

## MAKING “FREEDOM OF INFORMATION” LAWS IN JAPAN\* —AN ACADEMIC LAWYER’S EXPERIENCE—

MASAO HORIBE\*\*

### I. *Preface*

Mr. John D. Buchanan, Jerwood Foundation, distinguished guests, ladies and gentlemen: Thank you, Dean Bryan Coates, for your very kind introduction.

I am honoured and proud to have the chance to give this Jerwood Lecture on ‘Making “Freedom of Information” Laws in Japan—An Academic Lawyer’s Experience.’ I wish in advance to express my personal gratitude for the generosity and hospitality of Dr. John Jerwood and the University of Sheffield in enabling me to be with you here tonight.

The title “Jerwood Fellow” is now well known in my home University, Hitotsubashi University, Tokyo, Japan and among many academics, but one of my friends, who is a business man, asked me, ‘What’s your connection with “Robin Hood”?’ At first I could not understand his question. Soon I realized that he misunderstood me to have said ‘I am a Sherwood Fellow, not a Jerwood Fellow.’ I thus replied, ‘I am a Jerwood Fellow, not a Sherwood Fellow.’ I visited Sherwood Forest just a month ago to see what Sherwood Forest is. I have written some articles in leading Japanese law journals using “Jerwood Fellow” since I came to Sheffield, which, I hope, will serve to remove any possible misunderstandings and to spread the title “Jerwood Fellow” throughout Japan.

### II. *My Method of Research and Some Subjects for Study*

The research method sometimes employed by academic lawyers may, I think, be divided into the “observation method” and the “participation method.” The former is to make observations of the subject in which they have special interests, for example, to analyze court cases or to make observations of the customs of particular communities, and the latter is, for instance, to participate in making laws or to decide cases.

Looking back upon thirty years of my research, I can say that the first half was mainly devoted to the “observation method” and the second half chiefly to the “participation method.” As a comparative constitutional lawyer, in my young days I conducted research

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\* Text of the Jerwood Lecture presented at the University of Sheffield on 22 May, 1990. I would especially like to thank Dr. John Jerwood for his kindness. He died unexpectedly in New York on 22 June, 1991. May he rest in peace!

\*\* Professor of Law, Hitotsubashi University: former Jerwood Fellow, Visiting Professor, The University of Sheffield, 1989/90.

into English constitutional law and also its background legal thought, as well as American constitutional law. For example, I have written papers on the historical development of habeas corpus in England and on Lord Mansfield, a great chief justice of the Court of King's Bench in the latter half of the 18th century, and many short articles on Sir Edward Coke, John Selden, Sir Matthew Hale, Sir William Blackstone, Jeremy Bentham, Lord Eldon, Sir Henry Maine, Albert Venn Dicey, Frederic William Maitland, and others. The more I studied English law, the more clearly I came to understand the difficulty of mastering English law and of becoming a Sir Paul Vinogradoff, the late legal scholar of Russian origin.

I have no intention to run the risk of delivering a lecture on English law before the distinguished common lawyers with us. Tonight I am rather going to talk about my experience as an academic lawyer in participating in making "freedom of information" laws in Japan.

From my observation, "freedom of information" law is, I believe, one of the political issues in the United Kingdom. To date there have been some private member's bills on official information or freedom of information; some Acts of Parliament regarding access to information such as the Data Protection Act 1984, the Local Government (Access to Information) Act 1985, and the Access to Personal Files Act 1987; some books on freedom of information; and some movements for the subject such as the Campaign for Freedom of Information.

In a sense the subject of freedom of information is well known to us.

I flatter myself that I am sometimes called the father of the freedom of information system in Kanagawa Prefecture or the progenitor of this system in Japan. This Prefecture has a population of approximately eight million, Japan's second largest local public body in population and is one of the forty seven prefectural governments. The Kanagawa Prefectural Government was the first to study the freedom of information system and to enact the disclosure of information by-law at the prefectural level. As of 1 April 1990, thirty-one bodies out of forty seven prefectures and one hundred and twenty three bodies out of three thousand two hundred and sixty eight municipalities have this kind of by-law. It may be said that almost all these local government designed their systems on the model of Kanagawa. Metaphorically speaking, they are the sons or daughters of Kanagawa, which means my grandsons or granddaughters. I hope my grandchildren or great grandchildren and so on will be born all over Japan and in other countries.

