

Relationship between State and Autonomous Bodies in Postwar System of Educational Administration and Finance

— To Consider Characteristics and Evaluations of the System in Context of Decentralization Reform Discussions —

Introduction: Food for Thought

- (1) How does the system of education administration and finance in State and autonomous bodies collaborate or cooperate to provide education services and operate education administrations?
- (2) How should we evaluate the structure of such coalition and cooperation between State and autonomous bodies?
- (3) How should we improve problems thereof whether we affirm or criticize them?

It is generally agreed that the relationship between State (MEXT) and autonomous bodies (the education boards) expresses a “centralization modality”. But discussions are greatly diversified with respect to the following agenda:

Why such “centralization modality” incur?

Whether one looks at situations thereof negatively, or affirmatively.

If viewed affirmatively, what are issues to be reformed?

Depending on differences in one’s perspective, evaluations on the decentralization reform come to be significantly divided.

1. Situations of Education Administration and Finance System in State and Autonomous Bodies: Their Characteristics, and Controversies

- (1) Education administration and finance system though State and autonomous bodies
 - a “peculiar” structure different from general administrations and finances
 - ① State pays out of its national treasury 1/2 of salaries of faculty members, being municipal public servants, in public compulsory schools (the institution on the national contribution to compulsory education [literal translation], established in 1940) = no other case for State to bear 1/2 of salaries of local public servants.
 - ② In order to work out the number of faculty members to be covered by State’s treasury, the unit of one classroom (of 40 pupils) is used to calculate its number by each prefecture.
= Compulsory Education Standard Act
The classroom composition standard (40 pupils) is just for working out the faculty- member size, and prefectures are supposed to have their discretion on the standard. But in case they set the standard lower than that of State (e.g., 35 pupils to classroom), expenditures for incremental faculty members must be borne by themselves. (Since then, the arrangement was changed to enable the implementation of a small number of pupils per

classroom by taking advantage of State-paid additional new teachers allocated by State. = reduction of prefectural burdens)

- ③ Institution on the prefectural treasury burdens of faculty members' cost [literal translation] = Salaries of faculty members, whose size is worked out based on Compulsory Education Standard Act, are borne evenly between State and prefectures → State allocates the number of faculty members in a lump sum by prefecture, who in turn allocates further by municipality and school.
 - 1) Based on the above, prefectures have controls over recruitment personnel, their following affairs and training (personnel affairs implemented periodically and on a wide-area basis in about every 3 years for principals, and for general faculty members in a specified period which is different by prefecture)
 - 2) The municipal education board oversees ranks and services of faculty members of public compulsory schools as they are positioned as municipal officials.
 - 3) On the legal system, municipalities have the authority on “records” in personnel affairs, upon which prefectures take actions.
- ④ Presence of national standards on curriculums = the official curriculum guidelines
 - * The legal system provides municipalities with the power to oversee public school management and ranks and services of their faculty members. But in actuality, prefectures are being positioned as the “superior organ” due to the structure as in the above.
 - ** Its merits and demerits ← Differences from other foreign countries

(2) (Education) Finance System in State and Autonomous Bodies — “Centralized Deconcentrated System” —

Japanese local autonomies are often said to be vulnerable in financial resources, as pointed out with a saying “30% autonomy” (40% in reality). Actually, however, the share level of local tax and the scale of local finances do not compare poorly at all in relation to major countries in Europe and the U.S.

Characteristics of Local Finances in Japan

- ① The share levels of the local tax revenues and general finances (including the local allocation tax) are not low at all.
- ② About 70% of local administrative operations and expenditures are covered by own finances.
- ③ But the local tax revenues are not enough for the autonomy to pay out the whole of huge local administrative operations, and the shortage is supplemented by the fiscal shifting (the local allocation tax, contributions/ subsidies).

- ④ The biggest characteristic of the fiscal structure in the framework of State-and-autonomies in Japan is this huge fiscal shifting from State to autonomies (Incidentally, the local allocation tax is about JP¥16 trillion and the subsidies are about JP¥20 trillion, which occupy as much as 35% of the autonomies' total revenues and constitute the second largest category only after the local tax at 39.7%.)

