

**The Japanese System Facilitating Transfer
of Authority
from Prefectural Governments
to Municipalities**

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Abstract

This essay focuses on the system that facilitates transfer of authority from prefectures to municipalities by describing the 'Special Exceptions regarding Delegation of Functions according to Bylaws' (SEDFB) under Japan's Local Autonomy Law.

SEDFB is the system of transferring authority from prefectural governments to municipalities. The system was established by a 1999 amendment to Japan's Local Autonomy Law. This revision is one example of reforms made for decentralization. Although the law was passed at the national level, the process of the transfer of authority by SEDFB differs greatly from prefecture to prefecture. The "basic laws" define the fundamental authority to transfer using SEDFB. Presently, the average number of basic laws introduced in Japan's 47 prefectures totals 44, with Shizuoka, Niigata, and Osaka having the highest number. The total number of basic laws among all prefectures was 217 in 2013.

There are various kinds of basic laws relating to the transfer of authority by SEDFB but the law that is used most often by prefectures is "Wildlife Protection and Proper Hunting Act."

The institutional significance of SEDFB is (1) the promotion of authority transfer, (2) improvement of convenience, and (3) evidence of the improvement of administrative ability at the municipal level.

The main factor propelling the transfer of authority may well be the positive attitude exhibited by prefectures.

Introduction

A. *Focus of the Essay*

One of the major objectives of this manuscript is to highlight a unique dimension of Japanese intergovernmental relationships. Japan takes a unitary form of government. Under the central government, the country is divided into forty seven prefectures, which are equivalent to states and provinces in other countries. Each prefecture is further separated into cities (813 units including 23 special wards in the central section of the Tokyo Metropolitan Government), towns (745) and villages (183). Previously, centralization marked the country's intergovernmental relationships. Since 2000, however, decentralization has increasingly become important. This paper focuses on one of the methods which would expedite decentralization from prefectures to cities. Congruent with the Japanese Local Autonomy Law, a prefecture is allowed to provide an ordinance. By ordinance, it would be able to devolve a part of its mandates to cities. This legal nicety is often utilized by different prefectural governments to facilitate decentralization. Nevertheless, the past record indicates that, some prefectures are enthusiastic in taking advantage of this

measure, while others often seem reluctant. This essay attempts to analyze the reasons for this dichotomy among various prefectures. The paper hopefully would help others to understand difficulties inherent in decentralizing local management of government. In this paper, an acronym, 'SEDFB,' is frequently used. This refers to one of the provisions in Japan's Local Autonomy Law. The clause is called: Special Exceptions regarding Delegating of Functions according to Bylaws.

Likewise, several expressions used in this manuscript ought to be clarified at this point. The meanings of each term in this essay are as follows:

- (1) LAL: Local Autonomy Law in Japan, Act No. 67 of April 17, 1947
- (2) Prefecture: *To, dō, fu or ken* (in Japanese) are similar to states or provinces. Table 1 lists the names of the 47 prefectures.
- (3) Municipality: *Shi, chō, or son* (in Japanese) refers to a city, town, or village
- (4) Governor: Elected head of a prefecture through a general election
- (5) Mayor: Elected head of a municipality through a general election
- (6) SEDFB: Special Exceptions regarding Delegation of Functions according to Bylaws. This system was included in the LAL upon said law's amendment in 1999.
- (7) Basic law: The law that defines the fundamental authority enabling transfers by the SEDFB. Table 2 lists the specific names of the laws.
- (8) Number of basic laws: The number of basic laws in each prefecture as of April 1, 2000*, 2008, or 2013 (*the number of the basic laws listed for 2000 includes the number of laws regulating the way offices work).
- (9) Area: Area in square kilometers of each prefecture as of October 1, 2000, 2008, or 2013
- (10) Number of municipalities: The number of municipalities by prefecture as of January 1, 1999, July 1, 2000, March 31, 2008, or January 1, 2013
- (11) Decreasing rate: Reduction rate of the number of municipalities between 1999 and 2008 as a result of municipal mergers
- (12) Population: Population in thousands by prefecture as of October 1, 2000, 2008, or 2013
- (13) Financial capability indicator: Indicator of the financial strength of local public bodies, calculated as a three-year average of the figures derived from dividing basic financial revenues by basic financial needs. A high financial capability indicator means more revenue sources are reserved in the calculation of the ordinary local allocation tax, and that the local public body may be said to have a wider range of revenue sources (CLAIR (2006): 84).

B. Basis of Local Government in Japan

The LAL specifies that the basic units of local government shall be prefectures and municipalities. Japan's local autonomy system adopts a two-tier system of prefectures as regional government units and municipalities as basic local government units. Local public bodies shall be classified as 'ordinary' and 'special' local public bodies. Prefectures and municipalities fall under the ordinary local public body