### III. *The Constitution and the Legal Background of Freedom of Information*

#### III-1 The Constitution and the Principle of Local Autonomy

Here I would like to touch on the Constitution of Japan 1946 and the principle of local autonomy guaranteed thereby.

After the end of the Second World War, Japan was totally changed as a result of the new Constitution. The Constitution of Japan was promulgated on 3 November 1946 and took effect on 3 May 1947. It superseded the Constitution of the Japanese Empire 1889.

The Preamble of the 1946 Constitution declares that sovereign power resides with the people and that Government is a sacred trust of the people, the authority for which is derived from the people. If we correlate the doctrine of popular sovereignty with Article 21 of the Constitution which provides that 'freedom of assembly and association as well as speech, press and all other forms of expression are guaranteed' and implies the right to know as a prerequisite for free expression, the Constitution is based on the premise that the people have and should have the right to know about their government.

Chapter VIII (Articles 92-95) of this Constitution concerns Local Self-Government. Article 92 expresses the principle of local autonomy in the following terms:

'Regulations concerning organization and operations of local public entities shall be fixed by law in accordance with the principle of local autonomy.'

Article 93 provides that the local public entities shall establish assemblies as their deliberative organs and that the chief executive officers of all local public entities, the members of their assemblies . . . shall be elected by direct popular vote within their several communities, and Article 94 is concerned with the right to enact by-laws within law.

After the promulgation of the Constitution, the Local Government Act was passed in 1947. Organizations and operations of local public entities are regulated under this Act. According to the Act local public entities shall be "ordinary local public entities" and "special local public entities." The former has a dual structure or a two tier system, that is, prefectures covering a wider area on the one hand and municipalities (cities, towns and villages) on the other hand. As of 1 April 1989, there are forty seven prefectures and three thousand two hundred and sixty eight municipalities in Japan.

Under such legal frameworks local public entities or local governments have sometimes taken the lead in important issues like environment assessment, consumer protection and personal data protection. Freedom of information is one of the policies initiated by local governments, but as the proverb says 'easier said than done.'

To return now to the right to know or the right of access to information which is the nucleus of freedom of information, the current debate concerning this issue may be viewed as the result of: 1) the development of the information society; 2) international influences; and 3) proposals and studies by legal scholars and the enhancement of public consciousness. Among these causes, I will elaborate on the third cause—in particular, proposals and studies by legal scholars.

### III-2 Recognition of the "Right to Know"

The word "right to know" was used even in the latter half of the 1940s by journalists in Japan. For example, the motto of the newspaper week in 1948 was "Every Liberty is from the Right to Know," which was said to be translated for the American expression, "Your Right to Know is the Key to All Your Liberties." It also was found in some decisions of lower courts in the 1950s.

Nevertheless, it was not until the latter half of the 1960s that we began to discuss fully the right to know. I had a special interest in the right to know or freedom of information movement in the United States at that time and when I was asked in 1967 to participate as an advisor in a study group of the voluntary association consisting of mass communications business circles and companies, which discusses the laws and ethics of the mass media, I

began to advocate establishing the right to know in Japan.

The most important case during this period arose in 1969 in connection with the order of the Fukuoka District Court [which corresponds to the High Court of Justice] to submit television news films to the court. It was on 19 May 1969. The films had recorded students demonstrating against the visit to Japan by the U.S.S. Enterprise, an American nuclear-powered aircraft carrier.

The four television companies requested to produce news films refused, asserting that to submit the films would interfere with future news-gathering activities. They based their refusal on the public's "right to know," which, they argued, was guaranteed by Article 21 of the Constitution.

The District Court disagreed and issued an order compelling production of the films. After the Fukuoka High Court [which corresponds to the Court of Appeal (Criminal Division)] upheld the order of the District Court, the four television companies appealed to the Supreme Court [which corresponds to the House of Lords].