2. How We Should Understand and Evaluate the Structure and Characteristics of the Postwar Administration and Finance System

(1) Three Major Models that Interpret Postwar Administration and Finance System and Policy Processes

- ① **“Vertical Administration Control” Model:** An assertion that in the policymaking process, (1) the administration (bureaucrats) is in a superior position to the politics (politicians), and (2) the administration (bureaucrats) strongly manages and controls autonomous bodies by such means as the agency delegated function, subsidies, golden parachuting personnel affairs, etc.
- 1) Policymaking is led by the initiatives of the central ministries/agencies, and the influences by Diet and political parties are weak.
 - 2) Autonomous bodies are obedient to the central ministries/agencies, and cannot run their administrations without the technical and financial supports of the central government. (their weak financial resources described as “30% autonomy”).
 - 3) Such administration and finance structure and administrative superiority are the residuum carried over from the prewar era to the postwar period due to “halfway measures” of the postwar reform, thus the Japan’s local autonomy is “feudalistic”.
- ⇒ “The Constitution has changed but not the administration law.” → A position to consider “halfway measures” of the postwar reform and a dysfunction of the local autonomy (feudalistic residuum) as the problems.
- ② **“Mutual Dependence” Model = “Horizontal Political Rivalry” Model:** An assertion that casts a spotlight on the political decision-making dimension of [various demands of autonomous bodies and interest groups → politics (politicians) → policymaking by the central government → the realization of demands of autonomous bodies and interest groups], (1) based on the phenomenon that politics (politicians) came to be in a superior position than the administration (bureaucrats) in the latter half of the 1970s, and (2) by positively assessing that the postwar direct elections of chieftains of autonomous bodies and the political autonomy of autonomous bodies are functioning dynamically.
- 1) A commonly accepted theory of the “Vertical Administration Control” model inclined people’s interests only to the legal and administrative relations between the central

government and autonomous bodies, and in addition, treated various authorities of the central government to be excessively huge.

- 2) It is necessary that, in policymaking, in addition to the legal and administrative relations, the democratic framework in the postwar political society, i.e. the public election of chieftains and political dynamism in a pluralist political process in assemblies, is closely looked at. → Through such political process, demands by autonomous bodies (interest groups, etc.) get reflected on the central government's policymaking, and conversely, the central government cannot realize its policy execution without the cooperation of regions. A "modern" situation is that the mutually depending relationship between the central government and regions is expanding.
- 3) The mutually depending relationship between the central government and regions is open to creativities and initiatives on the part of autonomous bodies, which are activated from beneath by political dynamism and the rivalry among autonomous bodies.

⇒ Position which appraises

- the postwar reform, i.e. the advancement of the local autonomy and creation of the democratic "political" process (public election of chieftain, etc.), to be focused as the progression of the postwar local politics and administrations,
- Japan's "success" under the centralized system
- the investigation on reasons for high economic growth since the 1960s, and its centralized system.

③ **"Decentralization-Amalgamation" Model:** An assertion which points out that a "cooperating" relationship between State and autonomous bodies cannot help formulating and advancing in the process of routine affairs/executions of policies/administrations, while giving recognition to (1) the dispersion of resources related to the making and execution of policies (State = legal decision-making authorities and resources ⇔ autonomous bodies = resources and information required for executions) and (2) the decentralization legal system under the postwar Constitution.

- 1) The relationship between the central government and regions is not as authoritative and centralized as indicated in the "Vertical Control Administration" model".
- 2) The postwar system of administration and finance legally approves the principle of the local autonomy.
- 3) Under the decentralization legal system, with respect to the alignment of nationwide interests, i.e. setting standards, compiling budgets, enacting statutes, etc., on a nationwide basis, State's "orthodoxy" and "superiority" get established (coordination, planning, and policy formulation by State), and autonomous bodies come to take their share of assuming own executions of routine affairs, in the context of a "cooperating"

relationship between the central government and autonomous bodies which turns formulated and advanced through the process of routine affairs/executions.

⇒ The model which is grounded on a problem consciousness that current administrations are characterized by an administrative style of soft guidance/advice rather than an authoritative control, and that such characteristics and problems should be clarified.

*Convergence with one particular model is not necessary. (It differs depending on which should be dominant in terms of policymaking, or which should be emphasized in the transit of the times.)