Table 1 Operational Realities of SEDFB

Prefecture Code	Year	Number of Basic Laws			Area: (km²)			(Number of Municipalities)				Decrease Rate (1999-2008)/1999	Population: (thousands)			Financial Capability Indicator	Promotion System	Days of Assembly Debate 192008-2009-2012 total	Group C or D		
		1/2000	2/2008	3/2013	4/2000	5/2008	6/2013	1999	2000	2008	2013		192008	192009	192012						
1	Hokkaido	20	68	76	8	83,453.04	83,456.38	83,457.48	212	212	180	179	5,683	5,535	5,431	0.401	0.389	A	111	C	
2	Aomori	15	35	33	-2	9,224.52	9,218.51	9,641.74	67	67	40	40	0.407	0.416	1,332	1,335	0.327	0.303	14	D	
3	Iwate	21	73	67	-6	15,278.40	15,278.86	15,278.89	59	59	35	33	0.407	0.403	2,385	2,340	0.526	0.526	34	D	
4	Miyagi	38	55	51	-4	6,981.12	6,982.10	6,982.15	71	71	36	35	0.638	0.638	1,189	1,108	0.297	0.79	79	D	
5	Akita	9	58	54	-4	11,434.11	11,434.28	11,639.32	69	69	25	25	0.205	0.205	1,214	1,188	0.317	0.317	15	D	
6	Yamagata	21	23	29	6	7,289.43	6,952.11	6,952.11	44	44	35	35	0.344	0.344	2,052	1,948	0.462	0.462	16	D	
7	Fukushima	48	34	44	10	13,782.18	13,782.75	13,782.76	90	90	60	59	0.482	0.482	2,504	2,504	0.607	0.607	33	D	
8	Ibaraki	35	49	21	6,095.58	6,095.69	6,095.84	85	85	44	44	0.482	0.482	2,504	2,504	0.607	0.607	33	D		
9	Tochigi	52	46	57	5	6,468.58	6,468.58	6,468.58	70	70	38	35	0.457	0.457	2,025	2,012	0.514	0.514	25	D	
10	Gunma	27	25	42	17	6,833.16	6,983.16	6,983.33	70	70	38	35	0.457	0.457	2,025	2,012	0.514	0.514	25	D	
11	Saitama	42	68	75	7	3,757.09	3,757.09	3,757.42	92	92	70	63	0.259	0.259	6,938	7,113	0.769	0.746	40	C	
12	Chiba	33	34	31	-3	4,995.76	5,081.91	5,081.93	80	80	56	54	0.300	0.300	5,926	6,122	0.801	0.755	10	D	
13	Tokyo	14	44	31	-13	2,102.25	2,102.95	2,103.97	40	40	39	39	0.025	0.025	12,064	12,838	1,300	0.963	0.913	5	C
14	Kanagawa	51	52	56	4	2,415.41	2,415.84	2,416.05	37	37	33	33	0.108	0.108	8,917	9,079	0.909	0.851	50	C	
15	Niigata	20	65	92	27	10,988.80	10,983.39	10,983.75	112	112	31	30	0.723	0.723	2,476	2,391	0.437	0.389	34	D	
16	Toyama	44	36	34	-2	2,801.69	2,045.73	2,045.80	35	35	15	15	0.571	0.571	1,121	1,101	0.482	0.459	8	D	
17	Ishikawa	25	11	11	0	4,185.22	4,185.54	4,186.21	41	41	19	19	0.537	0.537	1,181	1,108	0.484	0.458	8	D	
18	Fukui	14	33	33	0	4,188.75	4,186.54	4,186.89	35	35	17	17	0.514	0.514	829	812	0.425	0.366	18	D	
19	Yamanashi	14	35	34	-1	4,201.17	4,201.17	4,201.17	64	64	28	27	0.325	0.325	2,215	2,171	0.488	0.444	38	D	
20	Nagano	36	39	43	4	12,998.48	13,104.95	13,104.95	120	120	81	77	0.576	0.576	2,188	2,101	0.546	0.499	28	D	
21	Gifu	37	46	45	-1	10,293.59	9,768.30	9,768.30	99	99	42	42	0.416	0.416	3,767	3,600	0.723	0.706	0.884	30	C
22	Shizuoka	28	35	35	7	7,334.52	7,229.39	7,253.48	74	74	41	35	0.436	0.436	3,767	3,600	0.723	0.706	0.884	30	C
23	Aichi	28	35	35	9	5,117.02	5,116.65	5,116.21	88	88	61	54	0.937	0.937	7,043	7,043	1.907	0.927	A	34	D
24	Mie	25	31	23	-8	5,760.68	5,761.47	5,761.63	69	69	29	29	0.589	0.589	1,857	1,875	0.618	0.554	A	20	D
25	Shiga	19	40	40	0	3,855.08	3,766.90	3,766.90	50	50	26	26	0.489	0.489	1,343	1,402	0.608	0.527	A	30	D
26	Kyoto	17	15	15	0	4,612.94	4,613.01	4,613.26	44	44	26	26	0.409	0.409	2,644	2,629	0.651	0.550	A	26	D
27	Osaka	35	37	83	46	1,892.86	1,897.85	1,901.42	44	44	43	43	0.023	0.023	8,806	8,849	0.825	0.728	A	36	C
28	Hyogo	62	43	49	6	8,392.03	8,395.84	8,396.47	91	88	41	41	0.319	0.319	5,551	5,558	0.631	0.593	A	12	D
29	Nara	11	34	23	-11	3,691.09	3,691.09	3,691.09	47	47	39	39	0.440	0.440	1,070	1,012	0.338	0.299	B	19	D
30	Wakayama	20	14	23	9	4,725.55	4,726.29	4,726.32	50	50	30	30	0.400	0.400	1,070	1,012	0.338	0.299	B	19	D
31	Tottori	15	23	23	0	3,507.17	3,507.26	3,507.31	39	39	19	19	0.513	0.513	613	595	0.369	0.341	B	26	D
32	Shimane	29	31	31	0	6,767.29	6,707.98	6,707.98	59	59	21	19	0.644	0.644	762	725	0.242	0.224	A	26	D
33	Okayama	41	62	58	-4	7,008.57	7,006.58	7,006.61	78	78	27	27	0.653	0.653	1,951	1,948	0.571	0.475	A	40	D
34	Hiroshima	40	77	78	1	8,476.05	8,479.05	8,479.81	86	86	23	23	0.733	0.733	2,879	2,869	0.629	0.556	A	50	D
35	Yamaguchi	21	48	58	10	6,110.15	6,113.81	6,114.14	86	86	20	19	0.643	0.643	1,028	1,034	0.480	0.389	A	58	D
36	Tokushima	8	41	54	13	4,115.10	4,146.55	4,146.81	50	50	24	24	0.029	0.029	824	794	0.229	0.294	A	14	D
37	Kagawa	21	26	24	-2	1,862.28	1,862.35	1,862.35	43	43	17	17	0.605	0.605	1,023	1,003	0.483	0.453	B	26	D
38	Ehime	43	51	44	-7	5,676.22	5,677.73	5,678.51	70	70	20	20	0.482	0.482	2,504	2,504	0.607	0.607	33	D	
39	Kochi	21	10	19	9	2,145.62	2,145.62	2,145.62	53	53	34	34	0.338	0.338	814	773	0.253	0.229	A	15	D
40	Fukuoka	26	17	17	0	4,883.91	4,844.87	4,847.32	97	97	66	60	0.320	0.320	5,016	5,050	0.629	0.581	A	22	D
41	Saga	18	42	32	-10	2,439.23	2,438.60	2,438.67	49	49	20	20	0.592	0.592	877	856	0.341	0.307	A	30	D
42	Nagasaki	29	49	60	11	4,092.44	4,104.48	4,105.88	79	79	23	21	0.709	0.709	1,517	1,440	0.296	0.296	A	29	D
43	Kumamoto	13	40	42	2	6,508.32	7,076.73	7,267.53	94	94	48	45	0.590	0.590	1,859	1,821	0.365	0.362	A	29	D
44	Oita	42	34	32	-2	5,894.02	5,096.39	5,096.65	58	58	18	18	0.690	0.690	1,221	1,200	0.373	0.337	B	30	D
45	Miyazaki	12	38	35	-3	6,684.44	6,246.16	6,791.78	44	44	30	26	0.318	0.318	1,170	1,120	0.312	0.299	A	25	D
46	Kagoshima	20	39	44	5	9,132.23	9,044.34	9,044.66	96	96	46	43	0.031	0.031	1,786	1,717	0.312	0.298	A	33	D
47	Okinawa	5	4	23	19	2,271.30	2,275.72	2,275.72	53	53	41	41	0.226	0.226	1,318	1,376	0.500	0.289	A	33	D
Average	27.1	39.6	44.0	4.3	7,805.11	7,766.55	7,768.68	68.3	68.7	38.0	36.6	0.416	0.416	2,701	2,717	2.108	0.461				
Total		1,276	1,859	2,070					3,322	3,329	1,788	1,719	120,926	127,689	127,297						