The Supreme Court stated in general terms as follows:

'In our democratic society, as is pointed out by the appellants, news reports offer important material upon which the people may make their judgments when they participate in the governmental process. News reports thus serve the people's "right to know."'

Nonetheless, the Court affirmed the decision below, emphasizing that the guarantee of a fair criminal trial was one of the basic principles of the Constitution, and, in this case, outweighed press freedom.

This statement is of great significance, because the Court used the word "right to know" even though in parentheses, for the first time in its history.

At about this time, in 1966, the Freedom of Information Act was enacted by the Congress of the United States. Legal scholars including me paid careful attention to this epoch-making act. However, in so far as I am aware, there was no explicit proposal to make a similar law in Japan in the 1960s.

I would like to talk about my participation in making "freedom of information" laws in Japan by dividing the process into three periods, that is, the period of proposals and persuasion in the 1970s, the period of institutionalization and expansion in the beginning of the 1980s, and the period of implementation and application after 1983.

#### IV. *The Period of Proposals and Persuasion*

##### IV-1 Proposals for Institutionalizing the Disclosure of Information

Discussions of the right to know were stimulated by the 1969 Supreme Court decision mentioned above, and as the 1970s began, interests in the right to know as well as the right of privacy increased dramatically. In particular, debates as to the right to know were in the spotlight as a result of the 1971 United States Pentagon Papers Case, on which I wrote some articles in law journals. In one of the Japan's leading academic law societies, the Comparative Law Society, a symposium on "Freedom of the Press" was organized in 1971 and I presented a paper on the subject.

In 1972 discussions of the right to know were prompted by leakage of secret telegrams relating to the reversion of Okinawa, which occurred in March. The case was closely connected with the proposal for institutionalizing the disclosure of information.

In April 1972, a political reporter for the *Mainichi Shimbun*, one of the three largest newspapers at that time in Japan, was arrested along with a female civil servant in the Foreign Ministry. The civil servant was indicted for alleged violations of section 100 of the National Public Employees Act (divulging secret information); the reporter was charged with violating section 111 of the Act (inducing a civil servant to commit a crime). The prosecution charged that, by using his "intimate" relations with the female civil servant between May and June 1971, the reporter had persuaded her to give him copies of the three telegrams which the reporter then gave to the Dietman.

The arrest and prosecution of the newsman attracted considerable attention throughout Japan. Some journals as well as law reviews featured articles on the case. I was asked to write articles or to participate in round-table talks. In one of them I proposed to make a law to implement the right to know (Horitsu Jiho [Law Journal], June 1972). This was in fact the first time such a proposal had been made in the history of Japan. But at that time the proposal did not come to public notice, as there were no political or social conditions to draw public attention.

On 31 January 1974, the Tokyo District Court found the former employee guilty of leaking government secrets. The newsman, who had resigned upon his arrest, was acquitted. The court found the reporter's acts, which might have been punishable, to be justifiable in the light of the value of freedom of the press in a democracy.

#### IV-2 New Proposals for Institutionalizing the Disclosure of Information

In 1976 when the Lockheed bribery scandal was revealed in the United States and the lack of the right to know was recognized, I again proposed to make a law concerning freedom of information to implement the right to know. I was asked to contribute an article to one of the national newspaper, the *Mainichi Shimbun*, on how to deal with the Lockheed bribery scandal from the perspective of my field. In this article I explained the right to know and proposed using the United States Freedom of Information Act of 1966 to acquire data concerning the Lockheed bribery scandal from the United States Securities and Exchange Commission.

This time the proposal drew public attention. I was asked to write quite a number of articles on freedom of information and to translate the whole text of the United States Freedom of Information Act as amended in 1974. I also began to express my view on the possibility of enacting by-laws at the local government level.

I remember that I sometimes quoted the United States fourth President, James Madison's words, as follows:

'A popular Government without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or, perhaps both. Knowledge will forever govern ignorance: And a people who mean to be their own Governors must arm themselves with the power knowledge gives.'

These words were very helpful in urging the necessity of information for a democratic government.

The year 1976 was worthy of special mention because the gravity of access to official information was recognized in diverse sectors.

