instead of related target organizations, target organizations are selected via discussion between the steering committee and each standing committee, and then cases of parliamentary inspection target organizations requesting authorization by the plenary session are forwarded to the plenary session.

Also, when the time at which parliamentary inspections are to take place has to be changed, the National Assembly's Steering Committee votes for a 'change to the date of parliamentary inspections' prior to the opening day of a regular plenary session of the National Assembly (every tenth of September), and the changed date is confirmed when put forward and voted for at the plenary session. Other proceedings are similar to those that take place when the date is not changed.

When a parliamentary inspection plan is confirmed, each standing committee can request reports and document submission, and the attendance of witnesses, appraisers and testifiers, but only when the committee has voted for this. Also, when a committee requests reports, document submission and witness attendance, the written request must include report items, the article and contents of the document, the time and place, the names of witnesses, the time of attendance, and the location. This written request must be forwarded to the relevant persons or the head of the organization at least seven days prior to the inspection.



data: Korea Legislative Studies Institute, 2006: 104

(Figure 1) An operational chart of parliamentary inspections

When the preparation stage for parliamentary inspections is over, inspections are

carried out by each standing committee according to the fixed inspection dates. They are carried out via discussion, with the exception of on the spot inspections and document inspections. Enforcement begins with the announcement of the inspection by the chairman or the inspection team chief, then there follow oaths by witnesses, the greeting of the head of the target organization, the introduction of members of the executive, and listening reports. After the listening reports are finished, committee members can submit questions to the target organization.

After the inspection schedule is concluded, each standing committee forms a subcommittee (or a different body to write a result report. For each target organization, this report should include the progress, contents and results of the inspection, and the opinions of the inspectors. At the behest of the commission the written report is submitted to the chairperson, who gathers the reports of each committee and submits it to the plenary session. At the plenary session the parliamentary inspection report is confirmed through the decision of the commission and is forwarded to the administration or to related organizations.

In addition, regulations relating to parliamentary inspections include the following strategies for effectively guaranteeing the carrying out of inspections by the National Assembly:

1. The duty of organizations to withstand discomfort.
2. The warrant of accompanying.
3. Punishment of violations.
4. Accusation to the prosecution.
5. The duty to report the results of management made owing to requests for correction and other causes.
6. Adequate measures toward processed results.

3. Legal basis and scope of local government inspections

1) Legal basis

Local government inspections by the National Assembly are carried out according to the Constitution, and have a legal basis in the law on parliamentary inspections and investigations and the National Assembly law. The first clause of Article 61 of the Constitution states that 'the National Assembly can monitor state affairs and investigate

specific government issues, and request the submission of necessary documents, the attendance of witnesses and their opinions or testimonies.’ The second clause regulates the process, and other required data on parliamentary inspections and state affairs to be set by law. Therefore, parliamentary inspections by the National Assembly can be regarded as comprehensive investigations carried out according to the Constitution (Lee, 2002: 296). Article 127 of the National Assembly Law regulates that parliamentary inspections by the National Assembly must follow the law on parliamentary inspections and investigations, except where differently stated in this law. Article 128 of the same law requires reports and demands for document submission, while Article 129 regulates the attendance requirements placed upon witnesses, appraisers and testifiers.

The second clause of Article 61 of the Constitution, which regulates parliamentary inspections and other data required for state affairs, and Article 127 of the National Assembly law which includes laws on parliamentary inspections and investigations, as well as laws on witnesses and appraisal, are related to the proceedings and methods of parliamentary inspections. Accordingly, basic regulations on local government inspections are also provided by Article 7 of the law on parliamentary inspections and investigations. The second clause of Article 7 sets the targets for inspection including metropolitan cities and provinces, although the scope of inspection is restricted to national delegated affairs and businesses supported by the Government such as through subsidies, and Article 4 includes local administrative organizations, local authorities and target organizations for inspection selected by the Board of Audit and the Inspection Act. In this case, however, regulation is carried out only when the plenary session has specifically voted for its inclusion. Meanwhile, the third clause of Article 41 of the Local Government Act also states that, with the exception of national affairs, with which local authorities and its heads are entrusted, and city/provincial affairs (in respect of which the National Assembly or city/provincial councils themselves conduct inspections), the respective city/provincial and city/district councils can conduct inspections.

