

A MULTILAYERED CHECK-AND-BALANCE SYSTEM: TRENDS OF A DUAL REPRESENTATIVE SYSTEM IN JAPANESE LOCAL ADMINISTRATION

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Abstract

Japan's local government system is a presidential system, and both of its chief executives, governors/mayors and assembly members must be elected directly. This presidential system features a number of checks and balances. For instance, the heads, governors/mayors have a multitude of countermeasures that they can use against the assembly, including: (a) Right of convocation, (b) Right of submitting bills, (c) Veto power, (d) Right of dissolution when non-confidence is passed, and (e) discretionary disposition. The fact that the heads have both veto power and right of dissolution is an especially unique characteristic. This system is different from most in that these measures are superimposed and forceful in combination, representative of what can be called a "*Multilayered check-and-balance system*."

I have investigated the formal record in these thirteen years. The data shows us the following characteristics: (1) The ratio of the number of bills submitted by assembly sides is still low (5 or 6% of the total). (2) In those instances when the head uses their veto power, the resolution is affected at a rate of 40.5%. This rate is a little higher than for those instances when an assembly maintains the resolution by approving the resolution again with more than two thirds majority (37.8%). (3) When the assembly approves a non-confidence vote, the ratio of displacement or the resignation of the head is 20.9%, while the likelihood of dissolution is equivalent (21.6%) in municipalities.

Those phenomena suggest that the chief executives' measures are effective and substantially predominant in the present system. However, it looks like things are changing. The bigger city assemblies set the pace and have tried to enhance policy initiatives, such as increasing the number of bills, planning various new bylaws, and capping the number of discretionary actions.

Within this context, the local autonomy law has realized the delicate balance between head and assembly, and as a result it has been amended. The multilayered powers of heads have always been potential ones, but recently the conflicts have become so marked that some heads have made excessive use of those measures.¹ In 2012, those excesses led to the amendment of the law, with the right to convene the assembly and take discretionary action partly restricted.

In response to changes within society, further amendments to this multilayered check-and-balance system will be required in the future. The crucial issue that needs to be considered is

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¹ For example, Akune city and Nagoya city had the severe conflicts between assemblies and mayors for years since 2009.

what system we need in order to enhance the trust of citizens in local governments.

I. *Basic Framework*

1. **Constitutional Guarantee**

Japan's local government system is a presidential one, and both of its chief executives, governors/mayors and assembly members must be elected directly. This is also called a dual representative system. This system is guaranteed by the Japanese Constitution.

Japanese Constitution (Excerpt) Chapter VIII

Local Self-government:

Article 92: Regulations concerning organization and operations of local public entities shall be fixed by law in accordance with the principle of local autonomy.

Article 93: The local public entities shall establish assemblies as their deliberative organs, in accordance with law. The chief executive officers of all local public entities, the members of their assemblies, and such other local officials as may be determined by law shall be elected by direct popular vote within their several communities.

2. **The dual Representation System and Local Assemblies**

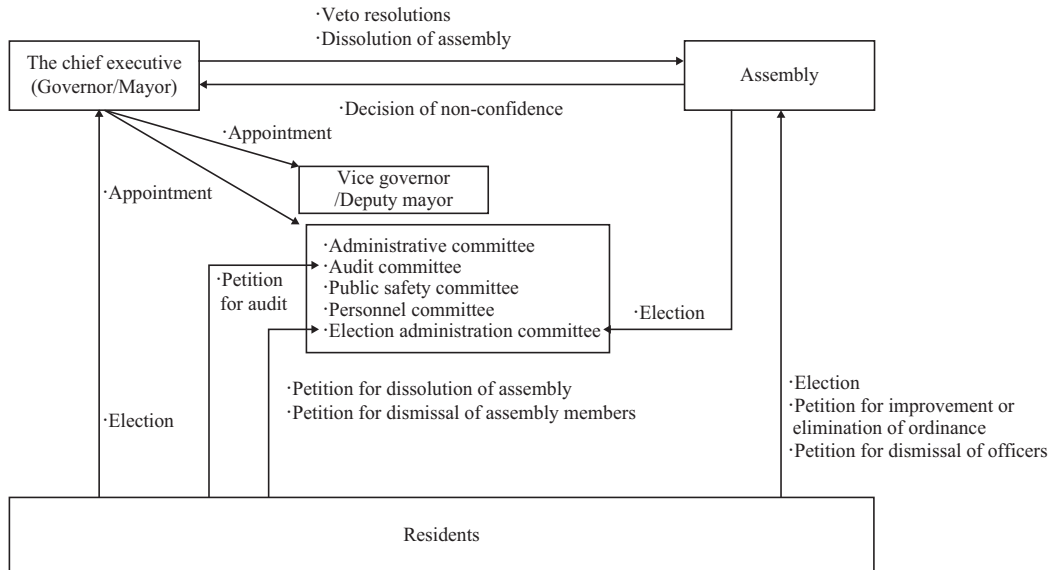
The Japanese local administration system works under the principle of dual representation. This principle means that both the assembly and the chief executive officer of local governments are directly elected in a public election as representative organs by the local population.²

The presidential system is characterized by its check-and-balance system, which sees very clear checks built into the relationship between the chief executive officer and the assembly. "All of these laws were passed during the Occupation, and each of them was designed to attack the previous system of centralization" (Steiner³). There are times when deep conflict arises because representatives of the two systems have different ways of thinking. On the basis of the tension that is prone to occur between the two sides in such circumstances, a cooperative style of management within 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. In other words, the assembly and the chief executive have measures available to them that enable either party to enforce checks and balances. Figure 1 shows the relationship between those dual representatives.

² The frameworks of local governments which have adopted a dual representative system are comparatively few among democratic countries. Examples include the cities of the U.S.A., which have adopted the system of a city assembly and a city mayor; and the cities of the U.K. which have adopted a system of directly elected mayors.

³ Kurt Steiner, *Local Government in Japan*, (California, 1965) 331.

FIGURE 1 THE RELATIONSHIP BETWEEN THE CHIEF EXECUTIVE AND THE ASSEMBLY



3. Measures of Taking Initiative

When making administrative decisions in local public agencies, the assembly and the chief executive would make use of the measures in the following ways:

(1) The chief executive

(a) Right to submit bills

The right to submit bills is a basic measure available to the chief executive as a means to initiate policy initiatives. The bills include bylaws, budgets, contracts and others. Both of the chief executive and the assembly members have this right. However, the chief executive has the exclusive right to submit bills on budgetary matters. This is because the chief executive has the responsibility for the sound financial management of the local body and as such is given the authority to control budgets. The budget is central to any policy initiative, and as such this gives chief executive a significant level of power.

(b) Attendance

Under the Local Autonomy Law (LAL for short) Art.121, the chief executive shall appear in the assembly hall for explanations when required by the chairperson of the assembly. This article is an obligatory measure aimed at the chief executive. However, this also represents an opportunity for the chief executive to explain any bills they have put forward and inform the public about them, as the speeches and questions within the assembly are widely covered by newspaper, TV and internet. As such, attendance at the assembly is a good opportunity for the chief executive to take initiatives forward.

Local Autonomy Law (LAL) Article 121

The chief executive, the chairperson of the education commission, the chairperson of the election administration commission, the chairperson of the personnel commission or the equity commission, the chairperson of the public safety commission, members of the local labor commission, the president of the agricultural commission and audit commissioners, members or representatives of any commission established by law as well as any person who has received delegation or commission therefrom, shall, when required by the chairperson of the assembly, appear in the assembly hall for explanations.

(c) Right to convene the assembly in principle

The authority to convene an assembly is vested in the chief executive officer of the local public body (Art.101(1)). The assembly is basically made up of both regular and extraordinary sessions. A regular session must be convened on the number of occasions specified in the relevant bylaw; normally there are 4 sessions in a year. An extraordinary session is convened for the purpose of discussing specific agenda items when deemed necessary (Art.102(1) to (3)). In a case where the assembly chairperson requests the chief executive to convene an extraordinary session for the matter to be discussed, or where a quarter or more of all assembly members make a request, the chief executive must convene the session within 20 days. This is a standard parliament procedure⁴. This system is not common among countries that have the presidential type local government systems⁵, and represents a measure that allows the chief executive to steer the assembly.