Concerning the case of the leaked telegrams on appeal by the prosecution against the newsman's acquittal (the civil servant did not appeal her conviction), on 20 July 1976 the Tokyo High Court reversed the lower court decision, finding the reporter guilty of violating the National Public Employees Act. The court emphasized that freedom of news-gathering activities did not extend to inducing civil servants to cooperate affirmatively with those activities. The former reporter was given a six-month suspended sentence. This conviction made the public as well as the journalists and scholars aware of the need to establish the right to know.

It is also noteworthy that the Consumers Union of Japan sent out a questionnaire on the disclosure of official information to political parties and most of the opposition parties pledged to enact a freedom of information law during the general election campaign in December of 1972. It was tied to the awareness of political ethics and the prevention of political corruption. But the opposition parties could not win in the election and carry out their campaign pledges.

With the passage of time, the right to know has gained greater public attention.

It was on 31 May 1978 that the First Petty Bench of the Supreme Court affirmed the judgment below. The Court recognized, in general terms, the importance of freedom of the press in informing the public about government activities. The Court stated that when the press is investigating state secrets, its news-gathering activities may conflict with a public employee's duty not to disclose those secrets. Therefore, such activity can be justified if motivated by a "genuine desire" to inform the public and if the means used are warranted to be right in the light of socially accepted ideas. The Court concluded that the reporter's activity could not.

I was asked to comment on the Supreme Court Decision on television news by the Japan Broadcasting Corporation or NHK (which corresponds to the BBC). I argued that this judgment showed the importance of establishing the right to know again by legislation not by judge-made laws.

#### IV-3 Persuasion of Local Government Officials

As I mentioned earlier, in Japan local governments have freedom of information by-laws. However, it has not been easy to spread these by-laws among local governments. If my efforts had not been fruitful in Kanagawa Prefecture, I would not be here today talking to you on this topic.

The Kanagawa Prefectural Government has been regarded as a leader in local politics, especially since the middle of the 1970s, and the present idea of disclosure of information had its beginning in a document published in March 1978 by the project team to study citizens' participation in prefectural administration set up in the Community Relations Department of the Prefectural Government. The idea propounded in the document may be highly evaluated in recognizing that local autonomy and disclosure of information are connected with each other, but it did not deal with the legal concept of freedom of information. It stressed the expansion of public relations. It was in 1978 that I was asked to exchange views with the staff and to provide them with information on information disclosure.

At first it seemed that no one could understand my theory.

In May 1979 the Kanagawa Prefectural Government established the Committee to Prepare for Information Disclosure consisting of officials. It gave a great stimulus to other local governments.

However, when local governments began to study the system of information disclosure, it was rather difficult for them to understand what the system really meant. When I gave lectures before local government officials, some of them were anxious about the abuse of the right to know and some of them feared that this system would disturb their legitimate activities.

At that time I tried to persuade them to change their minds and to agree to my proposal by using two main methods.

One was to translate foreign laws on freedom of information or access to information and to explain the situation overseas. In particular my Japanese translation of the state-level freedom of information laws of the United States was of great help. In Japan, prefectures are sometimes regarded as the equivalent of states in the United States of America. As a result, there have been Japanese-American Conferences of Governors in which actually American state governors and prefectural governors have participated. I think it is based upon a misunderstanding of the powers and functions of both governors, but I took advantage of this misunderstanding to enhance their understanding of the freedom of information systems. In addition, some state-level freedom of information laws are more liberal and attractive in terms of the right of the citizens. For example, the State of Texas Statute on Access by the Public to Information in Custody of Governmental Agencies and Bodies provides in the provision of Declaration of Policy as follows:

'Pursuant to the fundamental philosophy of the American constitutional form of representative government which holds to the principle that government is the servant of the people, and not the master of them, it is hereby declared to be the public policy of the State of Texas that all persons are, unless otherwise expressly provided by law, at all times entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. To that end, the provisions of this Act shall be liberally construed with the view of carrying out the above declaration of public policy.'

If I change the meaning of the phrase, this provision is something like "*res ipsa loquitur*," that is "the thing speaks for itself."

