

**Papers on the Local Governance System and its Implementation
in Selected Fields in Japan No.5**

Local Assemblies in Japan

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Foreword

The Council of Local Authorities for International Relations (CLAIR) and the National Graduate Institute for Policy Studies (GRIPS) have been working since 2005 on a “Project on the overseas dissemination of information on the local governance system of Japan and its operation”. On the basis of the recognition that the dissemination to overseas countries of information on the Japanese local governance system and its operation was insufficient, the objective of this project was defined as the pursuit of comparative studies on local governance by means of compiling in foreign languages materials on the Japanese local governance system and its implementation as well as by accumulating literature and reference materials on local governance in Japan and foreign countries.

In 2007, as a continuation of projects which were begun in 2005, we continued to compile “Statistics on Local Governance (Japanese/English)” and to conduct a search for literature and reference materials concerned with local governance in Japan and overseas to be stored in the Institute for Comparative Studies in Local Governance (COSLOG). We also compiled a “Glossary on Local Governance Used in Japanese Official Gazettes (Japanese/English) (FY 2007 Edition)”. In addition, continuing from the previous year, we finished compiling “Up-to-date Documents on Local Autonomy in Japan” on two themes and “Papers on the Local Governance System and its Implementation in Selected Fields in Japan”, for which we took up 6 themes.

This project is to be continued in 2008, and we aim to improve the materials so that they will be of real use and benefit to those who are working in the field of local governance.

If you have any comments, suggestions or inquiries regarding our project, please feel free to contact the Council of Local Authorities for International Relations (CLAIR) or the Institute for Comparative Studies in Local Governance (COSLOG) of the National Graduate Institute for Policy Studies (GRIPS).

March 2008

Michihiro Kayama
Chairman of the Board of Directors
Council of Local Authorities for International Relations (CLAIR)
Tatsuo Hatta
President
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Preface

This booklet is one of the results of research activities conducted by the Institute for Comparative Studies in Local Governance (COSLOG) in 2007 as one part of a 5-year project that started in 2005 entitled “Project on the overseas dissemination of information on the local governance system of Japan and its operation”, sponsored by the Council of Local Authorities for International Relations (CLAIR). For the purpose of implementing this project, a “Research committee for the project on the overseas dissemination of information on the local governance system of Japan and its operation” has been set up, and a chief and deputy chiefs with responsibility for the project have been designated from among the members concerned with each research subject.

“Papers on the Local Governance System and its Implementation in Selected Fields in Japan” (2007, Volumes 5-10) were written under the responsibility of the following six members.

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This booklet, the fifth volume in the series, is about local assemblies in Japan, and was written by Professor Ohsugi.

It takes the form of an overview of the procedural mechanisms of local assemblies in Japan, focusing particularly on aspects of organizational management, and within this framework, gives an account of the role and function of local assemblies in local government in Japan under the dual representation system.

We will continue to take up new topics, and add to the series.

Finally, I would like to express my appreciation to Professor Ohsugi, and also to other members of the research committee for their expert opinions and advice.

March 2008

Hiroshi Ikawa

Chairperson

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Local Assemblies in Japan

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1. Introduction

Article 93(1) of The Constitution of Japan stipulates that “the local public entities shall establish assemblies as their deliberative organs, in accordance with law.” It is also stipulated in the Constitution (Article 93(2)) that the members of the assemblies shall be elected by direct popular vote, in the same way as the chief executive officer.

In this paper, “local assembly” denotes the assembly of an ordinary local public body, that is, a local government, which is established in accordance with Chapter 6 of the Local Autonomy Law, on the basis of the constitutional provision referred to above. However, with regard also to the assembly of metropolitan districts (in the case of Tokyo, there are currently 23 special districts) which are also basic units of local government in the same way as are municipalities (cities, towns or villages), given that apart from the provision for the number of assembly members, such assemblies are analogous to those of municipalities (strictly speaking, under Article 283(1) of the Local Autonomy Law, the regulations applicable to cities can also be applied to such special districts), they are also included within the scope of this paper. Furthermore, assemblies established in special local government bodies other than special districts (partial affairs associations, wide area unions, etc) are not included in the term “local assemblies” within the scope of this paper, since their character and role is very different from that of other assemblies.

If we look at the history of the local assembly system in Japan, the legal and regulatory foundations of such a system are laid down in various laws and regulations, namely in respect of assemblies at prefectural level, the Prefectural Assembly Regulations of 1878, the Prefectural Regulations of 1890, and the Tokyo Metropolitan Regulations of 1943, and at municipal level, the Law concerning Ward, Town and Village Assemblies of 1880, and the City Regulations and Town and Village Regulations of 1888, but following the end of World War II, all these various laws and regulations were unified under the Local Autonomy Law. According to the regulations stipulated in this law, leaving aside regulations concerned with such matters as the size of a quorum, no particular distinction is made between prefectural assemblies and municipal assemblies, and the same mechanism is adopted throughout the country as a whole.

Against the above background, this paper aims to give an overview of the system of local assemblies; it will look first at the system of organization and management, and

then at the dual representation system, consisting of an assembly and a chief executive officer at each level, that is a major characteristic of Japanese local government. It should also be noted that in the context of advancing decentralization reform, questions have been raised about local assemblies, and various different kinds of reform plans have been put forward. These trends are dealt with in a comprehensive way at the end of the paper, but individual points of debate, including points of organization and management, and the dual representation system, are dealt with in a way appropriate to the context.

2. The organization and management of local assemblies

2.1 The organization of local assemblies

(1) The establishment of local assemblies

An assembly is established as a procedural organ of local government (Article 89 of the Local Autonomy Law. Note that from here on, only the number of the Article will be noted). However, Article 94 allows towns and villages, by the use of a bylaw, to convene a general meeting consisting of residents with voting rights, without an assembly being established. These town and village meetings are a direct democracy device, analogous to the town meetings found in America, and it is true to say that substantially, they are limited to small-scale towns and villages with a small population and land area, where the residents can meet together and make decisions. In its “Second Recommendation” (1997), the Decentralization Promotion Committee broadly disseminated the fact that, by means of a bylaw, small-scale towns and villages could move to a system of general meetings in place of assemblies, but at the present time, there is no local government in which a town or village general meeting of this kind has been established.

Furthermore, in contrast to the National Diet, the decision-making organ of national government, in which a 2-chamber system is adopted, local government assemblies have only a single chamber.

(2) The fixed size of local government assemblies

An assembly is composed of assembly members who are directly elected by residents of the area concerned. The number of assembly members is decided by means of bylaws, and as shown in Table 1. The system adopted is what is called a “Stipulated-by-bylaw Number System”, under which, for prefectures and municipalities separately, the upper limit of the number of assembly members is stipulated by the Local Autonomy Law in line with the population of the prefecture or municipality (Articles 90 and 91).