A severe conflict between the chief executive and the assembly occurred in Akune city in 2010 when the mayor would not convene the assembly in spite of the requests by the assembly chairperson. The LAL was amended in 2012 as a way of mitigating those potential negative effects. Now the chairperson is given the right to convene the extraordinary session when the chief executive will not convene the assembly, despite requests.

(d) Measures that check the assembly

There are times when deep conflict arises because representatives of the two systems assert different views on policies. The central characteristic of this dual representative system are the mechanisms that control and steer the relationship between the chief executive and the assembly. Those measures that relate to the assembly are as follows:

(1) *The chief executive has the power to veto resolutions passed by the assembly and to seek reconsideration of those resolutions by the assembly. This includes a general veto (ordinary reconsideration)⁶ and a special veto (reconsideration of illegal resolutions or*

⁴ This rule was partly amended in the 2006 revision; the chairperson was given the right to convene an extraordinary session when the chief executive did not convene one.

⁵ For example, chairpersons have the right to convene assembly in both basic local body and the upper tier body in Italy. In U.S.A the president has the right to convene Congress for only the special session. In thirty States of U.S.A, not only the governors but also the chairpersons have the rights to convene the special sessions. See Toshiyuki Otaki, *Local Government in America*, (Tokyo, 2004) 79.

⁶ General veto is a power which can suspend temporarily the legal effect of decision-making of the assembly. Japan introduced general veto system from U.S.A. in 1948. See Nagatoshi Onishi, "Chiho Gikai ni okeru Saigi Seido [Veto System in Local Assembly]", *Chihou Jichi [Local Autonomy]*, No.380, (Tokyo, 1979) 43.

elections). A general veto can be exercised by the chief executive at his discretion when he objects to resolutions adopted by the assembly, revision or abolishment of bylaws or budgets. However, if two-thirds or more of the assembly members vote once again in favor of the resolution, it is adopted and cannot be vetoed a second time. The latter veto is provided as a means for avoiding illegal acts and its exercise is mandatory for the chief executive.

(2) *Discretionary action can be exercised by the chief executive* using powers normally issued to the assembly in two instances: (1) When the assembly has not been convened and requires action on its behalf or when it fails to act on a matter requiring its attention; and, (2) When powers normally held by the assembly are exercised in accordance with prior agreement and the assembly delegates its authority in some minor matter to the chief executive in order to more efficiently carry out the local government's duties.

The former cases are as follows:

1) where an assembly is not duly formed; 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 bring together the assembly; and, 3) where an assembly does not pass a resolution on a matter on which it should pass a resolution, the chief executive can address the matter with their own authority (Art.179(1)).

In the former cases, any such discretionary action must subsequently be approved by the assembly. However, even if approval is not obtained, although the political responsibility falls on the chief executive, the validity of the discretionary action in question is not affected. This measure is very effective when urgent matters arise and the chief executive has to deal with affairs swiftly. However, the measure has caused controversy on the past. In Akune city in 2010, a deputy mayor was appointed through this measure, prompting a reaction with the city. This incident caused such controversy that the LAL was amended in 2012 and the ability to appoint a vice governor or deputy mayor was removed.

(3) *The right to dissolve the assembly as a countermeasure against a resolution of non-confidence.* In the event of an ongoing conflict that proves incapable of resolution between the chief executive and the assembly, the assembly may conduct a vote of non-confidence in the chief executive. Any such vote requires a quorum of two-thirds or more of the assembly members and the motion must receive the assent of three-fourths or more of the assembly members present in order for it to be passed. If a non-confidence motion is adopted, the chief executive may, in turn, dissolve the assembly. This is the mechanism whereby a deadlock between the chief executive and the assembly can ultimately be resolved, through an appeal to the fair judgment of the voters⁷. If the assembly adopts a motion of non-confidence in the chief executive and the chief executive does not dissolve the assembly within the prescribed period (10 days), the chief executive automatically loses his or her position as the head of the local government. Also, if the assembly again passes a non-confidence motion in the chief executive at the first meeting convened after the dissolution, the chief executive no longer has the right of dissolution and will lose his or her position on the day notification is received of the second vote of non-confidence.

⁷ This rule is considered to be not a legal consequence, but a policy mode of settlement. See Shouichi Kono, "Fushinningiketu to Kaisan [Non-confidence and Dissolution]", *Chihou Jichi [Local Autonomy]*, No.392, (Tokyo, 1980) 103.

TABLE 1 ASSEMBLY RESOLUTION TERMS

1. Establishing, amending or abolishing bylaws
2. Deciding budgets
3. Approving statements of accounts
4. Carrying out matters concerned with imposing or collecting local taxes and such
5. Concluding contracts (respective sums of money and such)
6. Handling the transfer of property
7. Investing property as a trust
8. Dealing with the acquisition and disposal of various kinds of property and monetary amounts
9. Receiving a donation with conditions attached
10. Dealing with the renunciation of rights
11. Making important public facilities set out for exclusive or long-term use
12. Dealing with matters raised by a local public body, including demands, expressions of dissatisfaction, proposed lawsuits, negotiated settlement, mediation, and arbitration
13. Deciding the amount of compensation for damages
14. Comprehensive adjustment of activities carried out by public entities
15. 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

The right to dissolve the assembly in a presidential system is exceptional. Moreover, the chief executive is given the right of veto and the right to dissolve the assembly. The chief executives are given those measures at multiple levels.

(2) The Assembly

The assembly is also given multiple measures to take initiatives in policy making. These are as follows:

(a) Assembly resolutions

The basis of the assembly's basic authority is its resolutions. Matters relating to assembly resolutions are categorized under 15 headings, which are stipulated in Art.96(1) of LAL (as outlined in Table 1). A local government body can also make assembly resolutions by means of a bylaw (Art.96, (2)), which can expand the scope of a policy covered by a resolution.

(b) Right to submit the bills

An assembly member may submit bills to the assembly on any matter on which an assembly resolution is required (Art.112(1)). The assembly has a comparable measure for taking initiatives in this regard. The difference between the assembly and the chief executive rests on the fact that the assembly is not given the authority of submitting bills on budgetary matters.

(c) Investigative authority (Especially authority under Article 100 of Local Autonomy Law)

The assembly may investigate any of the duties of the local government and is entitled call upon any member of the public or other relevant person for a verbal testimony or written testimony. This is called "Investigative authority" under Article 100. In the event of requesting a testimony on the basis of this article, the assembly must follow the same procedures and rules that would apply when questioning a witness in the Civil Court. Furthermore, when people are requested to make an appearance or to give testimonies

TABLE 2 CHECK AND BALANCE MEASURES: CHIEF EXECUTIVE AND THE ASSEMBLY

<p>< <i>Chief Executive (Governor / Mayor)</i> ></p> <p>(a) Right to submit bills (Including the exclusive right to submit bills on budgetary matters)</p> <p>(b) Attending the assembly, explaining the points of the bills and appealing the bills through Qs and As at the assembly</p> <p>(c) Right to convene the assembly in principle</p> <p>(d) Veto</p> <p>(e) Discretionary action by the chief executive</p> <p>(f) Right to dissolve the assembly</p> <p>< <i>Assembly</i> ></p> <p>(a) Assembly resolution (Including increase and decrease budget amendment)</p> <p>(b) Right to submit the bills</p> <p>(c) Investigative authority (Especially authority under Article 100 of Local Autonomy Law)</p> <p>(d) Submission of a written opinion</p> <p>(e) Non-confidence</p>
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under this article, those who decline or bare false testimony are fined. In this manner, investigative authority is a highly effective measure held by the assembly, and can be used to strengthen its position vis-à-vis the chief executive.