The other method I used to persuade local government officials to come to an understanding of my own way of thinking on freedom of information was to stress the principle of local autonomy guaranteed by the Japanese Constitution and the Local Government Act 1947 and also the resemblances between American governments and Japanese local governments. Without going into detail, let me point out that I often heard this scheme is foreign to the parliamentary executive system Japan has adopted at the national level on the Westminster model.

At the same time I wrote a few papers on overseas practice of freedom of information laws at the request of the national government. I was expected to pick out defects or dan-

gerous elements associated with freedom of information, but of course I did not, as freedom of information is an essential principle in a democratic society.

In those days I was obliged to be under the limelight. I was called as an expert witness to the Justice Committee of the House of Representatives and gave my views on the revision of the Diet Testimony Act. Moreover, I was requested by the Asahi Shimbun, Japan's most influential national paper, to discuss on how to prevent political corruption with one of the leading Dietmen (MP) of the ruling Liberal-Democratic Party (the Chairman of the Policy Affairs Research Council), the General Secretary of the Socialist Party and the former Public Prosecutor General. The discussions were given two pages in the Asahi Shimbun. They did much towards providing a better understanding of my theory and proposals.

By now I felt convinced that some officials were persuaded of the necessity to introduce a new information policy.

### V. *The Period of Institutionalization and Expansion*

In May 1980 the Kanagawa Prefectural Government set up a working party consisting of four academic experts including myself. I was appointed as chairman, though I was the youngest among them. We were assigned to study the disclosure of information systems operating in the United States and European countries and to make recommendations for the new legal problems to be solved. We discussed various matters together and with government officials. However, in the first half of 1980, although I felt leading officials had been persuaded, I was unsure as to whether the attempt would succeed or not.

At last in July 1980 Governor Kazuji Nagasu, a former professor of economics at Yokohama National University, decided to institutionalize freedom of information in Kanagawa Prefecture. Once the Governor and other high officials had made up their minds, a movement towards systematization gained momentum.

I was dispatched to the United States and another member of the working party to Sweden. Our studies were useful to the officials in the Committee to Prepare Information Disclosure for drawing up the final report of the administrative side, which was published in September 1981. In the same month the Governor formed the Committee on the Promotion of the Disclosure of Information which was composed of representatives of the residents and the municipalities, along with academic and other experts, because it was citizens who would exercise their rights and thus their consensus was essential. There were thirty in all. I was elected as Chairman of the Sub-Committee which was charged with deliberating such matters as who should be entitled to request access to information, what information should be made accessible and what should be withheld, how to protect personal privacy, and what kind of mechanism there should be for redress.

I spent a good deal of my time as Chairman dealing with these matters. In addition we had meetings of citizens, entrepreneurs and others to give them a fair hearing.

The Committee's findings, reached through this process of public debate, were submitted to the Governor under the title of the "Proposal for the System of Disclosure of Information in Kanagawa Prefecture" on 17 July 1982.

The Proposal received full coverage in the papers and other media and as the Chairman of the Sub-Committee, I was taken up as a personality profile in an article titled "Today's Face" in the Yomiuri Shimbun, the national newspaper enjoying the largest circulation



in Japan.

In parallel with this work, I was a member of the Study Committee on the Protection of Privacy set up by the Administrative Management Agency (now the Management and Coordination Agency), Prime Minister's Office, which presented a report entitled the "Protection of Privacy in the Processing of Personal Data" to the Director of the Agency, Mr. Yasuhiro Nakasone (who became Prime Minister on 27 November 1982) on 23 July of the same year.

In this way, with the support of many people, I had by the middle of 1982 reached the first stage in fulfilling my dream of implementing freedom of information in Japan.

The Governor drafted "A Bill concerning the Disclosure of the Official Documents of Kanagawa Prefectural Organs," based on the Committee's Proposal and submitted it to the September 1982 Session of the Prefectural Assembly. The Bill was passed unanimously by the Assembly after a heated debate on 7 October and the By-law was promulgated on 14 October 1982. (Paragraph 1 of its supplementary provisions provides that this By-law shall come into force on 1 April 1983.)

This By-law attracted considerable interest nationwide as the first one at the prefectural level and marked a major advance in open government in Japan. Interests in the system appeared to be spreading like wildfire.