Table 1 The fixed number of assembly members

[Prefectures: to, do, fu, ken]

Population of less than 750,000	40
Population of 750,000 or more and less than 1 million	The figure obtained by adding one additional member to the base figure of 40 for each additional 50 thousand population members over 700,000
Population of more than 1 million	The figure obtained by adding one additional member to the base figure of 45 for each additional 70 thousand population members over 930,000 (120 is the maximum number of permitted assembly members)
<p>Prefectures are classified as to, do, fu or ken. In the case of “to” (=metropolitan Tokyo), the number of members shall be the figure obtained by dividing by 1 million the population of the area covered by special wards, added to the figure given above, but the maximum number of permitted assembly members shall be 130.</p>	

[Municipalities (cities, towns, villages)]

Town or village with population of less than 2,000	12	City with population of more than 100,000 and less than 200,000	34
Town or village with population of 2,000 or more and less than 5,000	14	City with population of more than 200,000 and less than 300,000	38
Town or village with population of 5,000 or more and less than 10,000	15	City with population of more than 300,000 and less than 500,000	46
Town or village with population of 10,000 or more and less than 20,000	22	City with population of more than 500,000 and less than 900,000	56
City with population of less than 50,000; town or village with population of 20,000 or more	26	City with population of more than 900,000	In the case of a population of 500,000 or more, 8 members shall be added to the base figure for every additional 400,000. (However, 96 shall be the maximum number of permitted assembly members).
City with population of 50,000 or more and less than 100,000	30		

Before the revision to the Local Autonomy Law (2000) by means of the Omnibus Decentralization Law, excluding cases of a reduction in the number of assembly members by what was known as a Number Reduction Bylaw and cases where a bylaw set an increased or reduced figure of assembly members in response to a noticeable increase or decrease in the population of the area concerned, the set number of assembly members corresponding to the population of the area was legally determined by the above law (the so-called “Set-by-law Number System”). But after the revision mentioned above, the system was changed from the standpoint of decentralization to the present system where a local government can decide the number autonomously within the upper limit set by law.

Furthermore, the set number of assembly members in a merged municipality, is recognized as a special case under the Special Law on the Merger of Municipalities, and depending on the form of the merged municipality, it is possible for the upper limit referred to above to be exceeded for a fixed period of time. However, cases can be found in which, even in the case of such a temporary arrangement, a protest arises among residents against an increase in assembly members through such a special measure, leading to a direct demand by residents to dissolve the assembly or to the assembly deciding to dissolve itself through its own resolution.

(3) The status of assembly members and regulations on concurrent posts and jobs

Assembly members are designated as holding special local public services, which includes varieties of services (Local Public Service Law, Article 3(3)). In the course of the recent debate on assembly reform, for example, the concept of a “publicly elected post” was proposed by the Research Group on the Prefectural Assembly System, established by the National Association of Chairpersons of Prefectural Assemblies, and was also discussed by the 28th Research Council on the Local Government System, a government deliberative council (Report concerning the Expansion of the Autonomy and Independence of Local Government as well as the Desirable Form of Local Government Assemblies, 2005). These are examples of ways in which thinking about the need to clarify what the functions and responsibilities of assemblies should be in an age of decentralization has been raised in different forums, but to date there have been no legal reforms corresponding to this thinking.

There are regulations concerning the holding of concurrent posts and jobs by assembly members.

Firstly, the following list shows which posts cannot be held concurrently by local government assembly members (Article 92):

- (i) Member of the House of Representatives or Member of the House of Councilors.
- (ii) Member of the assembly of another public body.
- (iii) Regular employee of a local public body.
- (iv) Short-term temporary employee re-employed by a local public body.
- (v) Other posts in which concurrent employment is forbidden by laws and regulations are: judge (Courts Law, Article 52), member of a board of education (Local Education Law, Article 6), and member of a Marine Area Fisheries Coordination Committee (Marine Industries Law, Article 95)/

Furthermore, concurrent holding of posts as assembly members of a Partial Affairs Association or a Wide-Area Union, organized by local governments and composed of local government assembly members, is permitted (Article 287(2), Article 291quater.(4)).

Also, as regards the prohibition on holding concurrent jobs, on the basis of the fact that assembly members are concerned with such matters as decisions on the finalizing of contracts by the local government concerned, contract prohibition regulations have been set out from the point of view of ensuring fair and just assembly management and appropriate implementation of duties. Specifically, it has been stipulated that an assembly member may not be a person, or the manager of such a person, who has a contractual relationship with the local public body, or an employee, or a director, an executive officer, or a supervisor or a person, manager or liquidator equivalent to these posts, of an unlimited liability company which has such a contractual relationship (Article 92bis.).

(4) Term of office of assembly members

The term of office of assembly members shall be 4 years (Article 93). However, special rules have been agreed under the Special Law for Municipal Mergers to permit expansion of the term of office for assembly members of merged municipalities.

Even though the term of an assembly member has not expired, the status of assembly member may be considered to be lost under the following circumstances.

1. Voluntary loss of status as an assembly member. Specifically, an assembly member may vacate his position with the permission of the assembly when it is in session, or with the permission of the chairperson of the assembly when it is out of session (Article 126).
2. Loss of a seat (Article 127) due to ineligibility or by becoming affected by the contract prohibition regulations referred to above (Article 92bis.). However, under Article 11 of the Public Election Law, except in a case where a court has made a clear decision on a

person's eligibility, the assembly must make a decision on whether or not a person is eligible for election and whether or not the contract prohibition regulations are applicable (special assembly resolution by two-thirds or more of assembly members).

3. Dissolution of an assembly or removal of a member from post resulting from a direct demand by residents. This case occurs when one-third or more (in a case where the total number exceeds 400,000, the number is obtained by multiplying by one-sixth the number in excess of 400,000 and adding this result to the number obtained by multiplying 400,000 by one-third) of persons with the right to vote sign a petition demanding the dissolution of the assembly (Article 76) or the dismissal of an assembly member (Article 80). In either case, the dissolution of an assembly or the dismissal of a member shall take effect when this is voted for by a majority of assembly members (Articles 78 and 83).

Moreover, there is no set procedure for the simultaneous resignation of all assembly members as distinct from the resignation of each individual member, but the same result can be obtained in any of the following cases: the dissolution of an assembly resulting from a direct demand (Article 76); the dissolution of an assembly as a procedure of opposition against a motion of no confidence in a chief executive officer (Article 178); voluntary dissolution on the basis of the Special Measures Law concerning the Dissolution of the Assembly of a Local Public Body (it is required that three-quarters or more of assembly members are present, and that four-fifths or more of these support the dissolution resolution).

4. Striking a person's name from the register of assembly members as a punishment. An assembly member who transgresses against the law, or assembly regulations, or a bylaw concerning committees, shall be subject to punishment imposed by an assembly resolution in accordance with procedures laid down in the assembly regulations (Article 134). Stipulated in the regulations as kinds of punishment are a reprimand in the open assembly hall, a public apology in the open assembly hall, and suspension for a fixed period of time, and along with these, deletion of the member's name from the record of members (Article 135(1)). Since such an action directly affects a member's status, it is required that two-thirds or more of all members are present, and that three-quarters or more of these support the resolution (Article 135(3)). Furthermore, a person whose name has been stricken from the record of assembly members and is reelected as a member may not be refused recognition of the status of member (Article 136).

2.2 The authority of local assemblies

(1) Assembly resolutions

Matters pertaining to assembly resolutions are categorized under the following 15 headings.