(d) Submission of a written opinion

The assembly can submit a written opinion regarding a matter concerned with the public interest of the local government to the National Diet or to the appropriate government administrative agency. These opinions do not have any legal binding. However, those opinions cover a wide variety of administrative fields that do not just include issues relating to local administration, but also diplomatic problems, national security issues and such. This measure has flexibility and swiftness, and many assemblies make much use of it.

(e) Non-confidence

Non-confidence is the ultimate measure held by the assembly. In the event of an ongoing conflict, the assembly may conduct a vote of non-confidence. “Normally the resolution of no confidence is of course the assembly’s ultimate weapon to resolve its conflicts with the executive” (Steiner⁸). The vote requires a quorum of two-thirds or more of the assembly members and the motion must receive the assent of three-fourths or more of the assembly members. If the assembly adopts a motion of non-confidence and the chief executive does not dissolve the assembly within 10 days, the chief executive automatically loses his or her position. The assembly members take the risk of the dissolution, but if they successfully implement resolutions, they can have politically lethal effects on the chief executives.

Table 2 indicates those measures that can be made use of by the chief executive and the assembly, and is indicative of the multilayered nature of check-and-balance system. Under the dual representative system, both the chief executive and assembly are given various measures for taking the initiative in implementing policies. The fact that both actors can exercise these

⁸ Steiner, 369.

measures brings a power balance between the representatives and enhances the transparency of policy making process in local society.

On the other hand, some people point out that the measures of the chief executive dominate those of the assembly. “[T]he legislative record of most assemblies seems to indicate that the chief executive is still in a predominant position” (Steiner⁹)¹⁰. When you consider that the chief executive has both veto authority and the right to dissolve the assembly, it is possible to see where this view comes from. Each measure can bring important consequences and the fact that the chief executive has both powers is an internationally unique system.

In the next chapter the application of these measures in practice are reviewed, along with emerging trends within the Japanese system.

II. *The Situation*

I examined the official record¹¹ concerning the number of exercises of those measures by the chief executives and the assemblies in these thirteen years.

The following section provides an overview of who is involved in initiating policies.

1. Bills Submitted by Both Representatives

TABLE 3. BYLAW BILLS SUBMITTED BY CHIEF EXECUTIVE, ASSEMBLY PERSONS OR COMMITTEE

Groups	Proponents	Total Number of bills
Prefectures	Chief executive	3,303 (94.4%)
	Assembly persons	196 (5.6%)
	Committee	1 (0.0%)
	Total	3,500
Cities and Districts	Chief executive	37,926 (96.2%)
	Assembly persons or committee	1,493 (3.8%)
	Total	39,419
Towns and Villages	Chief executive	25,423 (93.4%)
	Assembly persons	1,745 (6.4%)
	Committee	60 (0.2%)
	Total	27,228

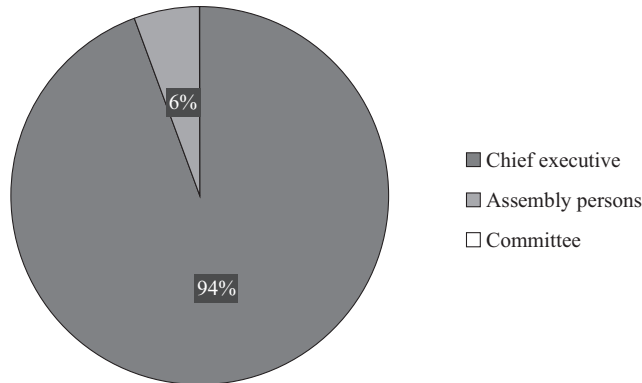
Note: 1) The data period of prefectures, cities and districts is from Jan. 1st to Dec. 31st in 2006.

2) The data period of towns and villages is from July 1st in 2006 to June 30th in 2007.

3) Numbers shown in parentheses are the component ratios of actors who submit the bills.

Sources: Data from *the Report of the National Association of Chairpersons of Prefectural Assemblies*, *the Report of the City Assemblies Activities*, National Association of Chairpersons of City Assemblies, and *the Report of Japan National Association of Chairpersons of Town and Village Assemblies*.

FIGURE 2. THE COMPONENT PERCENTAGES OF PROPONENTS OF THE BILLS OF PREFECTURES IN 2006



Source: Report of the National Association of Chairpersons of Prefectural Assemblies.

2. Number of Bylaw Bills

Bills submitted by both the chief executive and the assembly¹² is the basic measure used for taking the initiative in policy making. Submitting bills relating to budgetary matters is the exclusive right of the chief executive. However, the right to submit other bills is given to both representatives. The present situation is shown in Table 3.

This data shows the fact that the number of bills submitted by the chief executive is much larger than those submitted by the assembly and committees. The ratio of the number by the chief executive is 94.4% in prefectures, 96.2% in cities and districts, 93.4% in towns and villages. Figure 2 also shows the ratio of the bills submitted by the chief executive and those by assembly-sides in prefectures. It shows as much as 94.4% of the bills are submitted by the chief executive.

Increasing the number of submissions by the assembly has been an important issue in the local assembly. A number of assemblies have been making efforts to submit the bills through employing the slogan of “Parliamentary reform.” However, the percentage of assemblies submitting bills is still not high. The following facts can be noted:

- (1) The ratio of the number of the bills submitted by the assembly members is bigger in

⁹ Steiner, 372.

¹⁰ A comparative idea is also advanced; “the post-war institution of chief executives of local governments in Japan is not exactly like the American presidency, which stresses check and balances. In Japanese local government the governors and mayors have the authority to submit measures to, and dissolve, the local assembly, and this assured strong mayors and governors.” Michio Muramatsu, *Local Government Development in Post-war Japan*, (N.Y., 2001) 231.

¹¹ *Chihoujichi Geppou* [Local Autonomy Monthly Report] No.54 and No.55. These records cover the results of the surveys from 1999 to 2011 by the Ministry of Internal Affairs and Communications.

¹² The assembly side denotes both of the assembly members and the committees of the assembly. Both of them have the authority of submitting the bills.

towns and villages than those in the other two groups.

- (2) The committees do submit bills to some extent in towns and villages, while it is very rare in prefectures.

Seeing these appearances, we can see that bills have been submitted by the assembly, even to an extent in small local bodies.

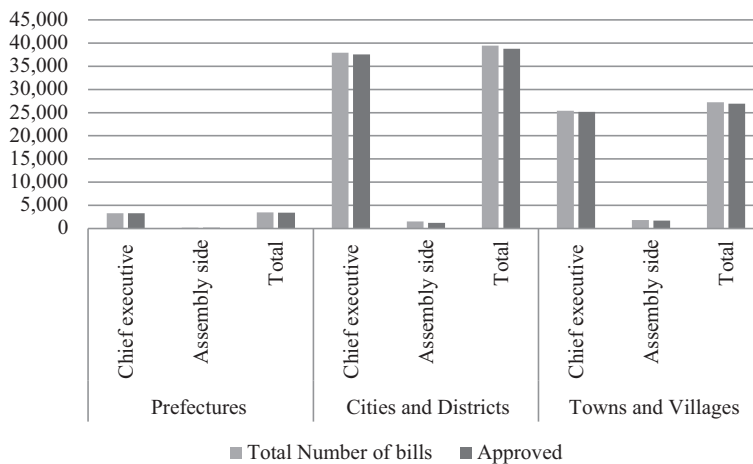
3. Results of the Bills

TABLE 4. RESULTS OF THE BILLS

Groups	Proponent	Approved	Others	Total Number of bills
Prefectures	Chief executive	3,283 (99.4)	20 (0.6)	3,303 (100.0)
	Assembly side	159 (80.7)	38 (19.3)	197 (100.0)
	Total	3442 (98.3)	58 (1.7)	3,500 (100.0)
Cities and Districts	Chief executive	37,576 (99.1)	350 (0.9)	37,926 (100.0)
	Assembly side	1,183 (79.2)	310 (20.8)	1,493 (100.0)
	Total	38,759 (98.3)	660 (1.7)	39,419 (100.0)
Towns and Villages	Chief executive	25,169 (99.0)	254 (1.0)	25,423 (100.0)
	Assembly side	1,732 (96.0)	73 (4.0)	1,805 (100.0)
	Total	26,901 (98.8)	327 (1.2)	27,228 (100.0)

Sources: Data from the Report of the National Association of Chairpersons of Prefectural Assemblies, the Report of the City Assemblies Activities, National Association of Chairpersons of City Assemblies, and the Report of Japan National Association of Chairpersons of Town and Village Assemblies.