When inspections are conducted by local councils, the National Assembly can request necessary information from the appropriate local council. There may be controversy as to whether the National Assembly can conduct inspections itself on issues which local councils have already inspected. However, if the National Assembly decides to conduct inspections itself in this case, this should be considered appropriate. If, however, the National Assembly decides without any rational cause to conduct an inspection on a

matter which has been already inspected by the local council, it will attract criticism for conducting repetitive inspections (Korea Legislative Studies Institute, 2006: 129).

2) Scope

There is no official manual for parliamentary inspections by the National Assembly, although the limits of inspection are regulated by law. The range of local government inspections by the National Assembly is set by the second clause of Article 7 of the law on parliamentary inspections and investigations and the third clause of Article 41 of the Local Government Act. Although in this latter clause the range of local council inspections includes not only autonomous affairs but also national affairs managed by local authorities and their heads, this does not confine the scope of parliamentary inspections by the National Assembly, and thus no change is made to the National Assembly's range of inspection rights regarding local authorities (Lee et al., 2002: 58). In other words, according to the relevant law, it should be seen that the National Assembly can conduct inspections not only on national delegated affairs and national affairs supported by government subsidies, national affairs entrusted to local authorities and their heads and provincial/city affairs that are inspected by province/city councils, but may when necessary conduct them also, directly, on target organizations and on the results of inspections conducted by province/city, city/county and district councils. However, conducting another inspection when results from inspections by local councils already exist can create a political burden and attract criticism, so the aim of the laws relating to parliamentary inspections conducted on previous results should be seen as being simply to supplement inspection by the National Assembly (Lee, 2002: 297).

Accordingly, the targets of local government inspections by the National Assembly can be viewed as follows. Local government inspections by the National Assembly are basically limited to national affairs managed by local authorities and their heads. Therefore, the National Assembly cannot conduct inspections on the autonomous affairs of local authorities, but can perform inspections and investigations relating to other collectively delegated and agency delegated affairs.

The purpose of excluding autonomous affairs from parliamentary inspection targets is to prevent repetitive inspections and respect the autonomous rights of local authorities, and since the National Assembly can exert the right to inspect every national organization it may be said that it can also inspect delegated affairs (Park, 2002: 19). However, the problem with current local government affairs is that not only is the

percentage of delegated affairs high, but also, there is an unclear distinction between autonomous affairs and national delegated affairs (Baek, 2011: 320). Furthermore, it is very difficult to distinguish between autonomous affairs, collectively delegated affairs and agency delegated affairs according to their practical characteristics when there is no clear regulation about this given in the positive law, and this can lead to potential conflict over different views about the range of parliamentary inspections (Lee et al., 2003: 34). Therefore, discussion on local government inspections by the National Assembly needs to discover rational measures to fulfill the purpose and goal of parliamentary inspections.

III. Characteristics of local government inspection systems in other major countries

In the case of major countries, in general, parliamentary inspections by their National Assemblies are understood as parliamentary investigations on specific issues, and the parliamentary inspection system (such as that of Korea, which grants rights of inspection to overall state affairs) is not recognized (Lee et al., 2003: 30).

1. Local government inspection systems in the USA

The USA has adopted a system which strictly follows the separation of powers, and so under the constitution the National Assembly does not have any supervisory authority over the administration. On the other hand, the US system succeeded that of the UK and so has, since the colonial era, acknowledged the performance of auxiliary functions that involve the National Assembly through the investigative power of Parliament, and these functions are vitalized (Lee et al., 2002: 52). The means of parliamentary monitoring that the US Congress is capable of exercising include not only parliamentary investigations, but also investigations of council hearings and administration activities, expenditure authorization and monitoring of the approval process, inspections by the Government Accountability Office (GAO), monitoring of unofficial statistics and unofficial congress organizations, and monitoring activities aimed at individual members (National Assembly Legislation and Judiciary Committee, 2004: 4).

This inspection environment means that local government inspections in the USA take a very complex form. Nevertheless, all local authorities operate an inspection system completely independent from their executive branches and from higher governments. Inspections of local authorities are made under state constitutions, the law on local government inspection, local government law, and the law on singular inspection. The standards of these inspections are established by the inspection standards committee affiliated to the US Institute of Chartered Accountants, and singular inspection standards are set by the government inspection standard established in 1984. Local government inspections in the USA operate according to these standards, as follows (Park, 2002):

1. Inspections are made which investigate whether the financial statements announced by state governments and local authorities are fairly and reasonably made according to inspection standards that adopt accounting principles. Most state and local authorities require such financial statement inspections by law, but, except for inspections carried out under the law on singular inspection, most of these rely on ordinances or rules made by state and local authorities instead of being obligatory according to the federal government.
2. Outcome inspections focus on whether civil servants of state and local authorities economically and efficiently accomplish given tasks, and whether specific businesses accomplish their initial goals, but there is no fixed standard to determine economic stability and efficiency.
3. The passing of the law on singular inspection in 1984 rendered state and local authorities that receive more than \$100,000 in subsidies targets for inspection. Previously, although state and local authorities that received subsidies from the federal government needed to be inspected, if a local authority received different subsidies it had to be inspected each time this occurred, and the standards of inspection were unclear.