- i. Establishing or amending bylaws.
- ii Deciding budgets.
- iii Approving statements of accounts.
- iv Carrying out matters concerned with imposing or collecting local taxes, or with apportioning shares of expenditures, usage fees or membership fees, or with the collection of procedural charges; excluded from the foregoing are items regulated by laws or government regulations.
- v Concluding contracts, as determined in bylaws, concerned with the various matters mentioned above and the respective sums of money involved in accordance with the criteria set out in government orders.
- vi Handling the transfer of property, determining the purpose of investment, or using property as a device for payment, or if no appropriate monetary consideration has been fixed, transferring the property or making a loan of it; excluded from the foregoing are matters determined in bylaws.
- vii Investing property as a trust.
- viii Apart from the two items determined above, dealing with the acquisition and disposal of various kinds of property and monetary amounts, as determined in bylaws in accordance with the criteria set out in government orders.
- ix Receiving a donation with conditions attached.
- x Dealing with the renunciation of rights, with the exclusion of matters determined in laws or in regulations based on laws, or in bylaws.
- xi Making important public facilities set out in bylaws available for exclusive or long-term use on the basis of bylaws.
- xii Dealing with matters raised by a local public body, including demands, expressions of dissatisfaction, proposed lawsuits, negotiated settlement, mediation and arbitration.
- xiii Deciding the amount of compensation for damages incurred in respect of a legal obligation.
- xiv Comprehensive adjustment of activities carried out by public entities within the jurisdictional area of an ordinary local public body.
- xv In addition to the above, all matters falling within the purview of an assembly as determined by laws or government orders based on these laws (also including bylaws based on these laws or orders).

A local public body can also, by means of a bylaw, with the exclusions of matters concerned with legally entrusted functions, make an addition in the form of an assembly resolution (Article 96, ②), utilize the authority thus imparted, and expand the matter covered by the resolution. These points are also stipulated in the report of the 28th Research Council on Local Government System, and in fact, for example, local governments which are treating basic plans as an assembly resolution item are increasing. Moreover, one point of dispute in the context of assembly reform is whether matters concerned with legally entrusted functions should also be made eligible to be covered by an assembly resolution.

Furthermore, as an addendum to the matter of the fifteen legal assembly resolutions referred to above, matters pertaining to basic concept of a municipality (Article 2(4)), or to a resolution by a prefectural assembly (Article 7(1)) accompanying the merger or splitting of municipalities or to a change in the boundaries of municipalities, are determined separately in the Local Autonomy Law.

(2) Elections

It is stipulated that elections that fall within the purview of the authority of assemblies must be held (Article 97(1)). Specifically, the elections concerned are the election of an assembly chairperson and a vice-chairperson (Article 103(2)), the election of a substitute chairperson (Article 106(2)), the election of an election supervisor and a reserve (Article 182), the by-election of an emergency replacement member of an election supervision committee (Articles 135 and 136 in the Order of Local Government Law), and the election of a member of an assembly of a wide-area union (Article 291 *quinquies*.(1)). These elections must be carried out in accordance with fixed procedures stipulated in the Public Election Law; any elections that do not follow these procedures are illegal (Article 118(1)).

(3) Budget increase amendment

The authority of an assembly to make a budget increase is recognized. However, it is stipulated that the authority of the chief executive officer to present a budget may not be violated (Article 97(2)).

Moreover, since it is impossible to state clearly, on the basis of that stipulation in the Local Autonomy Law, how high an increase is recognized, or what kind of amendment constitutes a violation of the chief executive officer's authority to present a budget, the matter may be interpreted case by case, on the basis of the criterion that the proposed amendment will be permitted as long as it does not infringe on the underlying

thinking of the chief executive officer in presenting the budget.

(4) Request for an investigation or inspection

An assembly has the authority to investigate a written submission or a statement of accounts concerning a matter which falls within the purview of the authority of the chief executive officer or another executive organ (however, excluded from this authority are those matters which, from within the self-governing functions, are deemed by government order to fall within the purview of a Local Labour Affairs Committee or an Expropriation Committee, and also excluded are those matters, from among legally entrusted matters, in respect of which there is a fear that they will damage the security of the country or which for some other reason, are determined by government order as not being appropriate for investigation by an assembly). The assembly's authority also extends to requiring a report and to investigating the administration of functions, implementation of an assembly decision, as well as details of receipts and disbursements (Article 98(1)). Furthermore, an assembly can require of audit commissioners, an inspection of accounts concerned with a matter within the purview of the authority of the chief executive officer or some other executive organ, and require a report on the said inspection (Article 98(2)).

(5) Submission of a written opinion

An assembly can submit, to the National Diet or to the appropriate government administrative agency, a written opinion regarding a matter concerned with the public interest of the local government concerned (Article 99).

For example, during the 3rd regular session of the Tokyo Metropolitan Assembly, on October 5, 2007, the following 4 written opinions were submitted to the national government (Table 2).

Table 2: The circumstances of assembly resolutions and the submission of written opinions at the 3rd regular session of the Tokyo Metropolitan Assembly in fiscal 2007.

Title of written opinion	Addressee
Written opinion concerning the promotion of private sector schools	Speaker of the House of Representatives, President of the House of Councilors, Prime Minister, Minister for Internal Affairs and Communications, Minister of Finance, Minister of Education, Culture, Sports, Science and Technology
Written opinion concerning revision of the Installment Sales Law	Speaker of the House of Representatives, President of the House of Councilors, Prime Minister, Minister for Internal Affairs and Communications, Minister of Justice, Minister of Economy, Trade and
Written opinion concerning fiscal measures to facilitate the smooth continuing operation of small and medium-sized enterprises	Speaker Speaker of the House of Representatives, President of the House of Councilors, Prime Minister, Minister for Internal Affairs and Communications, Minister of Justice, Minister of Finance, Minister of Economy, Trade and Industry
Written opinion concerning the priority use of special road use revenue for road construction and maintenance and lowering of the expressway charge in Tokyo metropolitan area	Speaker of the House of Representatives, President of the House of Councilors, Prime Minister, Minister for Internal Affairs and Communications, Minister of Finance, Minister of Land, Infrastructure, Transport and Tourism, Minister of State for Financial Services and Administrative

(Source) Home Page of Tokyo Metropolitan Assembly Reform (ed.)

(6) Extent of authority and power of implementation

① Investigative authority under Article 100

An assembly may make an investigation of any of the duties of the local government concerned and may require the appearance or verbal testimony or written testimony of any elector or other relevant person (Article 100(1). This is termed “Investigative authority under Article 100”).

In the event of requesting a testimony from an elector or other concerned person on the basis of the investigative authority conferred by Article 100, other than for matters specially determined under the Local Autonomy Law, applicable procedures are considered to be the regulations concerning the questioning of a witness as stipulated in the procedural rules of the Civil Court Law and orders (however, regulations concerning penalties and fines, custody and arrest are excluded) (Article 100(2)). Furthermore, if an elector or other concerned person is requested to make an appearance or to give testimony under the investigative powers of Article 100, and declines the request without due cause, that person shall be fined (Article 100(3)). In the case of false testimony too, a fine shall be levied (Article 100(7)).

② Functional investigative authority

When it is considered necessary to carry out an investigation concerning a bill or measure, or a functional matter, an assembly has the power to dispatch a member (Article 100(12)).