FIGURE 3. NUMBER OF THE BILLS



Source: Prepared by the author based on Table 4.

TABLE 5. RESULTS OF THE BYLAW BILLS SUBMITTED BY CHIEF EXECUTIVE, ASSEMBLY MEMBERS OR COMMITTEE

		Total Number of bills	Results				
			Approved	Amended	Disapproved	Adjourned	Others
Prefectures	Chief executive	3,303 (94.4%)	3,283 (95.4%)	4 (80.0%)	8 (18.6%)	1 (50.0%)	7 (87.5%)
	Assembly persons	196 (5.6%)	158 (4.6%)	1 (20.0%)	35 (81.4%)	1 (50.0%)	1 (12.5%)
	Committee	1 (0.0%)	1 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
	Total	3,500	3,442	5	43	2	8
Cities and Districts	Chief executive	37,926 (96.2%)	37,576 (96.9%)	106 (97.2%)	111 (29.4%)	62 (72.1%)	71 (81.6%)
	Assembly persons or committee	1,493 (3.8%)	1,183 (3.1%)	3 (2.8%)	267 (70.6%)	24 (27.9%)	16 (18.4%)
	Total	39,419	38,759	109	378	86	87
Towns and Villages	Chief executive	25,423 (93.4%)	25,169 (93.6%)	63 (98.4%)	115 (63.9%)	0 (0.0%)	76 (91.6%)
	Assembly persons	1,745 (6.4%)	1,673 (6.2%)	1 (1.6%)	64 (35.6%)	0 (0.0%)	7 (8.4%)
	Committee	60 (0.2%)	59 (0.2%)	0 (0.0%)	1 (0.6%)	0 (0.0%)	0 (0.0%)
	Total	27,228	26,901	64	180	0	83

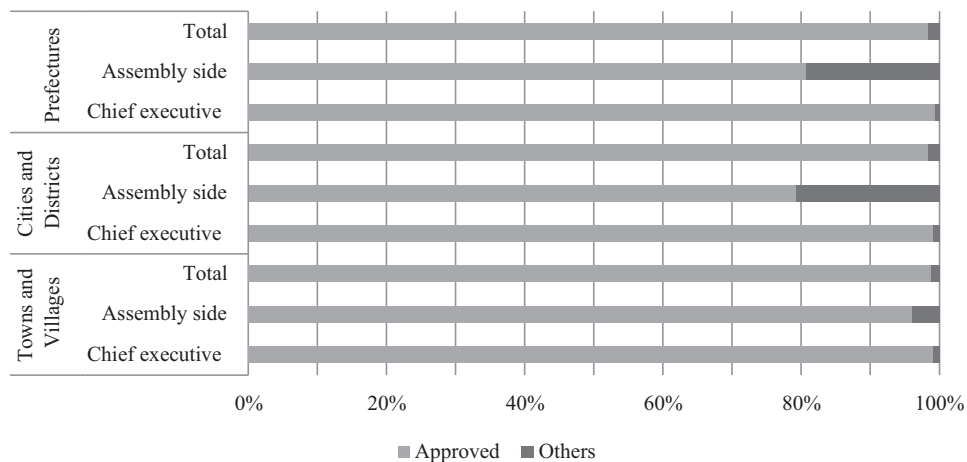
Note: 1) The data period of prefectures, cities and districts is from Jan. 1st to Dec. 31st in 2006.

2) The data period of towns and villages is from July 1st in 2006 to June 30th in 2007.

3) Numbers shown in parentheses are the component ratios of actors who submit the bills.

Sources: Data by the Ministry of Internal Affairs and Communications.

FIGURE 4. RESULTS OF THE BYLAW BILLS



Source: Prepared by the author based on Table 5.

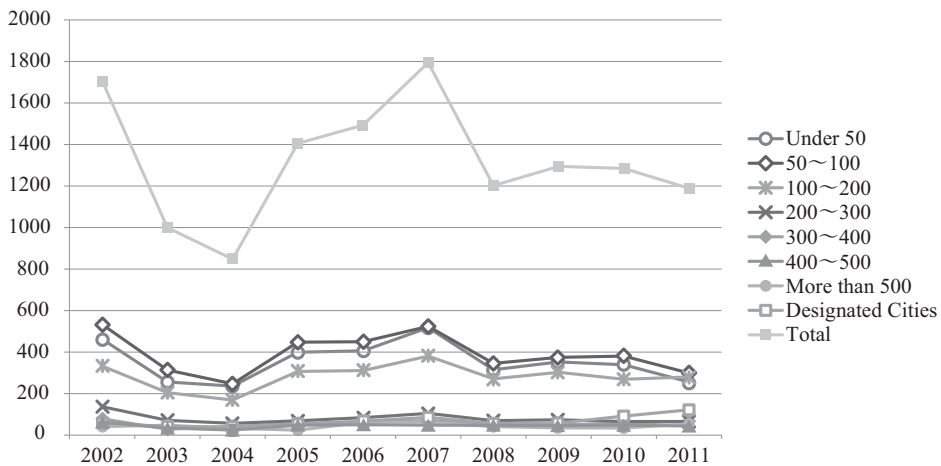
TABLE 6. NUMBER OF BYLAW BILLS SUBMITTED BY ASSEMBLY MEMBERS IN CLASSIFIED CITIES
(Unit: Thousand people)

	Under 50	50~100	100~200	200~300	300~400	400~500	More than 500	Designated Cities	Total
2002	462	533	333	137	79	63	41	58	1,706
2003	256	314	205	71	29	34	48	42	999
2004	236	247	169	57	41	25	33	40	848
2005	399	448	307	69	56	48	24	54	1,405
2006	406	450	311	84	62	50	62	68	1,493
2007	518	524	381	105	69	48	63	86	1,794
2008	315	346	271	70	55	47	41	57	1,202
2009	353	375	303	74	50	46	35	58	1,294
2010	339	381	269	66	56	48	34	92	1,285
2011	256	299	280	66	67	44	55	122	1,189

Note: The population of designated city is more than 700 thousand.

Source: Report of the City Assemblies Activities, National Association of Chairpersons of City Assemblies, 2002-2011.

FIGURE 5. NUMBER OF BYLAW BILLS SUBMITTED BY ASSEMBLY MEMBERS IN CLASSIFIED CITIES



Source: Prepared by the author based on Table 6.

Table 4, Figure 3 and Figure 4 show the fact that the ratio of the fact that the ratio of approved bills by the chief executive is high in all three groups. The approved ratio is 99.4% in prefecture, 99.1% in cities and districts, and 99.0% in towns and villages. On the other hand, the approved ratios of assembly side proposals are 80.7% in prefecture, 79.2% in cities and districts, and 96.0% in towns and villages; those are lower than the approved ratios of chief executive proposals. These data show that the bills submitted by the chief executive gain approval more successfully than those made by the assembly.