To sum up, in the USA where the separation of power is strictly adopted and local government is in principle under local council rather than the Congress, parliamentary inspection system of local government is not accepted.

2. Local government inspection systems in Japan

Although regulations governing the rights of parliamentary investigation are mentioned in the Japanese constitution, unlike in Korea there is no system of periodic parliamentary investigation covering overall state affairs. However, the parliamentary act recognizes rights regarding parliamentary investigations within a certain range, and after laws on witness oaths and testimonies of assemblymen were established in December 1949 it became possible to exercise authorized investigation rights in a practical way. Accordingly, parliamentary investigations in Japan can be divided into (1) parliamentary investigations of overall state affairs, and (2) local government inspections conducted by the Government Accountability Office (Lee et al., 2003: 31).

According to Article 62 of the Japanese Constitution, the House of Representatives and the House of Councilors each conduct an investigation of state affairs. Although the range of the parliamentary investigation is not clearly defined, it usually covers overall state affairs, excepting purely private affairs. However, the targets of parliamentary inspections are limited to specific issues. The target organizations are the Cabinet, government offices, etc., so although local authorities can also be seen as targets for parliamentary investigations, in reality local organizations are seldom investigated.

Second, in Japan, a parliamentary investigation of local authorities has almost never been conducted, because central government and local authorities conduct their own investigations. Included in this category are external inspections such as GAO inspections by the central government, inspections by central ministries and departments, inspections by specialized fields of ministries and departments, and inspections of the Japanese municipalities in *Dodobu hyun*. The most salient inspection of local authorities conducted by central government is the inspection by GAO, which targets the finances of local authorities and is specifically limited to businesses that receive government subsidies. It is conducted every five years, and during the inspection year the self inspections of ministries and departments are cancelled in order to prevent repetitive inspections.

As described above, in Japan although the range of the parliamentary investigation is not clearly stipulated, it is generally accepted that it covers overall state affairs including local government affairs. However, what is noticeable is that in spite of the legal possibility, a parliamentary investigation of local authority in Japan has never

been conducted, mainly because of the principle that local government should be inspected by itself, not by central government and in an inevitable circumstance central government could be involved in local government matters (Shimizutani, 2010, 103-104).

3. Local government inspection systems in the UK

As regards central government, rights relating to parliamentary investigations in the UK originated in 1969 following the establishment of a special committee within Parliament to investigate the causes of failure of the conflict in Ireland and reveal matters of responsibility (Lee et al., 2003: 30). Following this, a parliamentary investigation system was implemented and the Parliamentary Witnesses Oaths Act and the Witnesses Protection Act were later established.

However, the investigatory functions of Parliament were weakened by the foundation of the Royal Investigation Commission in the nineteenth century and the investigation court, which gained authority over political investigations in 1921. Currently, the UK parliament maintains a special committee as a means of continuously monitoring and investigating state affairs. Special committees are established when necessary at the behest of each government ministry and investigate the Ministry's expenditure, policies, and administration.

The right to conduct parliamentary investigations in the UK is seldom exercised by the standing committee. Instead, investigations are led by special committees, and four special committees, on finance, expenditure, budget, and legislation, are standing which collect within their authorities' data of improvement. In other words, in the UK the concept is established that investigations of state affairs are conducted by special committees rather than taking the form of parliamentary inspections (Secretarial Office of National Assembly, 2004: 46).

Differently from central government, local government in the UK is inspected by Audit Commission, which is independent from central and local government in real terms.. The role of audit in the control of local authorities and the limitation of local autonomy has been a significant feature of the history of local government in the UK (Panara and Varney, 2013:357). Independent auditors serve to place significant limit on the ability of local authorities to exercise local discretion in the level of funding and provision of services. For example, until relatively recently, the local councilors could

face individual financial liability for failure to meet certain other obligations in relation to local authority finance. In recent times, audit of local government has become more closely linked with inspection, target setting and performance monitoring as methods of regulating local governments and exerting a degree of control over them, which means that local government in the UK is audited and inspected by the Audit Commission, which is an independent body.