③ Expenses of a political investigation

A local public body is able, by the provisions of a bylaw, to make a grant for political investigation expenses to a group of members or to an individual member in the assembly as one part of the expenses necessary to fund the investigative research. It is stipulated that the object of such a grant, the amount of grant, and the method of making it must be stipulated in the said bylaw (Article 100(13)). The group or individual that receive such a grant are obliged under the bylaw regulations to submit to the assembly chairperson a report with details of receipts and expenditures pertaining to the said investigation (Article 100(14)).

With regard to the political investigation expenditures, it is often pointed that as a result of cases where the receipts and expenditure report is inappropriate and problems arise with one part of inappropriate use of funds, there is a very strong requirement for transparency. Particularly in prefectures or large cities, the amounts of allowances in investigation expenditures are very large (for example, the highest rate of allowances per person, that is 600,000 yen a month is paid to the members of Tokyo Metropolitan Assembly or Osaka City Assembly), and there is an argument to the effect that affixing receipts to the statement of revenues and expenditures should be an obligation. In reality, assemblies that insist on receipts being attached for all expenditures are no more than one part of the total, and there are assemblies that make it an obligation for receipts to be attached only when they are above a set sum, but the majority of

assemblies do not insist on the attachment of receipts.

④ Other kinds of research investigations by assembly members

It is stipulated that central government must send material such as government newsletters and other government publications to local government assemblies, and that prefectural assemblies must send official newsletters to municipal assemblies within their jurisdiction as well as to other prefectural assemblies (Article 100(16) and (17)). It is also stipulated that an assembly must have an attached library or reading room to contribute to the investigations and researches of assembly members, and must store in this room the documentation referred to above (Article 100(17)).

For example, in the case of Tokyo Metropolitan Assembly, the attached library houses approximately 84,000 volumes, focusing primarily on Tokyo Metropolitan Government documents, documents from the national government and from other prefectures, and other documents concerned with local government matters. In local areas, in the case of small-scale municipal assemblies, the reality is that more than half the number do not have attached reading rooms and that even where these do exist, the stock of documents is very poor.

2.3 The management of local government assemblies

(1) Convening an assembly and the assembly sittings

The authority to convene an assembly is vested in the chief executive officer of the local public body (Article 101(1)).

An assembly has both regular and extraordinary sessions. A regular session must be convened on the number of occasions specified in the relevant bylaw, up to a maximum of 4 sessions in a year. And an extraordinary session is to be convened when necessary, for the purpose of discussing a specific agenda (Article 102(1) to (3)). Furthermore, in a case where the assembly chairperson requests the chief executive officer, after a decision by the management committee, to convene an extraordinary session, or where a quarter or more of all assembly members make a request, while specifying the matter to be discussed, for an extraordinary session to be convened, the chief executive officer must convene the said session within 20 days (Article 101(2) to (4)). It should also be noted that the chairperson's right to convene an extraordinary session was stipulated afresh by the revisions to the Local Autonomy Law made in 2006). The agenda of an extraordinary session must be made public in advance by the chief executive, but where a matter requiring prompt action arises during an extraordinary session, it may be referred at once to the assembly (Article 102(4) and (5)).

Matters relating to the duration of a session, to its extension and to its opening and closing, shall be decided by the assembly (Article 102(6)).

Table 3 shows the state of affairs regarding the opening and closing of the main Tokyo Metropolitan Assembly. The first regular session deals every year with the budget proposals for the following year (the fiscal year begins in April) and it is usual for it to last longer than other sessions. In April 2007, when the reelection of the governor of Tokyo took place, an extraordinary session was held in the following month, and in this, agreement was obtained on the appointment of deputy governors.

Table 3 Assembly schedule for Metropolitan Tokyo

		Session dates	Number of days	Comments
2007	First regular session	Feb. 7~March 9	31	Budget resolution, etc.
	First extraordinary session	May 10	1	Agreement on appointment of vice-governors
	Second regular session	June 12~June 27	16	
	Third regular session	Sept. 19~Oct. 5	17	
	Fourth regular session	Dec. 4~Dec. 19	16	

(Source) Home Page of Tokyo Metropolitan Assembly (ed.)

(2) Management of an assembly

① Chairperson and Vice Chairperson

An assembly must elect a chairperson and a vice chairperson from among its members (Article 103(1)).

The role of the chairperson shall be to maintain order in the assembly, arrange the proceedings of the assembly, dispose of the affairs of the assembly and act as its representative (Article 105). The chairperson may also attend and speak in any committee of the assembly (Article 105).

The term of office of the chairperson and the vice chairperson shall be the same as that of the members of the assembly (Article 103(2)). However, in many cases, despite

such a provision, the term of office of the chairperson and the vice chairperson depends on agreements or customary usage. For example, 80% or more of city assemblies are managed in such a way. Only about 10% or less are set a term of office of 4 years, and in the case of town and village assemblies, about 50% or less. Assemblies that set the term of office at 1 or 2 years amount to 70% in the case of city assemblies, and 40% or more in the case of town and village assemblies.

When the chairperson has to be absent due to circumstances beyond his control, the vice chairperson shall carry out the duties of chairperson. When both the chairperson and the vice chairperson are unable to be present, an acting president shall be elected. The assembly may also authorize the chairperson to appoint an acting chairperson in advance (Article 106).

For the chairperson and the vice chairperson to resign from office, the permission of the assembly is required. However, at times when the assembly is not in session, the vice chairperson may resign after obtaining permission from the chairperson (Article 108).

② The assembly and committees

The management structure of an assembly is formed by the main assembly and committees, and informal conferences of all members or of committees may be opened.

Specifically, an assembly may establish by bylaw, standing committees (Article 109), assembly management committees (Article 109*bis*), and special committees (Article 110).

Within the respective scope of their specialist fields, standing committees shall investigate the affairs of the local public body, and examine such matters as bills and petitions. Each assembly member shall be a member of one of the standing committees, and it was formerly stipulated that an assembly member could not be a member of more than one standing committee simultaneously. However, by the revisions made in 2006 of the Local Autonomy Law, this restriction was abolished with the effect that an assembly member could be a member of at least one or more standing committees.

An assembly management committee can be established by bylaw with the objective of implementing the smooth management of an assembly. Its role is to carry out investigations, and examine bills and petitions in respect of (1) matters concerned with the management of the assembly, (2) matters concerned with assembly regulations, assembly bylaws affecting committee matters, and so on, and (3) matters concerned with proposals from the chairperson.

Special committees differ from standing committees in that they are established by

an assembly resolution to investigate a specific matter. It is usual for them to be established in response to investigate a matter which straddles a number of standing committees or a particularly important matter that has to be disposed of.

An assembly may conduct an open public hearing, or hear the views of persons who are stakeholders or persons of knowledge and experience, or conduct a hearing to hear the views of witnesses. These points are also applicable to the management committee and to special committees. Standing committees and the assembly management committee may also investigate a special matter designated by an assembly resolution, at times when the assembly is not in session. In the case of special committees, given that the reason for their establishment is to investigate a special matter, their work is in principle limited to times when the assembly is in session, but by using procedures analogous to those for standing committees, there is no hindrance to their continuing their investigations while the assembly is closed, and in practice, it is possible for them to be managed in the same way as standing committees.