Source: ① Headquarters for the Promotion of Decentralization (2000) ②⑬ Decentralization Reform Promotion Committee (2008b)
③ Decentralization Reform Promotion Office within the Cabinet Office (2014) ④⑤⑥ Geospatial Information Authority of Japan (2000); (2008); (2013)
⑦ Ministry of Internal Affairs and Communications (2014) ⑧⑨⑩ Statistics Bureau (2000); (2008); (2013)
⑪ Ministry of Internal Affairs and Communications (2008) ⑫ Ministry of Internal Affairs and Communications (2013a)
⑬ Calculated by Mr. Kadowaki, based on the minutes of each prefectural assembly
⑭ Decentralization Reform Promotion Committee (2008a). See Figure 1

Table 2 List of Basic Laws (used by at least 10 prefectures)

	Law Title	Number of Prefectures
1	Wildlife Protection and Proper Hunting Act	46
2	City Planning Act	45
3	Special Measures Concerning Taxation	44
4	Land Readjustment Act	43
5	Act on Cemeteries and Internment, Etc.	43
6	Agricultural Land Act	42
7	Local Autonomy Law (LAL)	41
8	Outdoor Advertisement Act	40
9	Parking Lot Act	40
10	Act on Welfare and Management of Animals	37
11	Explosives Control Act	36
12	Provisions of the Land Improvement Act	35
13	Act on the Securing of Safety and the Optimization of Transaction of Liquefied Petroleum Gas	35
14	Act on Septic Tanks	33
15	Water Supply Act	33
16	National Property Act	31
17	Act on Advancement of Expansion of Public Lands	30
18	Urban Renewal Act	29
19	Child Welfare Act	29
20	Act regarding Promotion of Smooth Transfer for Elderly Persons and Physically Disabled People	28
21	Medical Care Act	28
22	Consumer Product Safety Act	28
23	Act on the Regulation of Housing Land Development	27
24	Household Goods Quality Labeling Act	27
25	Passport Act	26
26	Pharmaceutical Affairs Act	25
27	Commercial Associations Act	25
28	Electrical Appliances and Materials Safety Act	25
29	Rendering Plant Control Act	23
30	Factory Location Act	23
31	Forest Act	22
32	Act on Confirmation, etc. of Release Amounts of Specific Chemical Substances in the Environment and Promotion of Improvements to the Management Thereof	22
33	Act to Promote Specified Non-Profit Activities	22
34	Real Property Registration Act	22
35	National Land Use Planning Act	21
36	Act concerning the Establishment of Agricultural Promotion Areas	21
37	Chambers of Commerce Act	21
38	Act on Medical Radiology Technicians	20
39	Act on Maintenance of Sanitation in Buildings	19
40	Cultural Properties Protection Act	18
41	Act on Special Aid to the Wounded and Sick Retired Soldiers	17
42	Act on Social Welfare for the Elderly	17
43	Measurement Act	17
44	Long-Term Care Insurance Act	16
45	Welfare Commissioners Act	16
46	Air Pollution Control Act	16
47	Act for Medical Measures for the Victims of the Atomic Bomb	15
48	Gravel Gathering Act	15
49	High Pressure Gas Safety Act	15
50	Natural Parks Act	14
51	Children's Allowance Act	14
52	Social Welfare Act	14
53	Quarrying Act	14
54	Small and Medium-Sized Enterprise Cooperatives Act	14
55	Act on Welfare of Mothers with Dependents and Widows	13
56	Act on Organizations of Small and Medium Sized Enterprises	13
57	Act on Emergency Measures for Stabilization of National Life	13
58	Act on Emergency Measures concerning Corner and Withholding of Life-related supplies	13
59	Residential Areas Improvement Act	12
60	Act on Improvement of Pollution Prevention Systems in Specified Factories	12
61	Act on Stable Supply of Residences for the Elderly	11
62	Act on Mental Health and Welfare for the Mentally Disabled	11
63	Act on Revise a part of the Act on the Investigations into Factory Location	11
64	Act on the Support of the Small Company by a Commercial and Industrial Meeting and the Chamber of Commerce	11
65	Small and Medium sized Retail Business Promotion Act	11
66	Gas Business Act	11
67	Urban Green Space Conservation Act	10
68	Act on Massage and Finger Pressure Practitioners, Acupuncturists Moxibustion Practitioners, etc.	10
69	Malodor Prevention Act	10
70	Vibration Regulation Act	10
71	Noise Regulation Act	10
72	Agricultural Cooperatives Act	10
73	Act on Standardization and Proper Quality Labeling of Agricultural and Forestry Products	10

Source: Decentralization Reform Promotion Office of the Cabinet Office (2014)

classification.

Each ordinary local public body shall perform its own community affairs and other relevant affairs either by law or through a cabinet order duly authorized by law. In this essay, these affairs are called “regional affairs”.

Municipalities, as basic local public bodies, shall inter alia perform all community-based affairs, except those carried out by prefectures. However, municipalities may sometimes also perform affairs not to be performed by ordinary municipalities due to the scale and relevance of the said regional affairs and in accordance to the municipalities' scale and capabilities.

Prefectures, as comprehensive local public bodies comprising municipalities, shall, among the regional affairs, perform affairs, which: (1) cover a wider area, (2) relates to the liaison and coordination of municipalities, or (3) exceed the work in scale or relevance that ordinary municipalities are deemed able to handle efficiently.