3. Decentralization Reform and Reform on Education Administration and Finance

(1) History and Basic Principles of (First) Decentralization Reform

In June, 1995, Law for the Promotion of Decentralization (effective for a limited period of 5 years) was established, and in July, Committee for the Promotion of Decentralization was installed. Having received the several recommendations submitted by the Committee, the Government approved “Plan for the Promotion of Decentralization” in the Cabinet meeting (May, 1998), and established “Devolution of Power Law” in the ordinary session of the Diet in 1999. The new legal system containing the largest kind of amendments of Local Autonomy Law, and reforms of 21 pieces of the education-related legislations along with these amendments, became effective in April, 2000.

⇒To reform the relationship between State and local autonomous bodies to the new one of equality and cooperation

① To eliminate the agency delegated function system which legally used to set the two parties on the ground of a top-to-bottom hierarchy and a subordinate-superior relationship.

Abolition/liquidation of the agency delegated function → to be restructured to autonomous affairs and statutory designated affairs

② To either eliminate or reduce, along with the abolition of the agency delegated functions, the preliminary authoritative involvement by the central ministries/agencies constituting their comprehensive right of command, and to reform coordination rules and procedures into fair and transparent ones in reference to the thoughts in Administrative Procedure Act.

Local Autonomy Law regulates involvements by State in prefectures, and by State and prefectures in municipalities. (basic principles and procedures for the involvement,

in-writing system, local entities' opinion proposals and State's obligations for response, etc.)

③ Foundation of Agency to Handle Disputes between State and Local Regions

In order to guarantee a proper involvement of State in local governments, the "Mediation Commission for Conflicts between State and Local Autonomous Bodies" and the "Mediation Commission for Disputes among Local Autonomous Bodies" are to be installed so that disputes between State and local governments, if happened, should be handled by fair and neutral agencies.

* 【Mechanism of Old Agency Delegated Function System】

- Fundamental legal system indicates that, other than differences in roles and affairs to cover, State, prefectures, and municipalities are positioned equal to each other in terms of the authority, thus no hierarchy. One exception, however, is the case where the agency delegated function is managed/executed among these administrative organizations, in which the authoritative upper/lower relationship takes place. The agency delegated function is a system for State to delegate the execution of its affairs, instead of undertaking on its own, to the enforcement offices of local public entities (governors/municipal principals and the education boards, as examples) for the reasons of expenditure and efficiency (when there is no State's branch office in a local region). Upon handling the agency delegated function, local public entities become State's agencies and, are restricted by directions/supervisions, from competent ministers for prefectures, and from prefectures and competent ministers for municipalities, at times of their executions and treatments. Moreover, should such affairs be neglected, either State or prefectures are to act by proxy after a court procedure for lawsuit on order of duty execution (Paragraph 151 of Local Autonomy Law). Before the abolition, the number of the agency delegated functions was said to be as many as 561 (379 for prefectures and 182 for municipalities) which occupied 80% and 30-40% of the total approval-and-license affairs conducted by prefectures and municipalities, respectively.

- In its "Interim Report", Committee for the Promotion of Decentralization points out regarding negative effects pertinent to the agency delegated function system, as follows:
 - ① The system positions State and local public entities in a hierarchical and subordinate-superior relationship;
 - ② It places on governors and municipal principals the double burden of local public entities' representatives and State's local administrative agencies;
 - ③ It sets administrative responsibilities unclear between State and local public entities;
 - ④ Due to State's trivial involvements, local authorities have less room for their discretionary judgments to meet true local situations, and waste their time and money

for reports, consultations, and applications, etc;

- ⑤ Because of the vertical control/supervision system in the Ministry/Agency, a hierarchical and subordinate-superior relationship taking a vertical positioning among State and prefectures and municipalities gets established in uniformity throughout the country.

The report emphasizes that in order to fundamentally reexamine the relationship between State and local governments, and to transform that relationship to one of equal and even basis, the agency delegated function system needs to be abolished.

- The agency delegated functions, in which municipal bylaws and local assemblies could not get involved in the old system, have been restructured to the autonomous affairs and the statutory designated affairs, and autonomous bodies and their assemblies are now able to handle the statutory designated affairs as their own.