4. Implications of these cases for Korea

Each country has its own unique political and administrative structure, indicating that the audit and inspection system of local government of each country may differ in many respects, depending on basic features of their autonomy, principle of separation of the three powers, presidential or cabinet system etc. In Korea where a vast majority of local councilors are still not recognized as politically mature politicians, it is not easy to be accepted that only local councilors should have authority to inspect and audit matters of local government. In addition, it should be noticed that administrative functions and matters belonging to central departments are exercised at local level, in the name of devolved local matter. That is why the National Assembly in Korea could be involved in auditing and inspecting local government matter.

The major countries whose inspection policies are briefly examined above do not recognize the right to conduct parliamentary inspections on overall state affairs, and only recognize the right to conduct parliamentary investigations. In particular, this latter right is only applied to certain issues selected by parliament (or committees), and thus is seen as an auxiliary tool for carrying out the functions of the National Assembly. The range of parliamentary investigations are targeted on government subsidies and specific businesses, and (although differences between the countries exist) they are targeted also on the clarity of accounting results and performance inspection results. However, in these countries the right to conduct parliamentary investigations is a greatly weakened one, and, except in the USA, they are not conducted often.

On the other hand, the right for parliamentary inspections is a unique system only recognized in the Republic of Korea, and is significant in that it is a system needed for the National Assembly to adequately exercise the authorities granted by the constitution, and also that it is a strong means of securing administrative responsibility.

Therefore, discussing problems relating to the right to conduct parliamentary inspections only by referring to foreign parliamentary investigation systems and the legal sanction for parliamentary inspection represents a limited approach, and there is a need to derive the future direction and objectives of parliamentary inspections by considering the main positions taken by preceding studies of the maintenance or abolition of local government inspections by the National Assembly.

IV. Arguments for the maintenance or abolition of local government inspections

1. Abolitionism of parliamentary inspections

1) Objection from a lawmaking position

The legal reasoning of abolitionists opposed to parliamentary inspections by the National Assembly is as follows. According to the principle of horizontal power distribution between central and local authorities, parliamentary inspections should be targeted on the central government, and this accords with the Constitution and administrative system, which specify that inspections of local authorities should be conducted by local councils. That is, in a situation where it is very difficult to separate the national delegated affairs of local authorities (which are inspection targets) from those of indigenous businesses, although parliamentary inspections by the National Assembly are restricted to national delegated affairs, data relating to local businesses are requested and investigations are conducted via current parliamentary inspections. Abolitionists argue that to inspect local matters that should be investigated by local councils is to violate the right to autonomy of local authorities, and thus goes against the basic principle of local governance (Park, 2002: 65).

In addition, the fact that problems of repetitive inspections of local authorities have been mentioned in previous research suggests that local government inspections by the National Assembly should be abolished (Constitution Research Advisory Committee, 2009: 159). In particular, Lee (2005: 523) states that, from a historical perspective, provision of the right to parliamentary inspections in the first constitution of Korea was due to a misunderstanding of the parliamentary investigation system, and is a system that cannot be observed in foreign cases. That is, members of the Constituent

Assembly did not deliberately introduce the present parliamentary investigation system, and other parliamentary inspection systems, after careful consideration, and since parliamentary inspection was used to stand for parliamentary investigation, in reality there is no country that currently employs a parliamentary inspection system. Therefore, the system used in Korea should be abolished.⁶⁾

2) Problems regarding the effectiveness of parliamentary inspections

Recommendations to abolish parliamentary inspections on grounds of their inefficiency are based on the phenomenon of repetitive inspections and problems caused by the processing stages and contents of the parliamentary inspection itself.⁷⁾ In undertaking major research on the parliamentary inspection system in order to increase its effectiveness, Lim (2011) conducted an investigation based on the research of Choi and Kim (2010), Jang (2004), Kim (2008), Jung (2009), Ahn (2007), and Advisory Committee on Management Innovation of National Assembly (2008). The results are discussed below.

First, in the case of a parliamentary inspection of local authorities, repetitive inspections by more than two standing committees are possible. In the case, especially, of local authority inspections by the Board of Audit and Inspection, the Ministry of Security and Public Administration, central administrative organizations, and local councils, as well as self inspections and parliamentary inspections, this leads to a waste of administrative resources and inefficiency. From the point of view of local authorities, the disturbances caused by the workload lead directly to the paralyzing of administrative tasks, and given that the residents end up suffering from the consequences of this there is no need to conduct parliamentary inspections that do not greatly differ from other external inspections.