I. Legal Dimensions of SEDFB

A. Provisions of SEDFB

With a view to furthering the transfer of authority from prefectures to municipalities, SEDFB's provisions were prescribed by the 1999 amendment of the LAL.

Prefectures may, in accordance with bylaws, delegate to municipalities a portion of the functions within the competence of the governors. In such cases, the functions to be performed by the municipalities shall be managed and executed by the mayors (Article 252-17-2, paragraph (1) of the LAL).

Under the system of bylaws, this means that consultations will take place afresh between governors and mayors (Article 252-17-2, paragraph (2) of the LAL). In the case of these consultations, the mayors' agreement is not expressly legally required. However in practice, prefectures and municipalities discuss the transfer of authority sufficiently and the municipalities perform functions only with the agreement of governors and mayors. (Matsumoto (2013): 1269).

To address criticism that the prefectural initiative was 'too strong,' the following regulation was established by a 2004 amendment to the LAL aiming to strengthen the standing of municipalities: A mayor may make a request to a governor following the decision of the municipal assembly so that the municipality takes on some of the authority of the governor (Article 252-17-2, paragraph (3) of the LAL). When a mayor makes a request, the governor must discuss it with the mayor immediately (Article 252-17-2, paragraph (4) of the LAL).

With respect to SEDFB, the municipalities' intentions are respected to some extent but the initiative is on the side of the prefectures.

In accordance with the stipulations of the bylaws of Article 252-17-2, when the municipality performs a portion of the functions normally falling under the competence of the governor, the provisions of laws, bylaws, or regulations concerning the functions that are to be performed by the municipality (in accordance with the bylaws relating to the prefecture) shall be applied as provisions relating to the municipality as far as the functions are concerned (Article 252-17-3, paragraph (1) of

the LAL).

In SEDFB, ‘special exceptions’ means that the functions performed by the prefectures and those performed by the municipalities are statutorily separate in this special case system, however, the functions by the prefectures are transferred to the municipalities.

B. Abolition of SADF

The 1999 amendment of the LAL is part of the Omnibus Decentralization Law, a law that brought together by compiling various laws aimed at the promotion of decentralization. An important result of the Omnibus Decentralization Law is the abolition of the System of Agency-Delegated Functions (hereinafter referred to as “SADF”). SADF is a system under which local governments are obliged to implement the duties of the state. Specifically, in the context of carrying out such duties, the chief of a local government (governor or mayor), is seen as part of central government and implements said duties under the comprehensive guidance and supervision of the central government ministry/agency within the jurisdiction where the delegated duties fall. The SADF was at the core of a centralized administrative system (Yokomichi (2011): 2). In fact, in instances of SADF, there was a method similar to the SEDFB. In other words, there was a method to entrust delegated function of governors to mayors. In this case, with regard to this delegated function, the mayors received instructions from governors and in effect became the subordinate of the governor.

In contrast, the authority delegated by SEDFB becomes entirely that of a municipality. Mayors are equal to governors. Governors do not have the general authority over mayors. The municipalities can establish bylaws governing transferred affairs (See Table 3).

Table 3 Comparison between the System of Agency-Delegated Functions (SADF) and the Special Exceptions regarding Delegation of Functions according to Bylaw (SEDFB)

	SADF	SEDFB
Range of Authority where Transfer Is Possible	only the authority delegated to a prefectural governor	all authority except the authority that laws and ordinances preclude
General Conduct of Prefectures	available	unavailable
Establishment of Municipal Bylaws	unavailable	available

Source: Kadowaki (2014): 3

C. Omnibus Decentralization Law

In July 8, 1999, the Omnibus Decentralization Law was finalized, and came into force on April 1, 2000. This Law represented a reform of 475 existing laws. Chapter

1 contains content common to all the reformed laws and represents a reform of the LAL and the National Administrative Organization Law. Chapter 2 and the following Chapters represent reforms of various laws concerning matters falling within the jurisdiction of the Cabinet and various central government ministries and agencies.

1. Number of Reformed Laws

Due to duplication, the total number of laws listed as being ‘reformed’ compared with the subject items listed below (848) differs from the total number of reformed laws (475).

1. Revisions accompanying the abolition of SADF (351)
2. Rules established in connection with intervention by the central government (191)
3. Consolidation of regulations concerned with agency delegated functions (35)
4. Rules established for the imposition of regulations by the central government (38)
5. Newly Established regulations concerned with handling fees (63)
6. Revision of other items (179)

2. Main Content Items

The main content items of this law are as follows (Konishi (2010): 13).

1. Clarification of the respective roles to be undertaken by the State (central government) and local public bodies (local governments).
2. Abolition of SADF; the leadership and supervisory authority of the competent minister and governors; the rights of governors in terms of deletion and suspension, and orders dealing with the execution of professional duties.
3. Within the framework of hitherto existing agency-delegated functions and apart from duties that are abolished, a classification of those duties remaining in force into duties to be handled directly by local governments and those to be handled directly by the central government; A re-arrangement of the duties of local governments, including pre-existing delegated duties, into those to be decided on autonomously and those delegated by law; and the establishment of the regulations required for these purposes.
4. A radical re-appraisal of the ideal pattern of central government intervention as a whole; abolition of comprehensive leadership and supervisory authority; and the creation of new rules concerned with such matters as the principles, criteria and procedures concerned with central government intervention.
5. The creation of administrative devices to settle relationships between the central government and local governments in such ways as to enable local governments to mount an investigation in the event of dissatisfaction with the intervention by central government.
6. The transfer, by means of revision of individual laws, of national authority to prefectures, and of prefectural authority to municipalities.

7. The creation of a “system of special case cities” enabling, through the revision of the LAL and other laws, the transfer of authority to cities having populations in excess of 200,000.
8. With a view to furthering the transfer of authority from prefectures to municipalities, the creation of SEDFB.
9. The abolition or relaxation, by means of revisions to individual laws, of the imposition of regulations on local governments by central government, with the aim of respecting the autonomous organization and authority of local governments and of increasing the comprehensiveness and efficiency of administration.
10. The implementation of a system of reform dealing with such matters as the following:
 - a. Fresh reform of the “Law Concerning Special Provisions for the Merger of Municipalities”;
 - b. Strengthening the rights of citizens to put forward proposals;
 - c. Recommendation by governors to establish a Merger Consultation Council;
 - d. Extension of the period of special measures for calculating ordinary local allocation tax;
 - e. Issuing of special local merger bonds;
 - f. Establishment of regional councils; and
 - g. Special measures concerning the requirements for becoming a city.
11. Reform of LAL with the aim of breathing new life into local assemblies; relaxation of the requirements for presenting a draft bill and of the requirements for the presentation of a proposal or an amendment in assemblies.
12. Determination by bylaw of the set number of assembly members, and establishment of an upper limit on the number of members in line with the population of the body concerned.
13. Revision of LAL so that among the designated conditions for the creation of core cities, the conditions for the daytime and night-time ratio specified as necessary for cities with a population of 300,000 and more and less than 500,000 are abolished.

