A Process of Improvement of Law and Institution in Disaster Management: Lessons from East Japan

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Approach to the Process of Changes of Law and Institution in Disaster

◆ **Purpose:** Understanding the needs for and observing the process of legal changes toward better disaster response

◆ **Factors of Change:**
- **Types of Disaster:** GEJET (tsunami) vs. Kobe (earthquake)
- **Social Needs:** Charity (Market) → Welfare (State)
- **Philosophy of Infrastructure Building:** Mitigation/Prevention
- **Change of Institutions:** Political Regime; Local Autonomy…

◆ **Focus:**
1. Laws on emergency response
2. Laws on reconstruction of socio-economy

◆ **Methodology:** Interviews with victims, local administration, relevant institutions providing assistance
Volunteer activities for coming closer to victims
Interviews and Questionnaires after obtaining rapport

Events for encouraging children evacuating from Tsunami
Emergency Rescue: Improved

• 1961 Basic Law on Disaster Response
  • Repeated Reform → Improved Implementation:
    • Horizontal assistance by other local governments (art.5-2)
    • Concentration of commands to the Cabinet (art.28-2~6)
    • Encouragement of volunteer and other citizens’ initiatives
    • Broader Initiative of Self-Defense Force (art.68-2)
  • Budgetary Support Guaranteed: tentative burden of Local Governments (art.91) → ultimate compensation available by National Government (art.94)
Basic Assistance to Victims: Discrepancies

◆ Well-established Legal Regime:
  ▪ Aides in Kind: 1947 Disaster Assistance Law
  ▪ Monetary Aid: 1973 Condolence Money Law;
    1998 Law for Rebuilding Victims’ Living
  ▪ Livelihood Aid: 1962 Law on Budgetary Aid in Giant Disasters

◆ Mismatch to the characteristic victims in GEJET
  ▪ Present Regime: centering on victims who lost **dwelling**
    (=Urban type disaster e.g. Kobe earthquake)
  ▪ GEJET: Majority of victims lost **bases of livelihood**
    →Measures for livelihood support in 1962 Law: insufficient
Problems of Livelihood Support

◆ **Constitutional Limitation** of public compensation for private property (Const.89) → Right to Live (Const.25)?

◆ **Failure of Legal Design**: omission of Small-businesses (marine products; retailers) = backbone of local economy
  ⇔ Primary Industries: well-protected (e.g. subsidies through Fishermen’s Cooperatives)
  ⇔ Medium-size enterprises: protection by Soft-Loans
    → additional measures for Subsidies, Rehabilitation Funds

◆ **Budgetary & Institutional Limits** in Reconstruction Stage:
  - Prefecture: concentrating on the most vulnerable people
  - Municipality: saving budgets for coming reconstruction stage; can only afford to support medium-size enterprises
Reconstruction: in Delay

◆ Ambiguous Form of Local Autonomy
  - Political Autonomy: 1947 Constitution/Local Autonomy Law
  - Administrative Autonomy: since 1999 LAL Reform (entrusted works → autonomous works)
  - Budgetary Autonomy: yet to see

◆ Undefined roles in Post-Disaster Reconstruction
  - Initiative of Municipality (Regional Disaster Prevention Plan)
  - Lack of Basic Reconstruction Law to detail the mandates
  - Fear of last minutes’ budgetary control: (↔1995 Kobe: bargain of budget for Tokyo-led plan)
## Choices of Reconstruction Plan

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<td>1972 Law on Budgetary Support of Collective Rehabilitation</td>
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<td>Strengthening of Individual Building (Mitigation)</td>
<td>Proposed Law on City Planning against Tsunami</td>
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Yamada Town

Population: 18,000 people
Industry: Fishing 10%; Marine Products 30%; others 60%
Specialties: Oysters; Yamada Festivals; Marine Tourism
Production: 35 billion Yen
Budget: 8 billion yen (dependent ratio: 80%)
History: 8th century: known for steel products
12th century: reigned by Hei Family
1643 a Dutch ship Breskens with 60 crews entered
Recorded Tsunami: 1611 Keicho Tsunami
1896 Meiji Sanriku Tsunami
1933 Showa Sanriku Tsunami
Yamada Style
Direct Democracy
For Reconstruction Planning

Box for collecting answers to Citizens’ Questionnaire
## Experiments of Local Democracy

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<th>Yamada Town (Direct Democracy)</th>
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Tentative Conclusion

From Prayers for Rescue
(KAN-NON: Bodhisattva of salvation)

To Endeavors for Future
(MIROKU: Buddha for Future)