6) However, there is a clear difference between parliamentary inspections and investigations in terms of range and purpose, and given the situation in Korea, in which the positive effects of parliamentary inspections cannot be denied, arguing for abolition solely on account of foreign cases is inappropriate. In fact, following the distinction being made between parliamentary inspections and investigations, the parliamentary inspection system has performed the important function of national control along with the parliamentary investigation system. This is important, in that the Korean system depends on a 'unique constitution' clause unknown in other countries, and it is argued that this system may elicit foreign interest in a comparative perspective (Jung, 2011: 147).

7) Supporters of abolition maintain that some problems relating to parliamentary inspections are also acknowledged by those who support their retention, and thus the system needs improvement.

Secondly, according to the law on parliamentary inspection and investigations, in principle, owing to the date restrictions on parliamentary inspections, which have to be conducted annually for 20 days beginning on the day following the regular session of the National Assembly, it is difficult for sufficient questions and answers to go by, and difficult also to secure effectiveness owing to insincere attitudes and post treatment.

Third, the term that best describes the relationship between the Government, which is the main agent of state affairs management, and the National Assembly, which is the main agent of control, is asymmetry. Since one of the main functions of parliamentary inspections is to secure the people's right to know, the National Assembly requests a vast amount of data from the Government, and the inspected government submits a large amount of data (Lim, 2011: 335, *quoted*). Also, requests for unnecessary data are causing further problems (Kim et al., 2002: 199).

Fourth, when there was political conflict between ruling and opposition parties during the enforcement period for parliamentary inspections, many cases ended up as failures, indicating that in many cases these inspections are not fulfilling their function of keeping the administration under control, but are distorted into a means of political conflict.

3) Damage caused by parliamentary inspections to local autonomy and other fields

Local government inspections by the National Assembly are conducted on national affairs managed by local authorities and their heads or businesses that receive national support such as via subsidies. However, while the boundaries between autonomous affairs and delegated affairs are unclear, there have been cases of illegality or abuses of rights through the conducting of parliamentary inspections on autonomous affairs as well, another reason put forward for its abolition. According to Lee et al. (2003), 3,510 cases of affairs and data requests were made to the government in Seoul during the 2001 parliamentary inspection of the National Assembly, including repetitive affairs, and of the 1336 cases in which local government function technical documents were written, autonomous affairs accounted for 898 (67.2%), while businesses that were not recognized as mutual businesses and genuinely were targets for parliamentary inspection only accounted for 6 percent. This shows that there were abuses of the right to conduct inspections (Lee et al., 2003: 39).

4) Inspections by local councils

This argument states that since, in local governance, the local council which checks the local government head can monitor and criticize the administration via the representation of residents, conducting parliamentary inspections as well is unnecessary. The local council is a legislative organization that can determine the major policies or operation of local authorities and issues relating to the burdens of residents; it is a law making organization that can establish regulations, and it has legal authority to monitor and check the enforcement organization through administrative affair inspections and investigations (Ahn, 2007: 41). In particular, the administrative affair inspection of the local council is very important for the local council's control function, since it secures the administrative responsibility and efficiency of local authorities and helps to cement democracy. When administrative affair investigations and inspections become revitalized and self inspections are made possible, parliamentary inspections will be unnecessary (Park, 2002: 66).⁸⁾

2. The case for retention

1) Assent from a lawmaking perspective

Primary discussion of the retention of local government inspections by the National Assembly can be conducted from a lawmaking perspective. Since local government inspections by the National Assembly are regulated in the Constitution, the National Assembly law and the law on parliamentary inspections and investigations, it is natural to conduct parliamentary inspections and a violation of law to object to such facts. In accordance with the second clause of Article 7 of the law on a parliamentary inspections and investigations, national delegated affairs and businesses receiving financial support from the Government are obliged to undergo parliamentary inspections by the National Assembly, and there are even regulations on the scope of inspection, so the idea of abolishing the inspection itself because of its infringement of certain elements of autonomous affairs is one that needs reconsideration. Particularly when delegated affairs and autonomous affairs cannot be clearly distinguished, it is the intent of the law that the National Assembly should gain jurisdiction, and the current situation, in which many national affairs are entrusted to local authorities as agency

8) This was similarly commented upon by Kim et al. (2002).

delegated affairs and administrative information, is poorly revealed as well since Korea's position of not being able to exercise powerful external control on administration gives ground for arguments that local government inspections by the National Assembly cannot be abandoned (Park, 2002). Also, the argument that, since the right to conduct parliamentary investigations cannot be easily exercised in real political situations and its administrative control functions cannot be expected, abolishing the right to conduct parliamentary inspections will only weaken the administration controlling functions of the National Assembly (Jang, 2004: 124) shows that parliamentary inspections and investigations have a significant independent aspect.