II. Operational Realities of SEDFB

A. *Usage of SEDFB*

All 47 prefectures make use of SEDFB but the usage differs from prefecture to prefecture. As shown in Table 1, in 2013, Shizuoka recorded the highest number (93) of the basic laws; Ishikawa recorded the least, with only 11. As these numbers indicate, Shizuoka has 9 times more basic laws than Ishikawa. The average number of the basic laws implemented in all 47 prefectures is 44.

There are various types of basic laws. As of April 1, 2013, the total number of laws introduced by Japan’s prefectures was 217. The average number of prefectures enacting a single basic law is 9.54 ($=2,070/217$).

B. *Basic Laws*

The 217 basic laws are classified in the field of policy such as follows:

1. Industry: 49
2. Urban development: 45
3. Welfare, medical care: 40
4. Environmental health: 36
5. Community, safety: 21
6. Other: 26

Table 2 shows the specific names of 73 basic laws that more than 10 prefectures use. The law used in the highest number of prefectures (46 of 47) pertains to 'wild-life protection and hunting.' There are 44 laws that only one prefecture uses while there are 9 laws that more than 40 prefectures use. This regulation authority is transferred from the prefectures to the municipalities under SEDFB.

The specific contents of the 9 laws are as follows:

(1) Wildlife Protection and Proper Hunting Act to secure biodiversity:

This Act is classified within the category of 'environmental health'. The purposes of this Act are to secure biodiversity; maintenance of a healthy living environment; and sound development of agriculture, forestry, and fisheries. The main contents of this Act are regulation of the capture of birds and beasts; regulation of the breeding and the sale of birds and beasts; and protection and maintenance of the biotope.

(2) City Planning Act

This Act is classified within the category of 'urban development'. The purpose of the Act is to promote the sound development and orderly improvement of cities by stipulating the details of city planning and decision-making procedures including, city planning restrictions, city planning projects, and any other necessary matters concerning city planning, thereby contributing to well-balanced national development and the promotion of public welfare.

The main contents of this Act are regulation of development, regulation of building, and execution of city planning projects.

(3) Special Measures Concerning Taxation

This Act is classified within the category of 'other'. The Act on Special Measures Concerning Taxation prescribes exemption, or refund of corporate taxes and the establishment of special provisions regarding tax liability, tax assessment, or taxes billing, as well as the filing deadline for corporate tax returns (Gomi and Honjo (2014): 809).

(4) Land Readjustment Act

This Act is classified within the category of 'urban development' and covers land readjustment. The land readjustment project maintains and improves public services such as roads, parks, rivers. It also delineates the division of the land and plans the increased use of residential land. The land readjustment project fund

consists of the proceeds from reserve lands and is provided by the central, prefectural and municipal governments.

(5) Act on Cemeteries and Internment, Etc.

This Act is classified within the field of 'environmental health'. The law applies to the management of graveyards, morgues, and crematories. It seeks to guarantee that procedures fit the religious feelings of the nation and are performed safely from the standpoint of welfare and public sanitation. The primary components of this Act are regulation of burial/re-interment and cremation as well as regulation of crematoriums, graveyards, and morgues.

(6) Agricultural Land Act

This Act is classified within the field of 'urban development'. The Act determines rules allowing farmland conversion. The aim of this system is to coordinate requests for permission to engage in non-agricultural land use such as the development of residential areas or industrial sites in areas designated as farmland. The system categorizes farmland by location requirements, from the point-of-view of protecting predetermined land use but also guiding development requests so as to minimize trouble for agriculture.

(7) Local Autonomy Law

This Act is classified within the category of 'other'. The purpose of LAL is to classify local public bodies; to lay down the outlines of their organization and operations; and to regulate the basic relationship between the State and such bodies in accordance with the principle of local autonomy in order to assure each of them democratic and efficient administration as well as sound development.

(8) Outdoor Advertisement Act

This Act is classified within the field of 'urban development'. The main purposes of the Act are to establish a standard of necessary regulation about the construction of outdoor advertising signage; maintaining natural beauty; and preventing public harm.

(9) Parking Lot Act

This Act is classified within the field of 'urban development'. The purposes of the Act are to facilitate road traffic, to improve public convenience, and to maintain/facilitate city functions. This Act determines the types of facilities suitable for the parking of cars and regulations by type of facility.

III. Institutional Significance of SEDFB

A. *Main Significance*

The institutional significance of SEDFB impacts the sphere of governance through the promotion of authority transfer according to local circumstances; Improvement of the living conditions/conveniences for residents; and that its existence and the consequent existence of many basic laws are proof that the administrative ability of municipalities does in fact improve.

In the following, the significance of each is described.

B. Promotion of Authority Transfer according to Local Circumstances

SEDFB has the aim of furthering the transfer of authority from prefectures to municipalities. In fact, various authority transfers have been made in many prefectures as shown by the discussion of operational realities in section III above. The diversity of authority that has been transferred within each prefecture is evidence that authority transfer, in accordance with the actual circumstances of the region, has been performed.

C. Improvement of the Living Conditions/Conveniences for Residents

By utilizing SEDFB, prefectures have improved the administrative convenience of local government for their residents. The Decentralization Reform Promotion Committee (2008b) reports cases such as the following which have been praised by residents.

- Case 1: Removal of illegal outdoor advertising signage, etc.: Prompt complaints from citizens enable municipalities to remove illegal advertising material.
- Case 2: Guidance regarding maternal and prenatal healthcare visits: Guidance concerning maternal and child healthcare has been implemented by municipalities. This implementation made comprehensive and effective health services more readily accessible to residents.
- Case 3: Permission for the establishment of pressurized gas storage facilities: Since the permission for pressurized gas reservoirs came under the authority of municipalities, it has become possible for municipalities to develop specific guidance for accident prevention and accident response.
- Case 4: Permission for the usage of explosives: Fireworks used at municipality-sanctioned festivals may be run used in a more safe and more smooth manner.