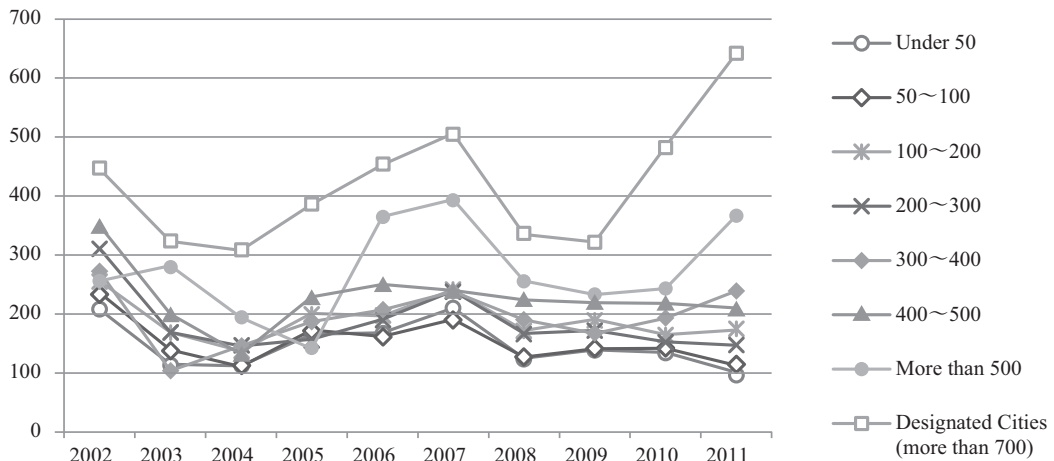
The other point is that the approved rate of assembly side bills is 96.0%, higher in towns

TABLE 7. NUMBER OF BYLAW BILLS SUBMITTED BY ASSEMBLY MEMBERS PER LOCAL BODY
(Unit: Number of cases \times 100)

	Under 50	50~100	100~200	200~300	300~400	400~500	More than 500	Designated Cities (more than 700)	Total
2002	208	236	256	311	272	350	256	446	244
2003	115	139	169	169	104	200	282	323	146
2004	112	111	137	146	146	132	194	308	126
2005	166	173	201	157	187	229	141	386	181
2006	168	162	197	191	207	250	365	453	186
2007	210	191	241	239	238	240	394	506	223
2008	125	127	172	167	190	224	256	335	149
2009	139	141	191	172	167	219	233	322	161
2010	135	142	165	153	193	218	243	484	159
2011	101	113	173	147	239	210	367	642	147

Source: Prepared by the author based on the Report of the City Assemblies Activities.

FIGURE 6. NUMBER OF BYLAW BILLS SUBMITTED BY ASSEMBLY MEMBERS PER LOCAL BODY



Source: Prepared by the author based on Table 7.

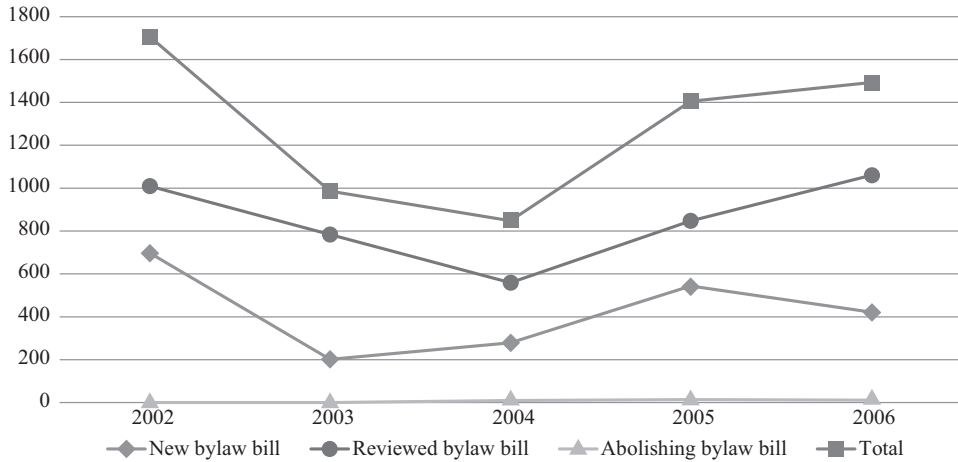
TABLE 8. NUMBER OF BYLAW BILLS SUBMITTED BY ASSEMBLY MEMBER

(Classified by types: Cities)

	New bylaw bill	Reviewed bylaw bill	Abolishing bylaw bill	Total
2002	697	1,009	0	1,706
2003	202	784	0	986
2004	279	559	10	848
2005	544	847	14	1,405
2006	422	1,060	11	1,493

Source: Report of the City Assemblies Activities, National Association of Chairpersons of City Assemblies.

FIGURE 7. NUMBER OF BYLAW BILLS SUBMITTED BY ASSEMBLY MEMBER
(Classified by types: Cities)



Source: Prepared by the author based on Table 8.

and villages than the other two groups: 80.7% in prefectures and 79.2% in cities and districts. This seems to suggest that making consensus is easier within smaller assemblies, such as those in towns and villages, while the assembly can more easily take initiatives in passing the bills.

Table 5 shows the detail of the results. When we look at the disapproval rate, the rates of chief executive proposal are lower than those of assembly side proposals in prefecture and in cities and districts. On the other hand the former, 63.9% is higher than the latter, 35.6% in towns and villages. In other words, the disapproval results of chief executive proposals are not unusual in towns and villages. This suggests that the situation of conflicts between the dual representatives tend to take place in the smaller local bodies.

Following this, the trend for the number of bylaw bills by assembly members in these years is shown in Table 6. Focusing on the trends within cities, it is possible to draw the following points from Table 6 and Figure 5:

- 1) The total numbers of bills in cities remain at the same level in these years.
- 2) The numbers of bills in cities whose population is more than two hundred thousand is growing.

When the number of bylaw bills per local body are reviewed, the characteristics are more remarkable. Table 7 and Figure 6 show the number of bylaw bills submitted by assembly members per local body. Among eight groups classified by the size of population, the number of designated cities is remarkably increasing. The number is increasing in a similar way to those the cities whose population is more than five hundred thousand. We can point out that the bigger cities' assemblies have tried to increase the number of submissions of the bills.

TABLE 9. NEW BYLAWS (APPROVED IN 2011: CITIES)

Field	Contents of Bylaw	City
Assembly matters (26)	Assembly basic bylaw (16)	Kurihara city, Kazuno city, Nikaho city, Kaga city, Kanuma city, Higashi-matsuyama city, Fujimi city, Inuyama city, Shinjo city, Takahama city, Kishiwada city, Takarazuka city, Fukuyama city, Mine city, Kitakyushu city, Taku city
	Assembly member political morality bylaw (6)	Kasu city, Higashi-matsuyama city, Otsu city, Akashi city, Fukuyama city, Mine city
	Addition of matters to be resolved by assembly bylaw (2)	Inuyama city, Isa city
	Process of drawing up fundamental city plan bylaw (2)	Inzai city, Hikari city
Industry (6)	Promotion of small and medium enterprises basic bylaw (3)	Yokosuka city, Saitama city, Osaka city
	Intermediate and mountainous area promotion bylaw	Joetsu city
	Manufacturing promotion bylaw	Sizuoka city
	Local production for local consumption bylaw	Suzuka city
Health Care (6)	Cancer countermeasure bylaw (2)	Kashiwa city, Okayama city
	Supporting community healthcare bylaw (2)	Nishiwaki city, Masuda city
	Prevention of adult disease bylaw	Yamatokoriyama city
	Oral health promotion bylaw	Yasuki city
Environment (4)	Prohibition of walk smoking and throwing stub bylaw	Edogawa district
	Prohibition of carrying off waste papers bylaw	Nagoya city
	Pet hallow ground construction permit bylaw	Kashihara city
	Prevention of dog dropping bylaw	Kurashiki city
Child Welfare (3)	Protecting children against abuse bylaw (2)	Sakai city, Takasago city
	Children's rights bylaw	Oshu city, Oita city
Community (2)	Formulation of community bylaw	Oita city
	Public proper management of abandoned houses bylaw	Nagareyama city
Security (1)	Eradication of crimes bylaw	Takahama city
Finance (1)	City's involvement in semi-public corporation bylaw	Nishinomiya city
Others (3)	Suicide countermeasure bylaw	Kashiwa city
	Special measures of allowance for deputy mayor bylaw	Suita city
	Special measures of retirement allowance for deputy mayor bylaw	Suita city

Source: Report of the City Assemblies Activities in 2012, National Association of Chairpersons of City Assemblies.