Above all, for the abolition of the parliamentary inspection system to be justified, the side effects and damage caused by parliamentary inspections would have to outweigh their constitutional value and the benefits gained by retention of the system; yet most of the problems mentioned by abolitionists, such as violation of the autonomy of the administration, violation of power division, damage caused to local autonomy, the tendency toward political inspections and the ineffectiveness of parliamentary inspections and interventions in upholding rights and interests, could not in fact be eradicated simply by revising related laws. Thus, it cannot be said that the ills caused by parliamentary inspection outweigh the positive functions of government control (Jung, 2011: 148).

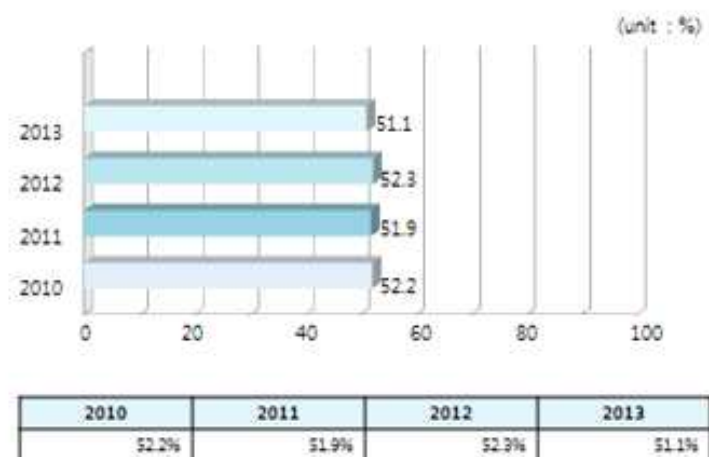
2) The National Assembly's control function regarding national affairs

Of the arguments supporting the need for local government inspections by the National Assembly, one in particular argues the need for these inspections with regard to the control function on national affairs, despite the ambiguity in relation to autonomous affairs. This argument states that, given that the abolition of local government inspections implies that the National Assembly does not have any kind of authority to inspect all affairs managed by local authorities, deciding whether parliamentary inspections should exist on the basis of affairs carries the possibility of severely restricting the National Assembly's control over national affairs. In other words, even if local authorities practically manage collectively delegated affairs and agency delegated affairs, the attributed subject of these affairs is the state. Therefore, saying yes or no to parliamentary inspections of national affairs should depend on whether the state or local authorities manage them. In this case, since the delegation of office work to local authorities is not made in consideration of parliamentary inspections, it is unreasonable to judge the existence of parliamentary inspections by

using these as standards. Therefore, even if local authorities do manage delegated national affairs, abolishing parliamentary inspections will greatly restrict the National Assembly’s control over national affairs (Lee et al., 2003: 41).

3) Monitoring and control made desirable by the financial dependency of local authorities

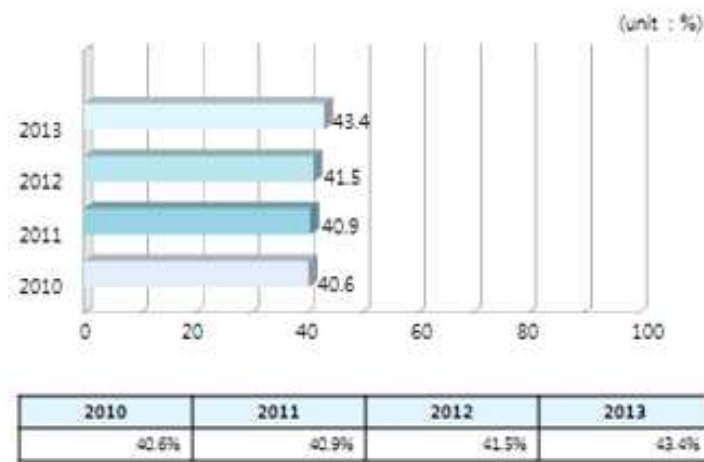
Except in certain cases, local authorities in Korea have a low fiscal self reliance ratio and largely depend on national subsidies, so in the view of the National Assembly, an inspection of the proper use of national finances must be made. In accordance with this, in 2000, during a presentation of views on constitutional appeal against parliamentary inspections, the Ministry of Government Administration and Home Affairs argued that since 37.1 percent of the entire budget of cities and provinces comes from the Government, it is natural for the National Assembly to monitor how national finances are administered, make appropriate criticisms, and correct any wrongdoing. The situation has not changed much as of today. As regards changes to the fiscal self reliance ratio of local authorities between 2010 and 2013, the average is around 51.9 percent. Seoul and metropolitan cities saw changes of 87.7 and 52.7 percent respectively, higher than the average. However, for provinces the ratio was only 34.1 percent, indicating that these areas rely highly on national finance.