D. Administrative Ability of Municipalities

The allotment of role to municipalities shows that their administrative capability improves when affairs are transferred to them under SEDFB (Decentralization Reform Promotion Committee (2008c): 23).

IV. Factors Aiding in the Promotion of the Transfer of Authority

A. Promotion Factors

What factors propel the transfer of authority from the prefectures to the municipalities? This question is difficult to answer with certainty. Most likely, while the municipal level may have some degree of influence on the promotion of authority delegation, factors on the prefectural level are likely to have considerable influence. Several factors that may propel the transfer of authority are as follows:

B. Promotion System in Prefectures

Since SEDFB is a structure in which prefectures have the initiative, prefectural

promotion systems can become an important force. The promotion system refers to drafting plans and/or policies on the transfer of prefectural authority. Here, this author have divided prefectures into two groups. Group A had authority transfer policies as early as 2008 while Group B did not have policies in place.

The average number of the basic laws was 42.2 in Group A and 26.5 in Group B. These numbers show a clear difference. The difference was similar in 2013. Professor Toshiyasu Ito investigated the grants for devolution that accompany the transfer of authority. They represent the degree of devolution from prefectures to municipalities. According to his research in 44 prefectures out of 47, the grants for devolution amount to 7.6 billion yen in total, 170 million yen per prefecture in fiscal 2008 (Ito (2011): 7).

C. Degree of Progress in Municipal Mergers

During the concerted effort to push decentralization forward in Japan, there have been increasing demands to strengthen the financial and administrative foundations of municipal governments as they are considered as the government entities closest to residents and the primary beneficiaries of decentralization. Municipal mergers have been regarded as one effective method for accomplishing this goal and much effort has been put into making the most of the scale and capabilities of municipalities. To that end, the “Law Concerning Special Provisions for the Merger of Municipalities” was revised drastically by the Omnibus Decentralization Law (See above I. C.) and municipal mergers (referred to as the ‘Great Heisei Consolidation’) have been promoted forcefully based on this new law. As a result, between April 1, 1999 and April 1, 2008, the total number of municipalities decreased from 3,229 to 1,788.

It is said that a clear correlation was seen between merger progress and the number of basic laws (Decentralization Reform Promotion Committee (2008a): 32). Admittedly, when comparing the decreasing rate of the number of the municipalities with the number of the basic laws in all prefectures in 2008, an association between the rate of reduction and the number of the laws is not evident (See Table 4).

However, a clear correlation is found when performing the following calculation as was done by the Decentralization Reform Promotion Committee (See Figure 1).

- (1) Divide the 47 prefectures into the following two groups: Group C are Prefectures in the oval in the Figure 1, specifically Hokkaido (1*), Iwate (3), Saitama (11), Tokyo (13), Kanagawa (14), Shizuoka (22), and Osaka (27). (*prefecture code number) while Group D are prefectures that do not belong to the Group C.
- (2) Calculate the strength of the correlation between the number of the basic laws and the rate of reduction in municipalities (See Table 4).

This calculation result is shown in Table 4. The correlation coefficient in C is 0.90784, and that in D is 0.63585 (The correlation coefficient for all 47 prefectures is 0.19516). In this way, we can observe the correlation that the basic laws increase so

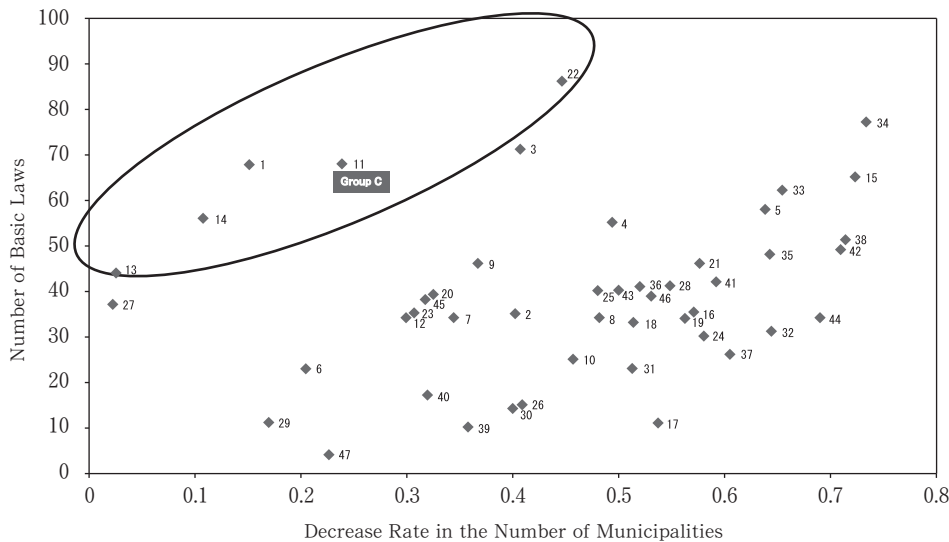


Figure 1 Decrease Rate in the Number of Municipalities and the Number of Basic Laws

that the rate of reduction in municipalities by merger is high.

However, there is one thing that we should be noting here. That is, that the prefectures constituting Group C do not have a clear common denominator. In terms of geographic area, Hokkaido is by far the largest and Iwate is the second largest. In terms of population, Tokyo has the greatest population, Osaka is 2nd, Kanagawa is 3rd, Saitama is 5th, and Hokkaido is 8th (the Decentralization Reform Promotion Committee (2008a): 32). These are undeniably populous prefectures. However, Iwate ranks 32nd in population. Shizuoka is 13th largest in terms of area, and has the 10th largest population.

D. Degree of Debate within the Prefectural Assembly

Based on the minutes of each prefectural assembly, Mr. Kota Kadowaki and this author calculated the number of plenary meeting days (over a ten year period from 2003 through 2012) when debate on the transfer of authority from prefectures to municipalities were heard. Hokkaido recorded most at 111 days and Tokyo recorded the fewest days at just 5 (See Table 1). Since the coefficient of correlation between the number of the basic laws and the days of debate in the assembly becomes 0.5118 (See Table 4), it may be said that there is some relationship between the promotion of the transfer of authority and the active level of assembly debate. For the reason that bylaw revision is necessary for the transfer of authority under SEDFB and a vote by the assembly is necessary for bylaws revision, it may be said that this result is natural. Additionally, from 2003 through 2012, the greatest number of plenary meeting days where debate on the transfer of authority from prefectures to municipalities was heard is on 2005 (See Figure 2).