Since the end of the 1970s I have often been asked to deliver lectures on the disclosure of information, the protection of privacy and related topics before national or local officials as well as the general public. I have played the role of a mosquito carrying the germs of the right to know, which is not so popular among undemocratic people. The idea of freedom of information has thus spread rapidly.

Moreover, in autumn 1982 I was asked by the Japan Broadcasting Corporation or NHK to appear on TV as the speaker in a twenty-six part series on information society and the law from April to September 1983.

[For a change of mood, let me now switch on the video tape recorder. The title of the series is the "Information Age and the Law." This is the first programme, "Humankind and Information." One programme was forty five minutes, but I will show you just a few minutes of the programme.]

I took advantage of this opportunity to spread the idea of freedom of information and privacy. I allotted seven programmes to freedom of information and six to privacy. The audience was probably over one million.

Furthermore, I was also asked by other local governments to become a member of the committees to frame the freedom of information system. For example, I was informally requested to join the committee of the Osaka Prefectural Government which is about 350 miles from my home, but I was unable to accept the proposal. The committee set up by the Tokyo Metropolitan Government, governing a population of more than twelve million, is noteworthy here. It began work in January 1983. The former Director-General of the Cabinet Legislation Bureau, a very important office in the national government, was appointed as chairman of the committee. He frequently asked me questions on new and difficult legal issues and seemed almost always satisfied with my answers. The Tokyo Metropolitan Government sent ten of the committee members to the United States and Canada to gain knowledge on how freedom of information laws are operating at the federal and local level. The chairman of the committee was a leader of the delegation and I was one

of the sub-leaders.

At that time, an increasing number of local governments around the country were following Kanagawa's lead.

[Here I will turn on a cassette tape recorder to show you the situation at that time as reported by English broadcasting of my talk. I have sometimes been asked to talk on Radio Japan, overseas broadcasting run by the Japan Broadcasting Corporation, or NHK. This broadcasting cannot be heard in Japan. I asked the staff to record my talks, but they sometimes forgot to do so. The recorded English translation of my talks are in particular valuable for gaining and understanding of the situation in Japan at that time. The first programme was broadcast on 8 February 1984 and the second one on 16 July 1984.]

It was in September 1984 that the Tokyo Metropolitan Assembly approved by a majority the bill proposed by the Governor.

In today's theme I used "freedom of information" in the plural form, that is, "Freedom of Information Laws." It means that I have been involved in making plural "freedom of information laws."

## VI. *The Period of Implementation and Application*

### VI-1 The Scheme of the Kanagawa Prefecture Disclosure of Information By-law

The Kanagawa Prefecture Disclosure of Information By-law came into force on 1 April 1983, when it was fully covered by the press, television and radio.

[The scheme itself has been publicized by various means such as television, pamphlets, video tapes, and slides. I brought fifty two slides produced by the Kanagawa Prefectural Government, but they are written in Japanese. I will show you some of them and explain briefly in English.]

The By-law consists of eighteen sections and supplementary provisions. Marginal notes or brief summary of some sections and paragraphs are as follows:

Section 1—Purpose

Section 2—Interpretation and policy of application

Section 3—Definitions

Section 4—Right of requesting access etc. to official documents

Section 5—Official documents which may be kept undisclosed

This section relates to exemption clauses and provides that the competent authorities may reject to disclose official documents falling under any of the following paragraphs;

- (1) information relating to an identified or identifiable individual
- (2) information relating to legal persons etc.
- (3) information prepared or obtained in consultation with or at the request of the national or local governments
- (4) information relating to intra or inter agencies
- (5) information relating to conducting official work
- (6) information relating to the prevention of crime etc.
- (7) information relating to statutory exemptions

Section 6—Procedure for requesting access etc.

- Section 7—Decision etc. on the request for access
- Section 8—Procedure for access etc. to official documents
- Section 9—Special provisions for the procedure etc. for requesting access etc.
- Section 10—Fees
- Section 11—Review Board of Official Documents Disclosure
- Section 12—Responsibility of users
- Section 13—Compilation of lists of official documents
- Section 14—Arrangement of official documents etc. and Council of Official Documents Disclosure
- Section 15—Publication of situation of use
- Section 16—Supply of Information
- Section 17—Coordination with other laws and by-laws etc.
- Section 18—Delegation
- Supplementary provisions—Commencement etc.