③ The right to submit bills

An assembly member may submit bills to the assembly on any matter on which an assembly resolution is required (Article 112(1)). However, in practice, there are restrictions on the right of an assembly member to speak.

For example, it is clearly written that there is no right to submit bills on budgetary matters, and there are also matters in respect of which the normal interpretation is that, even without any such written prohibition, the right to submit a bill is the exclusive prerogative of the chief executive officer.

In order for a bill to be submitted, the concurrence of one-twelfth or more of the total membership is required (Article 112(2)).

Furthermore, as a result of the revisions of 2006 to the Local Autonomy Law, the right of submission of bills to committees has been recognized (Article 109(7)).

Table 4 shows the circumstances of the submission of bills to the Tokyo Metropolitan Assembly, and it is clear that bills are overwhelmingly submitted by the Governor. This state of affairs is not restricted to Tokyo, but can also be seen in the case of the assemblies of local areas all over the country. In recent years, the number of submissions of policy bylaws by assembly members has been gradually increasing, but the number is still no more than one part of the overall total.

Table 4 Bills submitted to TM Assembly

	No. of bills submitted	Submitted by the governor					Submitted by assembly members		
		Budget	Bylaws	Con-tracts	Personnel	Other	Bylaws, etc.	Written opinions	Resolutions
1999	314	36	150	53	20	22	6	22	5
2000	369	37	219	34	22	26	5	18	8
2001	287	34	125	21	36	24	17	21	9
2002	305	38	174	28	14	16	6	27	2
2003	297	41	164	20	19	28	3	19	3
2004	332	35	176	21	43	23	4	26	4
2005	372	39	165	17	19	102	7	14	9
2006	281	35	142	18	19	34	7	21	5
2007	309	40	137	15	50	37	7	19	4

(Source) Home Page of Tokyo Metropolitan Assembly (ed.)

④ Various principles concerning assemblies

The principle of a set number of members is established in the form of making it a condition that a half or more of the total number of members must be present before the assembly can be opened for business (Article 113), and that if there is a demand from half or more of the total number of members for the assembly to be opened, the chairperson must comply with this demand (Article 114).

The meetings of an assembly are in principle open to the public, but on the basis of a proposal by the chairperson or by 3 or more members, a secret meeting may be opened if a resolution requesting this is passed by a majority of two-thirds or more of the members present (Article 115).

In the case of a motion for the revision of a bill, one-twelfth or more of all members shall be present (Article 115*bis*).

Excluding cases specially determined by the Local Autonomy Law, all matters in the assembly shall be decided by a majority of those present. In the event of a tie, the chairperson shall decide the matter (Article 116).

When the matter under deliberation is concerned with any member of the assembly or their near relatives, or with vested interests directly concerned with the occupation of that person, the person concerned may not participate directly in the deliberations, but may be permitted to be present and to speak with the agreement of the assembly

(Article 117).

With regard to elections, the provisions of the Public Election Law shall be applied, and in the event of any objection to the validity of a vote, the assembly must decide. Anyone dissatisfied with the decision may appeal, within 21 days of the date of the decision, to the Minister of Internal Affairs and Communications in the case of a decision by a prefectural assembly, or to the prefectural governor in the case of a decision by a municipal assembly. Anyone dissatisfied with the results of such adjudication may make a further appeal to the courts within 21 days of the date of the said adjudication (Article 118).

An assembly is managed session by session, and under the principle of non-continuation, any bills that are still pending at the end of a session will lapse and will not continue automatically into the next session (Article 119). Specifically, bills on which deliberations have not been completed will be treated in the same way as if they had not been submitted. Also under the principle of non-continuation, bills which did not reach completion in the previous session may be resubmitted. As also already mentioned, the granting of permission to committees to carry out investigations while an assembly is not in session is an exception to the principle of non-continuation.

An assembly must establish rules of procedure (Article 120). “Standard” rules of procedure have been prepared separately for prefectures, cities, and towns and villages, and the current situation is that in many local governments, assemblies are managed by rules of procedure based on the “standard” rules.

In recent years, there have been moves to take a fresh look at the rules of procedure with a view to enabling the assembly to be managed more effectively and to bring it closer to the needs of the people. For example, various attempts have been made to enhance the interest of residents in the work of assemblies by such means as holding assembly meetings in the evenings or on public holidays, at times when people can more easily attend, or by holding “children’s assemblies.”

(3) Factions

Factions are generally formed voluntarily by assembly members who make assertions and have opinions analogous to those of political parties. Factions have been referred to in the section above only in connection with political investigations in an assembly, and it is customary, for example, for cooperation between factions to be reflected in the management of an assembly, and for the chairperson of an assembly to be drawn from the faction with the largest number of members, and the vice chairperson from the second largest faction. Or in such ways as the allocation of time in

question time, or in the allocation of rooms within the assembly building, it can be said that the factions play a significant role, particularly in large-size assemblies, as the basic units of management of assemblies.

Furthermore, in the light of the connections between the factions and the chief executive officer, there are times when the relationship between factions are likened to the relationships between the ruling party and the opposition party. Table 5 shows the factional constitution of the Tokyo Metropolitan Assembly. For example, given the closeness of relations with the present Governor, at present, the Liberal Democratic Party and New Komeito are generally seen as the “ruling parties” in the Tokyo Metropolitan Assembly.

Examples of what are called “single-person factions,” where even an individual assembly member forms a faction, can also be found, and this point provides further evidence of the important role played by factions in assemblies.

Table 6 shows the affiliations of local assembly members to the national political parties and their respective proportions. In contrast to prefectural assemblies and assemblies in urban areas such as cities and special districts, where political party affiliations are clearly visible, the situation in small-sized town and village assemblies is that against a predominantly conservative background, there are large numbers of non-affiliated members. According to a survey by the National Association of Chairpersons of City Councils, in cities with a population of 100,000 or more, all assemblies are managed on a factional basis.

Table 5 Factional composition of TM Assembly

T	M	G	L	D	P	48(2)											
T	M	G	D	P	J	35(6)											
T	M	G	N	e	w	K	o	m	e	i	t	o	22(2)				
J	C	P	T	M	G	M	e	m	b	e	r	G	r	o	u	p	13(6)
TMG Everyday Life Network Group													4(4)				
Unaffiliated (Administrative Reform Now!)													1				
Unaffiliated (Autonomous Citizens '93)													1(1)				
Unaffiliated (Citizens' Party)													1(1)				
Unaffiliated (Democratic Forum)													1				
Total number of members													126(22)				
Fixed number													127				

(Note) (The numbers in brackets () are the number of female members within the total. As of September 14, 2007) . Source: TMG Home Page