In a situation where the expiration of the “Law Concerning Special Provisions for the Merger of Municipalities” was imminent, there was a stampede of municipal

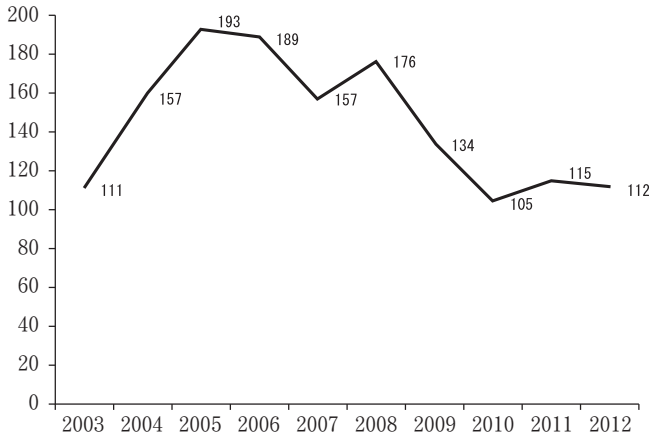


Figure 2 Argument Days about the Transfer of Authority in the Prefectural Assembly

mergers in fiscal years 2004 and 2005 (Yokomichi (2007): 12). The number of municipalities was 3,232 on May 31 1998, the year before the ‘Great Heisei Consolidation’ began and it remained almost the same through fiscal 2002. In fiscal 2003, it decreased slightly from 3,212 to 3,132 and decreased sharply to 2,521 on March 31 2005 before decreasing rapidly to 1,821 on March 31 2006 (See Table 5).

Table 5 Number of Municipalities

Year	Number of Municipalities
1999	3,232
2000	3,229
2001	3,227
2002	3,223
2003	3,212
2004	3,132
2005	2,521
2006	1,821
2007	1,804
2008	1,793
2009	1,788
2010	1,727
2011	1,727
2012	1,727
2013	1,719

E. *Other Factors*

As factors of the outside described in IV. B. through IV. D. above, Table 4 shows the following weak correlations:

- (1) In 2008, correlation between the number of the basic laws and area;
- (2) in 2013, correlation between the number of the basic laws and area; and
- (3) in 2000, correlation between the number of the basic laws and population.

My interpretation of these correlations is that there may be the need to transfer authority to improve the living conditions/conveniences of inhabitants in geographically large prefectures and/or populous ones.

V. Case Studies

A. *The “Top Four”*

Here, this author analyzes Shizuoka, Niigata, Osaka, and Hiroshima to show characteristic tendencies. These were the top four prefectures in terms of the number of basic laws in 2013. According to the observation inferred from these four prefectures, the main factor that propels the authority transfer may be a positive attitude on the part of the prefectures.

B. *Shizuoka Prefecture*

Shizuoka is the prefecture most frequently utilizing SEDFB. The number of basic laws in Shizuoka is 93. This is the highest number of basic laws of the 47 prefectures (See Table 1). In Shizuoka, the decrease rate of municipalities is 0.446, which is about the same as the national average of 0.448.

Shizuoka established its Study Group on Decentralization in 1994 and, based on the results of the group's research, proposed the transfer of authority to the Decentralization Promotion Committee. Shizuoka devised its First Transfer Promotion Plan ahead of the enforcement of the Omnibus Decentralization Law in 1997. Thereafter, Shizuoka pushed ahead with its determination for the transfer of authority on promotion plans for the Fifth Transfer Promotion Plan through 2013 (Shizuoka (2014): 1).

Shizuoka provides financial support, in the form of grants, for devolution from the prefecture to the municipalities (260 million yen in fiscal 2007) and affords human resource support by dispatching technical specialists to the municipalities.

C. *Niigata Prefecture*

The number of basic laws in Niigata stands at 92 — the second highest among the 47 prefectures. In Niigata, the decrease rate of municipalities is 0.723, which is the highest level of decrease (See Table 1).

Niigata devised a plan on the transfer of authority from the prefecture to the municipalities based on the proposals of a ‘transfer plan examination committee’

consisting of private citizens, specialists, and persons representing municipalities in March, 2006. This plan advances the transfer of authority based on the three following viewpoints (Niigata (2006): 2).

- (1) Improvement of the living conditions/convenience of inhabitants;
- (2) Reinforcement of the autonomy of municipalities; and
- (3) The comprehensive and effective administrative enablement of municipalities.

This plan describes the financial and human resource support provided to the municipalities (Niigata (2006): 6).

A total of 2,736 prefectural affairs were scheduled to be transferred from Niigata to the municipalities in 2010.

D. *Osaka Prefecture*

The number of the basic laws in Osaka is 86; — third highest among the 47 prefectures. The number of the laws that were added between 2008 and 2013 is 46. This is the highest number of the 47 prefectures. In Osaka, the decrease rate of municipalities is 0.023, which is the lowest of all prefectures (See Table 1).

Osaka devised the basic policy for the transfer of the authority in July, 2009. In this policy, Osaka demonstrated the intention indicated by the original bill to be able to actualize the authority transfer plan (Osaka (2009): 1). This policy includes the expansion of financial and human resource support vis-à-vis municipalities (Osaka (2009): 10).

In March 2010, authority transfer plans were drafted in almost all of Osaka's municipalities. A total of 2,235 affairs were scheduled to be transferred from the prefectural government to the municipalities under this plan.

E. *Hiroshima Prefecture*

The number of basic laws in Hiroshima is 78; — fourth highest among the 47 prefectures.

According to the “Decentralization Reform Promotion Plan” (2005–2009) developed in 2004, Hiroshima had worked to establish underlying administrative bodies that are engaged in regional development in a comprehensive manner. Under this concept, Hiroshima had transferred authority to municipalities regardless of their size, and successfully handed over 1,829 types of administrative work as of April 2011.

After completion of the implementation period, Hiroshima evaluated the result, and found some issues including insufficient mastery of the work newly carried out by municipalities and the need for transfer depending on the circumstances of municipalities, while citizens appreciated the improved convenience. To address these issues, Hiroshima has provided municipalities with support for the transferred administrative work, and promoted further transfer of authority based on voluntary choices by municipalities (A total of 1,856 works had been transferred as of April 2013.) (CLAIR (2014): 4).