## VI-2 The Kanagawa Prefecture Disclosure of Information By-law in Operation

This By-law is characterized by equal emphasis on two sub-systems: "public access on request to official documents or records" (hereinafter referred to as "access to documents") and "information supply service" (hereinafter referred to as "information service"). Section 16 of the By-law relates directly to "information service," while almost all other provisions are concerned with "access to documents."

How has this By-law been working in practice? Let us examine how the scheme has been used in the past seven years from 1 April 1983 to 31 March 1990. The year shows a fiscal year, that is, from 1 April to 31 March.

## VI-3 Roles and Recommendations of the Review Board of Official Documents Disclosure

When an appeal is filed by a requester against the original decision of rejecting his or her application for access to documents, the competent organ is obliged to put the question to the Review Board of Official Documents Disclosure and make a further decision thereon based on its recommendation (Section 11 of the By-law). This is one of the possible ways

TABLE 1. USE OF THE DISCLOSURE OF INFORMATION SYSTEM

Fiscal Year	Number of Users	Types of Use		Total
		Access to Documents	Information Service	
1983	6,349	268	8,234	8,502
1984	6,417	456	8,749	9,205
1985	6,833	484	10,627	11,111
1986	7,456	1,307	12,137	13,444
1987	7,672	484	12,223	12,706
1988	8,801	766	14,553	15,319
1989	14,764	482	19,541	20,023
Total	58,292	4,246	86,064	90,310

TABLE 2. FIELD OF INFORMATION (1.4.1983-31.3.1990)

Field	Access to Documents	Information Service
Population	1	6,100
Land and nature	20	7,080
Resources and energy	4	664
Health and medicine	321	2,211
Social welfare	43	2,338
Employment	7	1,834
Consumer issues	19	1,630
Education	209	5,227
Culture	49	3,962
Disaster and crime prevention	850	1,859
Living environment	885	9,760
Traffic and transportation	705	1,759
Pollution and natural environment	459	3,935
Industry	74	8,845
Administration in general	600	28,860
Total	4,246	86,064

TABLE 3. RESULTS OF REQUESTING ACCESS

Fiscal Year	Complete access	Partial access	Denial of access	Others	Total
1983	212	44	6	6	268
1984	359	73	24		456
1985	390	86	8		484
1986	1,212	70	25		1,037
1987	248	121	114		483
1988	370	160	236		766
1989	401	58	23		482
Total	3,192	612	436	6	4,246

for redress within the limits of national laws. The Review Board consists of five members (The By-law on Installation of Kanagawa Prefecture Auxilliary Organs). The recommendations are something like judgments of the courts and have proved of great value for reference in practical decision on disclosure or nondisclosure. I have been Deputy Chairman of the Review Board since the start of the system.

The Review Board received twenty six questions out of the results of partial access and denial of access shown in Table 3 and made recommendations on twenty one subjects as of 19 May 1990.

The Review Board upheld the decision of the organ concerned in seven cases, ruled in favour of partial access in ten cases, and overturned the original decision by calling for full access in four cases.

As not many local entities receive such a large number of recommendations as Kanagawa Prefecture, these recommendations are useful not only as a reference to other local public bodies, but also in educating citizens and officials.

## VII. *Conclusion*

Before the system of freedom of information was established, when we wanted to acquire information in Japan, we had to ask a favour of officials with a low bow, to put pressure upon them or to ask a man of influence to assist. However, after systematization, it has become possible for us to go to an office of the local government with an ordinary attitude and to request disclosure of information as a legal right. This is really a Copernican revolution. I wish freedom of information laws would be made all over the world. It is the ultimate dream in my life.

My talk this evening would not be complete without saying that the exchange programme between the University of Sheffield and Hitotsubashi University, especially in the field of law, should be further promoted.

Allow me to conclude by thanking you for this opportunity and for the generosity and hospitality of Dr. John Jerwood and the University of Sheffield.

Thank you very much for your patience.

HITOTSUBASHI UNIVERSITY