Table 6 Affiliations of local assembly members to national political parties

	LDP	DPJ	New Komeito	JCP	SDP	Liberal Party	The People 's New Party	New Party Nippon	New Party Daichi	Miscella neous factions	Unaffili -ated	Total	Vacanc- ies
Prefectures	1,326	250	204	123	74	21	-	-	-	58	702	2,758	116
Percentages	48.1	9.1	7.4	4.5	2.7	0.8	-	-	-	2.1	25.5	100.0	
C i t i e s	1,475	658	2,205	2,017	408	11	-	-	1	204	16,758	23,736	321
Special wards	298	76	189	146	19	11	-	-	-	35	129	904	23
Towns and v i l l a g e s	119	59	541	1,030	60	-	-	-	-	19	14,163	15,991	367
Total of cities, towns and v i l l a g e s	1,892	793	2,935	3,193	487	22	-	-	1	258	31,050	40,631	711
Percentages	4.7	2.0	7.2	7.9	1.2	0.1	-	-	0.0	0.6	76.4	100.0	

(Source) Ministry of Internal Affairs and Communications, Survey of Party and Factional Affiliations of Members of Assemblies, Governors and Mayors of Local Governments, as of Dec. 31, 2006 (edited extract)

LDP - The Liberal Democratic Party of Japan, DPJ - Democratic Party of Japan, JCP - Japanese Communist Party (JCP), SDP - Social Democratic Party

(4) The assembly secretariat

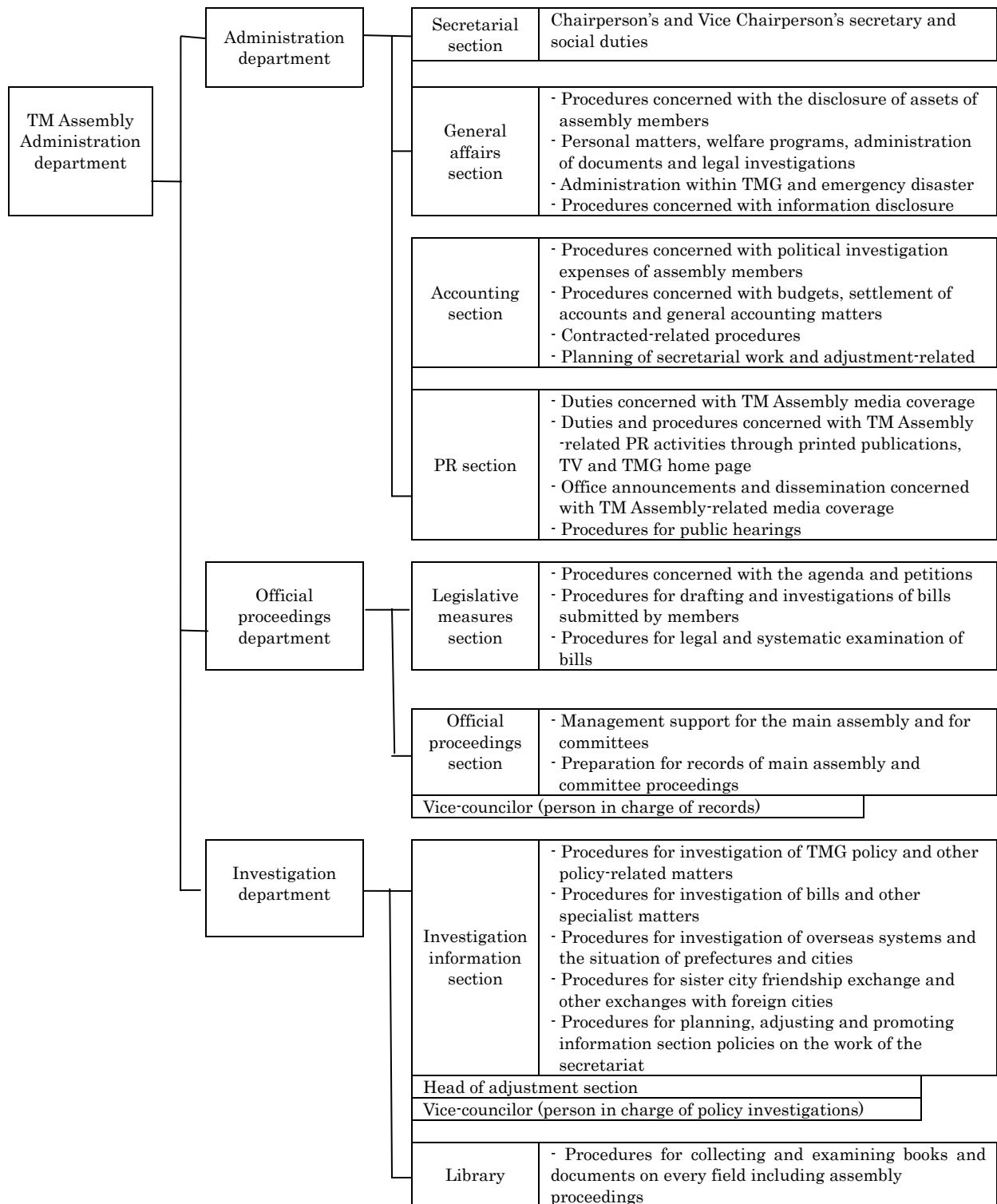
In every prefectural assembly, the establishment of a secretariat is obligatory (Article 138(1)), and a secretariat may be established by bylaw in the assembly of a city, town or village (Article 138(2)). In addition to a secretary-general, each secretariat will contain clerks and other employees. The right of appointment of such employees is vested in the chairperson of the assembly. The number of employees is determined in bylaws (Article 138(3) to (6)). In reality, the personnel management in the secretariat is carried out together with the departments controlled by the chief executive officer, and it is in this context that the weakness of the secretariat structure and its lack of autonomy are often pointed out.

Diagram 1 is an organogram of the Secretariat of the Tokyo Metropolitan Assembly.

In the case of the TM Assembly, the assembly members number 127, and these are outnumbered by the 130 employees of the secretariat. However, in prefectural assemblies throughout the country, on average, the latter figure does not amount to more than 70% of the former¹, and at the level of municipal assemblies, the reality is that there are places where a secretariat has not been established, and people in other posts carry out the work of the secretariat concurrently with their other jobs, and overall, the average number of employees is less than 3 persons per each secretariat.

Apart from the secretariat, the question has been raised as to whether other advisory organs can be established as organs attached to the assembly, but since there is a lack of clear guidance on this point in government orders, the general interpretation of the possibility of establishing such organs is pessimistic. It is for this reason that it has been suggested that there is a need for a clear statement in laws and orders to the effect that attached organs may be established². It is also a fact that private advisory organs to the chairperson of an assembly have been established, and that information disclosure bylaws have been applied by assemblies to establish related organs (for example, in the case of the TM Assembly, on the basis of a bylaw concerning the disclosure of information in the TM Assembly, the Committee to Promote the Public Disclosure of Information in the Tokyo Metropolitan Assembly was established, composed of assembly members selected under directions from the chairperson).

Diagram 1 Example of an assembly secretariat (TM Assembly Administration department)



3 The relationship between local assemblies and chief executive officers

3.1 The dual representation system and local assemblies

The term “dual representation system” signifies a system whereby both the assembly and the chief executive officer of local governments are directly elected in a public election as representative organs by residents. Among advanced democratic countries, examples of the political form of local governments which have adopted a dual representative system are comparatively few; such systems belong to a minority, including about half of American cities in the U.S.A., which have adopted the system of a city assembly and a city mayor, and cities in Britain which have adopted the system of the direct public election of city mayors.