data: Financial Bureau home page, accessed 2013.12.03.

(Figure 2) Differences in the fiscal self-reliance ratios of local authorities

Also, the proportion of assistance businesses financially supported by higher departments out of the overall local government budget is continually increasing, and so the argument that it is difficult to control budgetary management by local authorities simply by reasserting the power to conduct parliamentary investigations and policy inspections is gaining weight. The proportion of assistance businesses belonging to local authorities grew from 40.6 to 43.4 percent between 2010 and 2013. Seoul has an average of 20.7 percent, and the averages for metropolitan cities and provinces are 39.1 and 56.3 percent respectively.



data: Financial Bureau home page, accessed 2013.12.03.

(Figure 3) Differences in the proportion of assistance businesses of local authorities

Thus, forbidding the National Assembly from inspecting local authorities is equivalent to simply conducting policy inspections, while remaining ignorant of the corruption that occurs during the enforcement process (Park, 2002: 66). In this connection, Choi and Kim (2008) also argue that, while most local authorities largely rely on the financial support of the state, given that the functions and resources of local councils are insufficient to conduct overall inspections,⁹⁾ it is necessary that local

9) Ahn (2007) classified the local autonomy of Korea into a powerful market weak council, and mentioned that in this power relationship there are limitations in conducting inspections by local councils because local councils have only limited power compared to that of local government enforcement organizations, in which more institutional authority is given to the leader.

government inspections should be maintained until local councils become able to rigorously carry out full inspections.

4) Inadequacy of local council inspections

Another reason why local government inspections by the National Assembly are needed is that the inspection system operated by local councils and local authorities is incomplete. There is criticism that efficient inspections are not conducted, owing to the inexperience of local assemblymen and insufficient inspection methods. In particular, the conduct of administrative affairs investigations shows that side effects and insufficient investigation activities (such as broad questioning relying on public issues, repetitive questioning, verbose or excessively light policy questioning, and unnecessary and excessive requests for data) are more common than desirable investigation activities such as local assemblymen understanding the essence of a problem as a result of their professionalism (Ahn, 2007: 66). This is because local assemblymen of the elective office cannot but gratify the demands of local residents, which leads to a 'popular' style of inspection, and this means that corruption exists (Sekye ilbo Daily News, 2008.09.23) in the form of an adhesive relationship with local residents (Bae, 2002: 144).

Cho (2010) argues that one of the problems the current local government inspection system faces in strengthening the integrity of local finances is that local government leaders were granted an excessive amount of discretionary power by the law on public inspections, and thus it is necessary for parliamentary inspections by the National Assembly and other inspections on a national scale to be conducted until the independence of inspection organizations, the professionalism of inspection officers, and modifications to the overall inspection system can be assured.

3. Effecting a synthesis between abolitionist and retentionist viewpoints

Korea has made substantial improvements since the revival of the local autonomy system, and currently, discussion frequently takes place on the development of local autonomy based on the diversity and autonomy of local authorities. These discussions are resulting in biased understandings, such as demands for the independence of local administration, and for a drastic separation from central government. These disregard the position that emphasizes the unity of government administrations, and thus are

becoming one of the principal reasons for excessive rejection of monitoring by local authorities. Also: violation of the separation of powers; the excessive number of inspection target organizations; inspections used in cases of political dispute; excessive demands for witness attendance and document submission; problems caused by witness nonattendance and perjuries; inadequate management of inspection results; and (in the view of local authorities) the purported impossibility of realizing practical local autonomy and problems caused by repetitive inspections - these are all arguments that support the abolition of parliamentary inspections or at least the abolition of parliamentary inspections of local authorities.