3. Number of Bylaws Submitted by Assembly Members

Focusing on the types of bylaw bills submitted by the assembly members Table 8 and Figure 7 show that the ratio of reviewed bylaw bills makes up the highest percentage and this number continues to rise. The ratio of new bylaw bill has been the second. Drafting new bylaws is an ideal style for realizing policies, but “reviewing the existent bylaw” style is mainstream at this time.

4. Contents of New Bylaws

Table 9 provides an outline of the new bylaws approved in all cities in 2011, of which there were 52. Assembly matters, covering things such as assembly basic bylaws, represent the largest ratio bylaws of approved. Other matters that are closely related to the wellbeing of citizens such as the promotion of small and medium enterprises (SMEs), supporting community healthcare, and city planning dominate. These bylaws show us that the bylaw bills submitted by assembly members make up the substantial policy measures of these local bodies.

III. *The Measures in Practice*

1. Veto

In the following section, the use of veto in the local agencies is explored. Table 10 and Figure 8 show the following points:

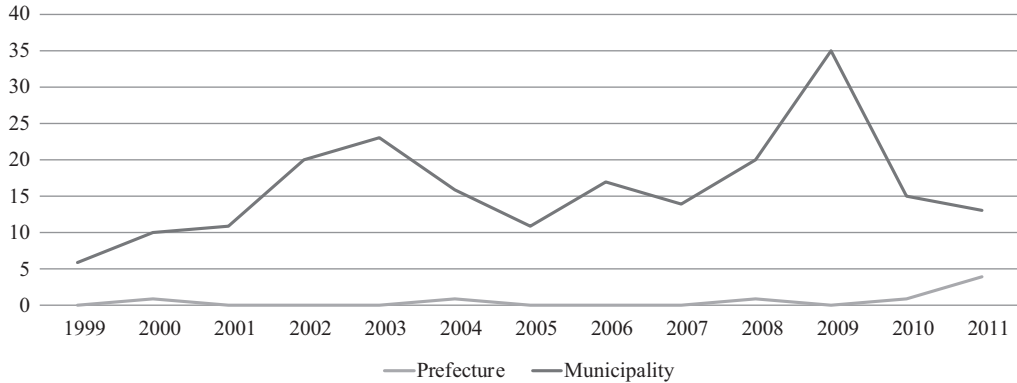
- 1) Veto measures have not been used as frequently as others. These numbers, 4 in prefectures and 13 in municipalities, are not large, compared with the number of local bodies; prefectures (47) and municipalities (1,730) in 2011.
- 2) There is no specific pattern with the number of vetoes. A larger number of vetoes were evident in municipalities in 2009, but the number decreased the following year.

TABLE 10. NUMBER OF VETOES

	Prefecture	Municipality	Total
1999	0	6	6
2000	1	10	11
2001	0	11	11
2002	0	20	20
2003	0	23	23
2004	1	16	17
2005	0	11	11
2006	0	17	17
2007	0	14	14
2008	1	20	21
2009	0	35	35
2010	1	15	16
2011	4	13	17

Source: *Chihoujichi Geppou*, No.54 and No.55.

FIGURE 8. NUMBER OF VETOES



Source: Prepared by the author based on Table 10.

TABLE 11. EFFECT OF VETO (From 1999 to 2011)

Local Body	Number of Veto	Result			
		Approval of Veto (A)	Adjusting the modified draft (fail in keeping and adjust) (B)	Keeping the modified draft (more than two thirds majority) (C)	The first draft abandoned (D)
Prefecture	8	2	0	3	3
Municipality	214	69	19	81	45
Total	222	71	19	84	48

Source: *Chihoujichi Geppou*, No.54 and No.55

The process of veto is as follows.

- Case: The first draft is submitted by the chief executive.
 - The assembly modifies the first draft and passes the one; the modified draft.
 - The chief executive uses its veto power.
 - (a1) The assembly keeps the modified draft; It approves the modified draft again with more than two thirds majority.
 - (b1) The assembly fails in approving the modified draft again with more than two thirds, and it adjusts the first draft and approves it.

Understanding this process allows us to interpret the results in Table 11. The results for (A) and (B) indicate that the chief executive has been successful at changing results through the veto. The ratio of the total of (A) and (B) divided by the total number of veto means the percentage of success for the chief executive through veto or their success rate is as follows:

$$\text{The chief executive success rate: } (71 + 19) / 222 \times 100 = 40.5\%$$

On the other hand, the assembly success rate is *the ratio of keeping the modified draft with*

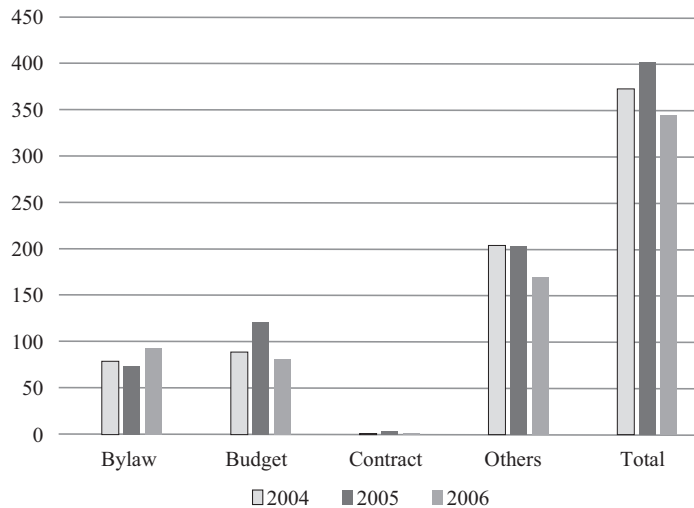
TABLE 12. DISCRETIONARY ACTION (PREFECTURE)

(Unit: Number of actions)

	Bylaw	Budget	Contract	Others	Total	Reason	
						Having no time of convening assembly	Others (Vacancy of member, intended delay, etc.)
2004	79	89	1	204	373	373	0
2005	74	121	4	203	402	402	0
2006	93	81	1	170	345	345	0

Source: Data by the Ministry of Internal Affairs and Communications.

FIGURE 9. DISCRETIONARY ACTION (PREFECTURE)



Source: Prepared by the author based on Table 12.

more than two thirds majority, column (C) in Table 11.

The assembly success rate: $84 / 222 \times 100 = 37.8\%$

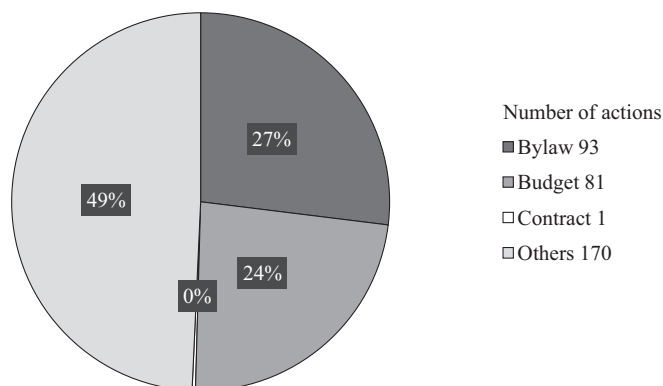
Based on this analysis, it is possible to conclude that the chief executive has a higher success rate than the assembly does when it uses the veto ($40.5\% > 37.8\%$). Veto power has not historically been used in the local government context a great deal, but we can say that it holds strong potential authority.

2. Discretionary Action by the Chief Executive

(1) Contents of discretionary action

Discretionary action is exercised by the chief executive on his own authority, but this power normally held by the assembly. It can be used only in the following situations; 1) where

FIGURE 10. DISCRETIONARY ACTION (PREFECTURE, 2006FY)



Source: Prepared by the author based on Table 12.