Conclusion

This essay demonstrated the following points about the SEDFB:

(1) The progress of the transfer of authority by the SEDFB differs greatly from prefecture to prefecture. Shizuoka, Niigata, Osaka, and Hiroshima are the top four prefectures.

(2) The total number of basic laws stands at 217. There are various types of basic laws. The law that is used by most prefectures is the Wildlife Protection and Proper Hunting Act.

(3) Institutional significance of the SEDFB includes: 1) the promotion of the transfer of authority, 2) making the process more convenient and 3) proof of improvements in the administrative ability of municipalities.

(4) The main factor that propels the authority transfer may be the positive attitude of the prefecture.

(5) The correlation between the number of basic laws and the rate of reduction in municipalities is observed to some extent.

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References

- Council of Local Authorities for International Relations (CLAIR) (2006). Statistics on Local Governance FY2005.
- Council of Local Authorities for International Relations (CLAIR) (2010). Local Government in Japan.
- Council of Local Authorities for International Relations (CLAIR) (2013). Local Government in Japan 2012.
- Council of Local Authorities for International Relations (CLAIR) (2014). Fact Sheet.
- Decentralization Reform Promotion Committee (2008a). 42nd Committee Minutes. [in Japanese]
- Decentralization Reform Promotion Committee (2008b). The Survey Results Overview of the Transfer of Authority from Prefectures to Municipalities. [in Japanese]
- Decentralization Reform Promotion Committee (2008c). First Recommendations. [in Japanese]
- Geospatial Information Authority of Japan (2000) (2008) (2013). AREA BY PREFECTURE
- Gomi, Yuji and Honjo, Tasuku (2014). Corporation Tax Act of Japan Including Chapter III of Special Taxation Measures
- Headquarters for the Promotion of Decentralization (2000). Situation list of Exceptions regarding Delegation of Functions according to Bylaws. [in Japanese]
- Ikawa, Hiroshi (2008). 15 Years of Decentralization Reform in Japan. Up-to-date Documents on Local Autonomy in Japan, No. 4. Council of Local Authorities for International Relations (CLAIR), Institute for Comparative Studies in Local Governance (COSLOG), National Graduate Institute for Policy Studies (GRIPS).
- Ito, Toshiyasu (2011) Devolution from prefectures to municipalities and its influences on fiscal relationships between local governments in Japan, *Regional Economic Studies*, 22:

- pp. 3–21. [in Japanese]
- Kadowaki, Kota (2014). Decentralization of power in the prefectures and governors. [unpublished] [in Japanese]
- Kimura, Shunsuke (2014). A Multilayered Check-and-balance System: Trends of a Dual Representative System in Japanese Local Administration, *Hitotsubashi Journal of Law and Politics*, 42: pp. 25–50.
- Konishi, Atsushi (2010) Historical Development of Japanese Local Governance Vol. 9 The Promotion of Decentralization (1) (1993–2000). Council of Local Authorities for International Relations (CLAIR), Institute for Comparative Studies in Local Governance (COSLOG), National Graduate Institute for Policy Studies (GRIPS).
- Kurt, Steiner (1965). *Local Government in Japan*. California: Stanford University Press.
- Matsumoto, Hideaki (2013). *Article-by-article Commentary of Local Autonomy Law, 7th ed.* Tokyo: Gakuyu Shobo. [in Japanese]
- Muramatsu, Michio (2001). *Local Government Development in Post-war Japan*. Oxford: Oxford University Press.
- Ministry of Internal Affairs and Communications (2008). List of major financial indices in 2008 fiscal year. [in Japanese]
- Ministry of Internal Affairs and Communications (2011). Local Autonomy Monthly Report No. 55. [in Japanese]
- Ministry of Internal Affairs and Communications (2013a). List of major financial indices in 2013 fiscal year. [in Japanese]
- Ministry of Internal Affairs and Communications (2013b). Local Autonomy Monthly Report No. 56. [in Japanese]
- Ministry of Internal Affairs and Communications (2014). Progress of the merger of municipalities by prefectures. [In Japanese]
- Nakamura, Akira (2007). *Scenario for the Local Government Initiatives*. Tokyo: Asahi Publishing. [In Japanese]
- Niigata (2006). Plan of the transfer of the authority and the office work from the prefecture to the municipalities. [In Japanese]
- Nishio, Masaru (1999). *Unfinished decentralization reform — 1,300 days spent struggling with the central government bureaucracy in Kasumigaseki*. Tokyo: Iwanami Shoten. [In Japanese]
- Nishio, Masaru (2007). *Decentralization reform*. Tokyo: University of Tokyo Press. [In Japanese]
- Nishio, Masaru (2013). *Reconsideration about self-government and the decentralization of power*. Tokyo: Gyosei. [In Japanese]
- Osaka (2009). Basic policy for the authority at the same level as the special city. [In Japanese]
- Shizuoka (2014). Fujinokuni Transfer Promotion Plan (second stage). [In Japanese]
- Statistics Bureau (2000). Population, Percent of Population and Index of Population for Prefectures, October 1, 2000. Final Report of the 2000 Population Census.
- Statistics Bureau (2008). Population by Sex and Sex ratio for Prefectures — Total population, Japanese population, October 1, 2008.
- Statistics Bureau (2013). Population by Sex and Sex ratio for Prefectures — Total population, Japanese population, October 1, 2013.
- Uga, Katsuya (2013). *Local Autonomy Law Text 5th ed.* Tokyo: Yuuhikaku. [In Japanese]
- Yamashita, Shigeru (2010). *System Comparison of Local Autonomy*. Tokyo: Gyosei. [in Japanese]
- Yokomichi, Kiyotaka (2007). The Development of Municipal Mergers in Japan. Up-to-date

Documents on Local Autonomy in Japan, No. 1. Council of Local Authorities for International Relations (CLAIR), Institute for Comparative Studies in Local Governance (COSLOG), National Graduate Institute for Policy Studies (GRIPS).

Yokomichi, Kiyotaka (2011). Movement in Decentralization in Japan after the First Decentralization Reform. Up-to-date Documents on Local Autonomy in Japan No. 8. Council of Local Authorities for International Relations (CLAIR), Institute for Comparative Studies in Local Governance (COSLOG), National Graduate Institute for Policy Studies (GRIPS).