

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

| Choice of Anti-Disaster Measures | Legal Basis | Budgetary Considerations |
|---|--|---|
| Rehabilitation to High Grounds (Safety) | 1972 Law on Budgetary Support of Collective Rehabilitation | High Cost (civil works) |
| Strengthening of Low Grounds (Safety+Mitigation) | 1995 Special Law on Reconstruction of Disaster-hit Areas | High Cost (compensation to ownership) |
| Strengthening of Individual Building (Mitigation) | Proposed Law on City Planning against Tsunami | Low Cost |

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



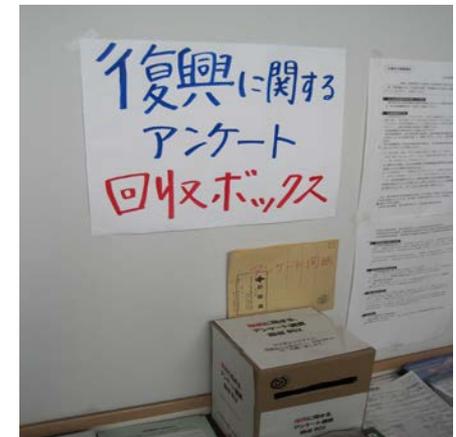
Yamada Festival



岩手県
山田町

全国の皆さまからの温かいご支援に
心より感謝申し上げます

現在の山田地区(平成23年8月27日役場屋上より)



Box for collecting answers
to Citizens' Questionnaire

Experiments of Local Democracy

| | Yamada Town (Direct Democracy) | Miyako City (60,000) | Kamaishi City (40,000) |
|---------------|--|--|--|
| May/11 | Town meetings; Questionnaire; Mayer's Council ↓ | | Mayer's Council |
| June | Vision ↓ | Basic Principle ↓ | Town Meetings ↓ |
| July- Aug. | Public comments Town meetings ↓ | Town Meetings; Questionnaire; Mayer's Council ↓ | Basic Principle Workshops ↓ |
| Sept. | Interim Principle ↓ | Reconstruction Plan ↓ | Reconstruction Plan ↓ |
| Oct. | ↓ | | ↓ |
| Dec. | Reconstruction Plan ↓ | ↓ | Urban Planning |
| Mar/12 | Urban Planning | Urban Planning | |

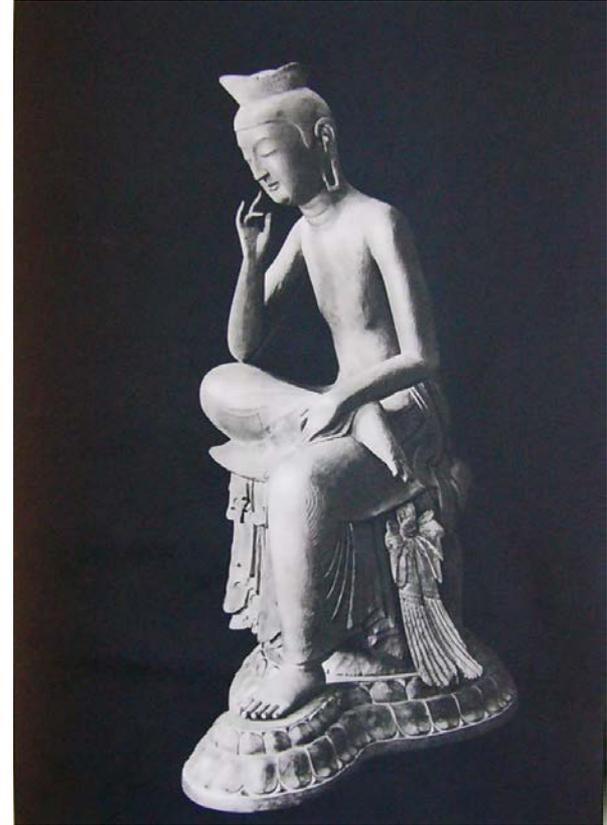
Tentative Conclusion

From Prayers for Rescue

(KAN-NON: Bodhisattva of salvation)



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To Endeavors for Future

(MIROKU: Buddha for Future)