TABLE 13. NUMBER OF DISCRETIONARY ACTION PER LOCAL BODY (CITY)

(Unit: Number per body \times 100)

	Bylaw	Budget	Total
Under 50	236	383	692
50~100	220	329	661
100~200	180	347	673
200~300	204	280	578
300~400	218	257	582
400~500	138	171	405
More than 500	140	67	327
Designated Cities	168	105	421
Total	211	330	647

Source: Report of the City Assemblies Activities, National Association of Chairpersons of City Assemblies.

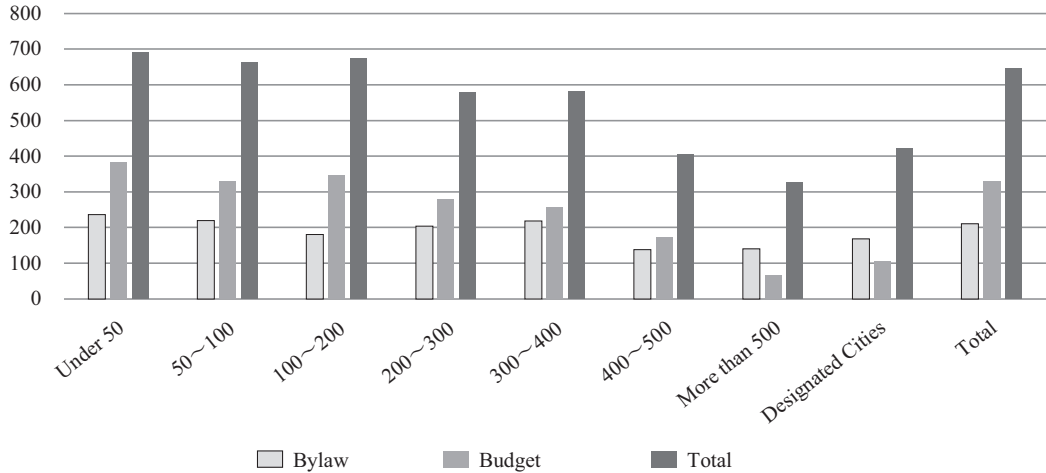
an assembly is not duly formed or 2) where an assembly is unable to open proceedings, particularly where there is a need for urgency and there is clearly not sufficient time to form an assembly, or 3) where an assembly does not pass a resolution on a matter on which it should pass a resolution. The chief executive can exercise the matter on which the assembly has the right of resolution. Fifteen headings are stipulated in the LAL.

Table 12 and Figure 9 show that largest number of discretionary actions has fallen under the budget. In fact, the typical case is a disaster recovery budget that is required as a swift response.

(2) Discretionary action per local body

Table 13 and Figure 11 show that discretionary actions are more frequently adopted in smaller cities, such as the ones whose population is less than four hundred thousand, rather than in the bigger cities. The assembly members in the bigger cities keep watch on the discretionary actions and check whether the chief executives have justified reasons for calling upon them and this might be helping keep the numbers lower.

FIGURE 11. NUMBER OF DISCRETIONARY ACTION PER LOCAL BODY (CITY)



Source: Prepared by the author based on Table 13.

(3) Reason of discretionary action

Table 14 and Figure 12 show that among the reasons for calling on discretionary actions, “Having no time of convening the assembly” is in all cases the main reason for calling on discretionary powers. In smaller cities, the vacancy of assembly members is also cited to a significant degree.

3. Non-confidence and Dissolution

(1) Contents

Non-confidence is a final measure for the assembly when the conflict between the dual representatives is escalated. This chief executive has the right of dissolution as a counter-measure.

(2) Situation

The dissolution and non-confidence powers of the assembly are now reviewed. The following indexes relate to non-confidence and dissolution:

1. Approval rate (%) : $(B) / (A) \times 100$

This rate denotes the ratio of approval of the bill when the non-confidence bill is submit to the assembly. The assembly side is successful in using its influence over the chief executive; it means that an ultimate opposing opinion against the chief executive is established.

Prefecture: $3 / 6 \times 100 = 50.0\%$

Municipalities: $29 / 111 \times 100 = 26.1\%$

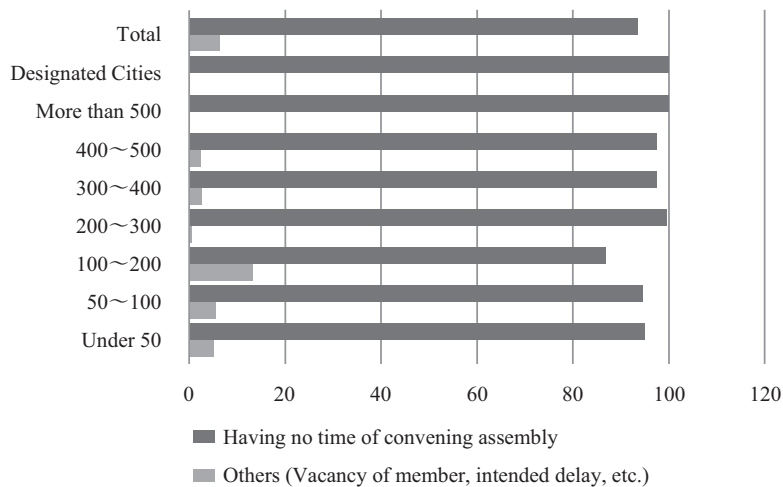
TABLE 14. REASON OF DISCRETIONARY DISPOSITION

(Unit: %)

	Having no time of convening assembly	Others (Vacancy of member, intended delay, etc.)	Total
Under 50	94.9	5.1	100
50~100	94.6	5.4	100
100~200	86.8	13.2	100
200~300	99.6	0.4	100
300~400	97.5	2.5	100
400~500	97.6	2.4	100
More than 500	100	0	100
Designated Cities	100	0	100
Total	93.6	6.4	100

Source: Prepared by the author based on the *Report of the City Assemblies Activities*.

FIGURE 12. REASON OF DISCRETIONARY ACTION (City)



Source: Prepared by the author based on Table 14.

2. Core success rate: $((E) + (F) + (I)) / (A) \times 100$

This index shows the ratio of the occurrence of displacement or resignation of chief executives when the non-confidence vote is submitted. This index indicates the substantial influence of the non-confidence measure.

Prefecture: $2+0+2 / 6 \times 100 = 66.7\%$

Municipalities: $4+11+8 / 111 \times 100 = 20.9\%$

3. Dissolution risk (%) : $(D) / (A) \times 100$

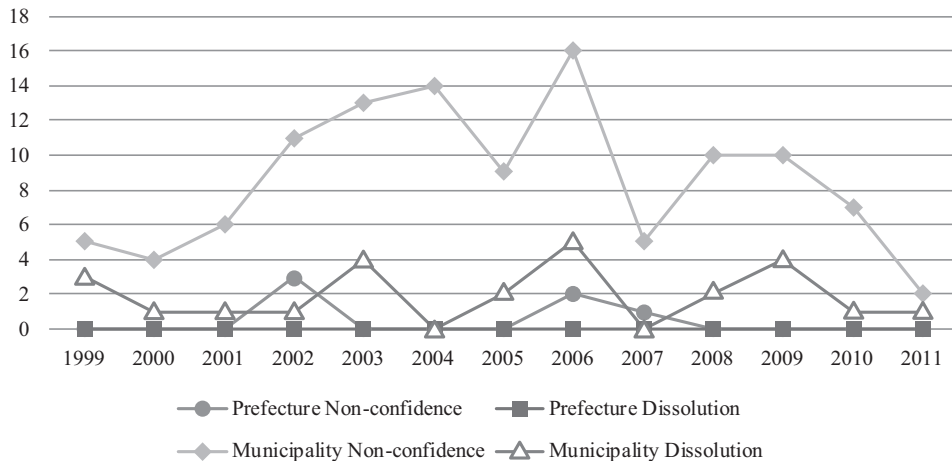
This index refers to the possibility dissolution occurring. This is a risk for the assembly members because they face the risk of losing their position. The assembly

TABLE 15. NUMBER OF NON-CONFIDENCE AND DISSOLUTION

	Prefecture		Municipality		Total	
	Non-confidence	Dissolution	Non-confidence	Dissolution	Non-confidence	Dissolution
1999	0	0	5	3	5	3
2000	0	0	4	1	4	1
2001	0	0	6	1	6	1
2002	3	0	11	1	14	1
2003	0	0	13	4	13	4
2004	0	0	14	0	14	0
2005	0	0	9	2	9	2
2006	2	0	16	5	18	5
2007	1	0	5	0	6	0
2008	0	0	10	2	10	2
2009	0	0	10	4	10	4
2010	0	0	7	1	7	1
2011	0	0	2	1	2	1

Source: *Chihoujichi Geppou*, No.54 and No.55.