As can be seen from the previous discussion, although opinions concerning these problems are not presented without a certain level of validity, it cannot be denied that in the Korean context parliamentary inspections and investigations have been used to serve different purposes, and also that this has largely functioned as a means of periodically inspecting overall state affairs (Koh and Noh, 2011: 326). Therefore, it is not rational to discuss the revitalization of parliamentary investigations as a means of permanent control of state affairs and the abolition of the parliamentary inspection system on the same level. In particular, when considering the relationship between local authorities and the state, the dependence of local authorities on central finance, and the inadequacy of a self inspecting function, it becomes harder to accept arguments for the abolition of local government inspections by the National Assembly.

A desirable local autonomy system should be seen as having powers deriving from the state, even if it is a corporate entity independent from the state (Ahn et al., 2006), and therefore it should be understood as natural that a certain level of supervision can be exercised by the state according to legal principles. Particularly when considering the basic ideology and legal system of a democratic nation under constitutional rule, it should be kept in mind that the local autonomy system should be realized along with unity, equity, efficiency, and other basic principles needed for the operation of government, and borne in mind too that this does not mean the establishment of a new system by shunning the basic laws and ordinances of the state.

Therefore, it can be said that even if local government inspections are conducted by the Board of Audit and Inspection,¹⁰⁾ or the executive branch, the authority of the

10) The national conference of mayors and county governors issued a statement objecting to inspections by the Board of Audit and Inspection and requested an adjudication on jurisdiction disputes by the Constitutional Court. In response, the Constitutional Court declared that inspections of local authorities conducted by the Board of Audit and Inspection

National Assembly, the main practical legislative body and representative of the people, to monitor and control the administrative responsibility and efficiency of local authorities so long as this does not damage local autonomy and is regulated by law, cannot fundamentally be denied.¹¹⁾ In particular, it can be said also that since problems which appear in local government inspections by the National Assembly can be solved via institutional and procedural improvements, the correct approach here is to seek for rational improvements.

IV. Conclusion: proposals for future local government inspections by the National Assembly

This research was undertaken to reestablish the need for parliamentary inspections through theoretical discussion, and to investigate directions for future development through comprehensive consideration of the continuation or abolition of local government inspections by the National Assembly. In the case of Korea, local authorities largely depend on national finance, and since the need for parliamentary inspections is strongly proposed owing to unclear boundaries between local and national affairs, efforts must first be made to clarify the boundaries to local government affairs mentioned by positive law. However, according to the principle of the division of powers, the National Assembly has control functions over the administration, which makes it possible also for it to exercise these functions on the delegated affairs of local authorities. Nevertheless, given that inspections by organizations controlling the execution of local government affairs, such as ministers of central departments and the Board of Audit and Inspection, are conducted simultaneously, the National Assembly should conduct parliamentary inspections from the perspective of political and policy rationality, instead of taking a control focused approach.

(including autonomous affairs) are constitutional (Lim, 2011).

11) In October 2000, official city/province labor unions in seven areas, including Seoul, demanded a constitutional appeal against parliamentary inspections of local authorities for possibly having violated the constitution, but the Constitutional Court dismissed the case (Lim, 2011), declaring that the concerned group were not directly affected, and decisions regarding parliamentary inspection on a legal scale were in the end not made. This issue remains controversial.

In addition, given that the National Assembly conducts parliamentary inspections in order to perform the proper functions of the Assembly such as the exertion of legislative power, the consideration and decision of budgets, the approval of settlements, and the management of petitions, there is a need to conduct parliamentary inspections on related local government issues. However, inspections of overall local government work can be managed adequately via national inspection agencies such as the Ministry of Central Departments or the Board of Audit and Inspection, and thus the National Assembly should minimize direct intervention in the business of local authorities and recognize their autonomous rights by acquiring information (such as via demands for data) through central departments. Yet even in this case, when it is difficult to obtain the required information the National Assembly may conduct local government inspections directly.

Above all, despite previous research on local government inspections, in view of the positive functions of the parliamentary inspection system, and the inspection capacity and dependability of local authorities, it is difficult to accept that a valid argument can currently be made for the abolition of local government inspections. Moreover, since additions to institutional strategies and alternatives that improve the effectiveness of the parliamentary inspection system itself are being put forward, it is necessary to coordinate opinion, and agreements between local authorities and the National Assembly, regarding rational improvements to the parliamentary inspection system.

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