Moreover, due to the fact that the chief executive officer is directly elected in a public election, likened to the election of the American president in the U.S., the system is often termed a presidential-type system. However, with the mechanism used in Japanese local government, the assembly has the right to pass a vote of no confidence in the chief executive officer, while as a counter to this, the chief executive officer has the right to dissolve the assembly. A characteristic of this system is that there is a very clear mutual check built into the relationship between the chief executive officer and the assembly, very different from the relationship between the president and the federal Congress in the U.S. Furthermore, when required by the chairperson of the assembly to appear for the purpose of providing an explanation, the chief executive officer of the local government or the head of any of the various types of administrative commissions must appear on the floor of the assembly (Article 121). And if we look at the reality on the ground, we can see how, in the main assembly, the process of question and answer between assembly members and the chief executive officer, represents important content and is managed as such. In respect of these points too, the process is very different from the management of Congress under the presidential system in the U.S., where the central focus is on discussions between individual members of Congress.

3.2 The relationship between the chief executive officer and the assembly

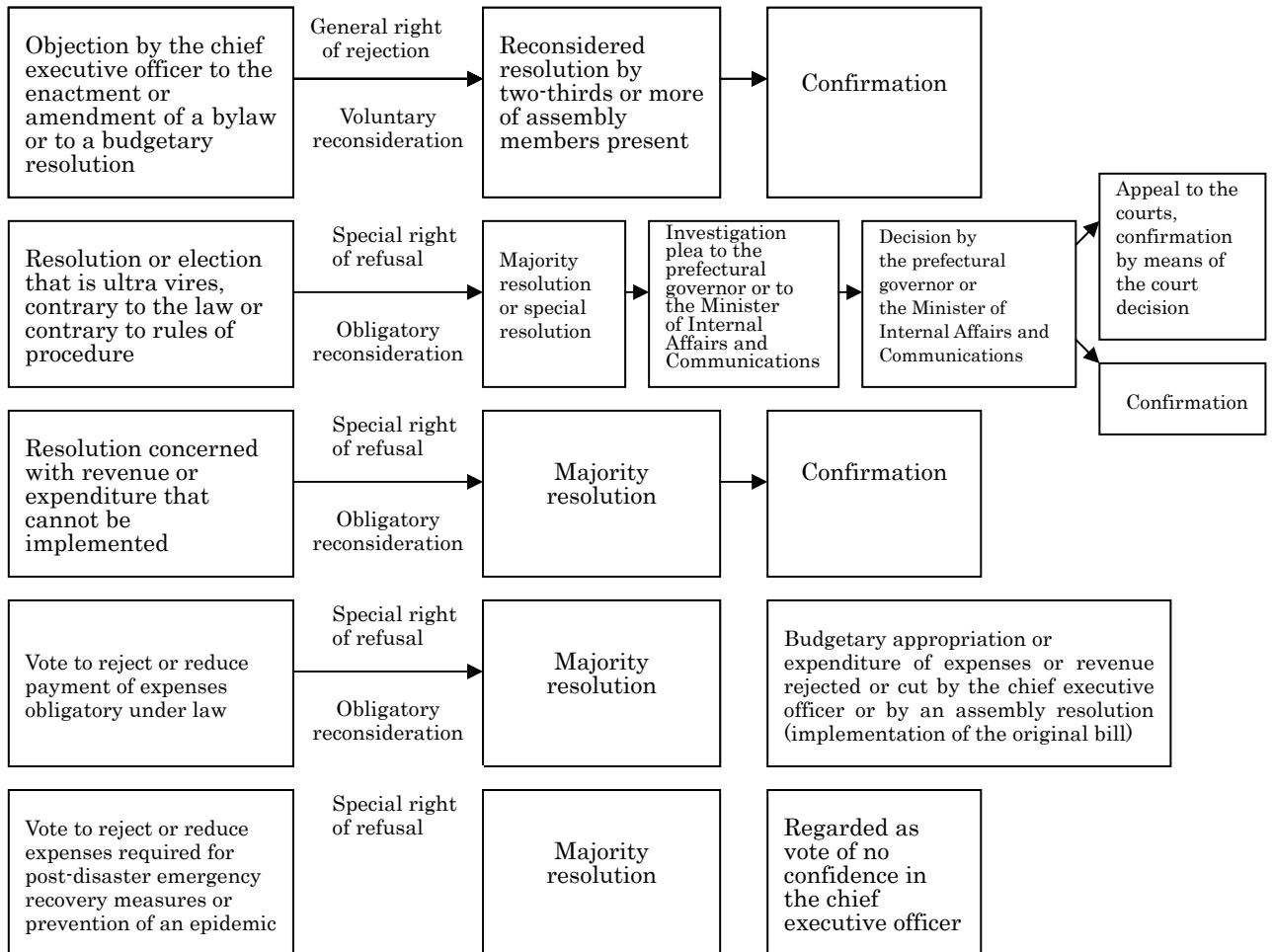
The dual representation system has two different channels through which the will of the people is reflected in terms of election procedures, different candidates, and sometimes different timing. Against the background of these various points, there are times when deep conflict arises because representatives of the two systems assert different ways of thinking, while on the other hand, on the basis of the tension between the two sides that is prone to occur in these circumstances, a cooperative style of management of local governments has evolved.

On the basis of the characteristics of this dual representation system, mechanisms of control are built into the relationship between the assembly and the chief executive officer. These can be broadly characterized as follows: 1) provisions concerning the position of the chief executive officer regarding resolutions and elections; reconsideration and reelection, 2) provisions concerning a resolution of no confidence in the chief executive officer and dissolution of the assembly, and 3) exceptional action by the chief executive officer.

(1) The position of the chief executive officer regarding resolutions and elections; reconsideration and reelection

If the chief executive officer has any objection regarding the enactment, amendment or abolition of a bylaw or to a resolution concerning a budgetary matter, unless otherwise specified in law, he may ask the assembly to reconsider it (Article 176(1)). Furthermore, if the chief executive officer finds that a resolution of the assembly or an election are ultra vires or contrary to legal orders or to the rules of procedure, he must ask for the resolution to be reconsidered or call for a reelection (Article 176(4)). In addition to these cases, in the event that the chief executive officer finds that an assembly resolution concerned with revenues or expenditures cannot be implemented (Article 177(1)), or finds that the assembly has voted to reject or to reduce payment of expenses obligatory under law and orders, or expenses required for emergency recovery measures after a disaster, or for the prevention of an epidemic (Article 177(1)), the chief executive officer must ask the assembly to reconsider the matter. Diagram 2 shows the flow of the procedures in such cases.