FIGURE 13. NUMBER OF NON-CONFIDENCE AND DISSOLUTION



Source: Prepared by the author based on Table 15.

member has to weigh-up the advantages and the risks when they consider the non-confidence measure.

$$\text{Prefecture: } 0 / 6 \times 100 = 0.0\%$$

$$\text{Municipalities: } 24 / 111 \times 100 = 21.6\%$$

Table 15 and Table 16, which are based on data from 1999 to 2011 illustrate the following points:

- 1) The situations are different in prefectures and municipalities. In prefectures, the non-confidence measure is not so frequently used, and the dissolution is never used according to data in this survey period. On the other hand, in municipalities the system

TABLE 16. SITUATION OF NON-CONFIDENCE AND DISSOLUTION (From 1999 to 2011)

Local Body	Number of non-confidence (A)	Result of vote		After the non-confidence resolution		After dissolution and assembly election			Voluntary resign of governor / mayor (I)
		Approve (More than 2/3) (B)	Disapprove (C)	Dissolution (D)	Displacement of governor / mayor (E)	Approve (More than 1/2) (F)	Disapprove (G)	Not submit non-confidence again (H)	
Prefecture	6	3	3	0	2	0	0	0	2
Municipality	111	29	82	24	4	11	2	4	8
Total	117	32	85	24	6	11	2	4	10

Source: Prepared by the author based on *Chihoujichi Geppou* No.54 and No.55.

is sometimes used with the number of non-confidence votes standing at 111 and for dissolution is 24 during this period.

- 2) For prefectures we have to pay attention to the fact that the number of cases are as small as 6. However, it should also be noted that the approval rate is 50%, and the core success rate is as much as 66.7%. When the assembly is in the situation of serious discussion about non-confidence, we can recursively estimate that there is not a low probability of a resolution to be approved and the continuing political process.
- 3) For municipalities, we have a larger number of instances. The approval rate is 26.1% and the core success rate is 20.9%. Generally speaking, in the municipal assemblies, various factions and unaffiliated members exist and it is not always easy to get groups together for the non-confidence measure. These indexes are as a consequence lower than those of prefectures. On the other hand, the dissolution risk is 21.6%. This is close to the percentage rate for the core success rate ($20.9\% \doteq 21.6\%$). We can describe this situation as a delicate balance. From a recursive standpoint, the assembly members should carefully weigh-up the advantages of displacement of the chief executive and the disadvantages of the risk of losing their position.

IV. *The Latest Improvement of the System*

The current framework based on the dualistic representative system is considered to be functioning well. However, in recent years, cases of decisions independently made by the chief executive have occurred and become the focus of a lot of attention in some local authorities. For instance, even after the council passed a non-confidence vote against the mayor of one city, he was reelected to the post and repeatedly made independent decisions: He used the discretionary measure for appointing the deputy mayor and was unwilling to convene the assembly despite being required to do so by the chairman. Meanwhile, the mayor of another city used the veto power over the crucial bylaw draft. The conflicts between the two representatives became a central issue in the local administration.

In this context, the amendment of the LAL was passed in 2012. The contents were as follows:

- The appointment of vice governor/deputy mayor is excluded from matters subject to

discretionary action.

- When the council does not approve decisions independently made by the chief executives on bylaws and budgets, the chief executive must take necessary measures and report them to the council.
- The assembly chairperson must convene the extraordinary session when the chief executive does not convene it within 20 days.

Matters relating to veto power have also been amended. Bylaws and budgets were previously subject to veto authority, and a wider range of matters for resolution other than those (such as comprehensive plans) are subject to a veto coverage in the amendment of LAL in 2012. This is because important matters like comprehensive plan have been added to the resolution items in each local body and it is reasonable to add those matters to the coverage of veto.

As a result of these incidents, the multilayered check-and-balance system has been amended. The multilayered balance system is an elaborate one, as outlined in Table 2. Nevertheless, it is expected that the current system will continue to be reviewed and improved in order to establish the ideal balance between the dual representatives.

V. *Conclusion*

Based on the data of the latest 13 years, we can pick out some key characteristics of the Japanese local governance system, outlined as follows:

- (1) The right of submission of the bill
 - (a) This right is overwhelmingly enforced by the chief executive; the ratio of the number of bills submitted by assembly sides is still low, 5 or 6% of the total.
 - (b) However, in the bigger cities whose population is more than 500 thousand, the assemblies show the signs of increasing the number of the submissions of bills planned by the assembly sides; the local assemblies put up the postures of enhancing the policy initiatives through planning and establishing bylaw bills.
 - (c) On types of processes, establishing new bylaws is ideal in view of original policy making. Such new bylaw bills which assembly members draft have been accounting for the constant rate. The contents of those new bylaws are matters relating to the assembly management, and the wellbeing of citizens such as small industries, health care, environment, child welfare and community.

- (2) Veto power

Veto power has not so frequently been used historically in local government, and the total number of cases is 219 between 1999 and 2011. When the chief executive uses this authority, the success rate is 46.4%. The chief executive can abolish or adjust the modified draft which was planned by the assembly. On the other hand, the assembly success rate using the veto measure is 37.8%. The assembly can keep a modified draft by approving the modified draft again following a veto, so long as it has more than two thirds majority. The rate of the former is bigger than the latter and so it is possible to conclude that veto power in the hands of the assembly as effective and potentially strong.

(3) Discretionary Action

Discretionary action is an ad hoc measure and the total number of cases has varied with the data showing consistent or decreasing trends in its use. This measure is set up to allow the chief executive to take prompt responses when required. However, the assembly appears to be able to prevent straightforward implementation.

(4) Non-confidence and dissolution

Non-confidence and dissolution are the final measures and countermeasures between the dual organizations. These are also ad hoc means and the number of cases have been changing year after year. When we focus on the effectiveness of non-confidence, the core success rate is 20.9% in municipalities – the rate that the non-confidence measure becomes the trigger of the displacement or resignation of governor/mayor. On the other hand, the rate of dissolution is 21.6% and assembly members should prepare themselves for risks when they propose the non-confidence bill as the rates for success and failure are very close.

Based on this analysis three central conclusions can be drawn:

- (1) When we look at the appearance of the multilayered check-and-balance system, the measures of the chief executive are various. When you consider the substance of these, it is clear that the chief executive's measures are effective and predominant.
- (2) However, it does look like things are changing. The bigger city assemblies set the pace and they have tried to enhance the number of policy initiatives emanating from the assembly by increasing the number of bills, planning various new bylaws, and capping the number of discretionary actions. In this context, the local autonomy law has realized the delicate balance between head and assembly, and following instances when it has not worked efficiently it has been amended.
- (3) The chief executive is invested with a great deal of multilayered powers, and recently conflicts between the chief executive and the assembly have become so marked that there have been instances when chief executives have used those measures excessively. In 2012, those incidents caused the amendment of the law, and the right to convene the assembly and the discretionary action were partly restricted.

Putting it all together, the dual representative system rests on a delicate balance of multilayered checks and balances. In response to a changing of society, further amendments of this system will be required in the future. The crucial and final point that should be considered is what system we need in order to enhance the trust of citizens in the local government. To this end, we must ultimately pursue the best balance in order to secure effective governance and the wellbeing of citizens.

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