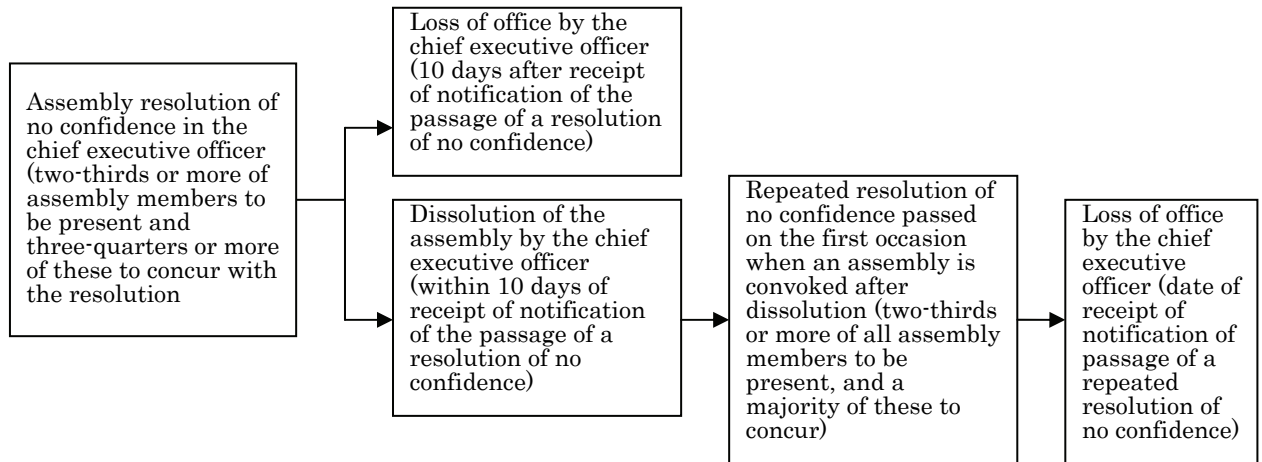
Diagram 2 Rejection of an assembly resolution by the chief executive officer and reconsideration by the assembly



(2) A resolution of no confidence in the chief executive officer and dissolution of the assembly

As an example of the check-and-balance system of control as a defining mechanism of the relationship between the chief executive officer and the assembly, the assembly is able to pass a resolution of non confidence in the chief executive officer, who is able for his part to dissolve the assembly (Article 178). Diagram 3 shows the flow of the procedures in such cases.

Diagram 3 Vote of no confidence in the chief executive officer and dissolution of the assembly



(3) Exceptional action by the chief executive officer

In the following cases, 1) where an assembly is not duly formed or 2) where an assembly is unable to open proceedings, particularly where there is a need for urgency and there is clearly not sufficient time to convoke an assembly, or 3) where an assembly does not pass a resolution on a matter on which it should pass a resolution, the chief executive can dispose of the matter on his own authority (Article 179(1)). In cases where such exceptional action is taken, the chief executive must make a report to the next meeting of the assembly and seek their approval (Article 179(3)).

In the case of minor matters which fall within the scope of the assembly’s authority, particularly matters which are specified by a resolution, the chief executive officer may act on his own authority to dispose of them (Article 180(1)). In such cases, the chief executive must make a report to the assembly that such action has been taken (Article 180(2)).

4. Conclusion – decentralization reform and local assembly reform

In a context of ongoing progress in decentralization reform, emphasis is put on the principles of self-determination and self-responsibility, and it is expected of local public bodies that they will carry out their role as completely autonomous local government. It is against this background that questions have been raised about what role should be played by the assembly, which carries the chief burden of responsibility and authority. Moreover, when local government finances are in a critical state, people have expectations of the role of the assembly as a check on the administration. It is now an

issue of urgency for local assemblies to implement reforms so that they are able to carry out the function of governance, covering the drafting of policy measures and evaluation.

If we look at trends in individual local governments, we can see that while, when the basic bylaws, sometimes called the “Constitution of local governments”, were passed, the role and responsibilities of assemblies were regulated, but in recent times, attempts are being made to establish a more positive role for assemblies. For example, in Kuriyama Town in Hokkaido, attempts are being made to bring more life into assembly proceedings and to revolutionize the management of assemblies in such ways as establishing general meetings held by the assembly to encourage the exchange of opinions with the townspeople and granting cross-questioning of the chief executive officer and town officials in response to questions from assembly members, in an effort. Or if we look at Mie Prefecture, we can find the following declaration in the preamble to the Assembly Basic Bylaw enacted by the Prefectural Assembly: “The assembly of this prefecture will seize the principles of residential autonomy and organizational autonomy and, while remaining focused on realizing the goal of true local autonomy and self-government, will adopt a standpoint of autonomy, different from the standpoint of the national government and of the political parties, and while maintaining a relationship of tension with the governor and other organs (hereafter referred to as the governor, etc.), will endeavor, within a context of independence and equality, to scrutinize and evaluate policy decisions as well as the acts of the governor, etc, to formulate policy drafts and make policy suggestions.”

Furthermore, the three national organizations which represent local assemblies all over the country, namely the National Association of Chairpersons of Prefectural Assemblies, the National Association of Chairpersons of City Councils, and the National Association of Chairpersons of Town and Village Assemblies, have set up research groups of various kinds and are making suggestions about the reform of assemblies.

Notes

- 1 See <http://www.nactva.gr.jp/html/search/pdf/H18/01.pdf> for the report (July 1, 2006) by the National Association of Chairpersons of Town and Village Assemblies.
- 2 See http://www.si-gichokai.gr.jp/07chousa/07pdf/h18/h18_12.pdf for the report (Dec. 31, 2006) by the National Association of Chairpersons of City Councils, and <http://www.nactva.gr.jp/html/search/pdf/H18/01.pdf> for the report (July 1, 2006) by the National Association of Chairpersons of Town and Village Assemblies.
- 3 See http://www.si-gichokai.gr.jp/07chousa/07pdf/h18/h18_14.pdf for the report (Dec. 31, 2006) by the National Association of Chairpersons of City Councils.
- 4 See <http://www.gichokai.gr.jp/newhp/075gaikyo/web/2006/18giinteisuu-jimukyokukikou.pdf> for the report (July 1, 2006) by the National Association of Chairpersons of Prefectural Assemblies.

5 See <http://www.nactva.gr.jp/html/search/pdf/H18/01.pdf> for the report (July 1, 2006) by the National Association of Chairpersons of Town and Village Assemblies.

6 For example, see “It’s time to reform the local Assemblies” (March 18, 2005) and “Reform: Local Assemblies” (March 29, 2006) published by the Research Group on the Prefectural Assembly System established by the National Association of Chairpersons of Prefectural Assemblies, and “Final Report: New Development of Town and Village Assemblies in an age of Decentralization” (May, 2006) published by the Second Research Forum on the Development of Town and Village Assemblies established by the National Association of Chairpersons of Town and Village Assemblies.

References

- S. Ohsugi, *On Local Government Organization: Systematic Design of Local Government Organizations from the Perspective of Governance Management (Jichitai Soshiki no Ronten: Governance Management kara mita Jichitai Soshiki no Seido Sekkei Shiron)*, *Diversification of Local Government (Jichitai Soshiki no Tayoka)*, Japan Center for Cities, 2004
- W. Omori, *Decentralization Reform and Local Assemblies (Bunken Kaikaku to Chiho Gikai) (Revised Version)*, Gyosei, 2002
- W. Omori and S. Ohsugi, *Local Government (Chihou Jichi) (Second Revision)*, NHK Academy of Distance Learning, 2004
- H. Matsumoto, *On the Local Autonomy Law (Yosetsu Chihou Jichi Hou) (Second Revision)*, Gyosei, 2003