(2) Decentralization Reform and Education Administration Reform

① Abolition of Agency Delegated Functions and Redistribution of Affairs in Education Administration Domain

Compared to other administrative areas, the number of agency delegated functions in the education domain was not so big, and many of them were in the fields related to State's roles and functions based on requests to safeguard the equality of educational opportunity, and to maintain/improve appropriate, neutral, and fair education, including subsidy affairs concerning education.

【Restructuring Agency Delegated Functions to Affairs of Municipalities】

- drawing up books for school-aged children, and affairs on specifying schools for children to enroll (affairs of the municipal education boards)
- affairs on setting and approving class composition standards (autonomous affairs of the education boards of prefectures and municipalities)

【Abolition/Curtailment of State's Involvement】

- abolition of the system for State to approve education principals appointed by the local authorities
- abolition of MEXT Minister's authority of control and supervision over the education board in line with the elimination of the agency delegated function (Paragraph 55 of Local Education Admin Law)

【Statutory Designated Affairs】

- approvals of incorporated schools
- adoptions of necessary measures for supervision with respect to Law on Subsidies for

Promotion of Private Schools

- contribution and subsidy affairs represented by Law for Promotion of Industrial Education
- affairs relative to Temporary Measures Law on textbook publications.

② Making MEXT-Set Criteria and Standards Elastic and Broad = Expanding Discretionary Powers of Autonomous Bodies

- In setting specific standards of curriculum, by expanding the discretionary powers of local governments and schools, these standards are to become broad and elastic based on the perspective of letting them to compose curriculums with their originality and ingenuity. (Clear stipulation that the school curriculum guideline, being State's standard, is a "minimum criterion")
- The reform plan clearly acknowledges that class-composition norms and standards for faculty-member quota, ruled in "Compulsory Education Standard Act", constitute the basis of financial burden to State, and that this law is to be revised so that prefectures, if necessary, can flexibly operate the class composition and faculty-member quota. This change, different from classes or homerooms with a small number of pupils, being ones of the classroom composition standard on each prefecture's criterion, is to pave ways for an understanding on the instruction of a smaller number of pupils, i.e. advancement of instructing smaller number of pupils a classroom in prefectures and municipalities, etc.

③ Reexamination of Guidance and Advisory Administrations

While provisions on guidance and advices remain the same, the paragraph 48 of Local Educational Admin Law in phrasing has been reformed to "can conduct" from the former "ought to conduct".

CF: By-article commentary on the local educational administration law in "*Commentary: Six Laws on Education*"

4. Regarding to Trinity as (Second) Decentralization Reform = Regarding Tax/Finance Reform and Education and Finance Reform

The decentralization is being advocated nowadays, and a reexamination of the "centralized decentration system" is under review.

The Trinity Reform in tax and finance:

- ① transfer of tax sources to autonomous bodies
- ② reduction of the tax allocations and subsidies system
- ③ abolition/reduction of contributions and subsidies

→ A focal point is a debate with respect to improvement or elimination of the institution on the national contribution to compulsory education costs which is the largest at JP¥3 trillion in State's contributions, and along with this, another focus is on a debate to reexamine the system on the prefectural treasury burdens of faculty members' costs.

(1) Abolitionist Contention on National Treasury Burdens of Compulsory Education Costs

- The Koizumi' Cabinet's measures are to abolish subsidies/contributions, and to transfer them to regions.

This policy is, targeting at the government's burdens of compulsory education, to cut down salaries for faculty members of junior high schools in the amount of JP¥850 billion among total subsidies/contributions at JP¥20-odd trillion.

→ Why should it mind the system on the national contribution to compulsory education costs which is consistent to the responsibilities of State to secure citizens' rights to learning and equal opportunities as prescribed in the article 26 of the Constitution, while preserving subsidies, etc. for other public work projects, etc.?

The government is to submit this plan for its modality to Central Council for Education, and to move on to the decision based on the Council's recommended guidelines.

《Compulsory Education Section Conference in Central Council for Education》

- ① Abolitionist Contention, by regional 6 organizations, Ministry of Internal Affairs and Communications, etc.

- 1) The system for national treasury burdens of compulsory education costs puts constraints on autonomous bodies' discretions, as exemplified in such policies as class compositions, and quota and allocations of faculty members which are based on this system.
- 2) In order to ensure and expand discretions of autonomous bodies, this system should be abolished and tax sources be transferred to autonomous bodies so that they can freely decide class composition criteria, and quota and allocations of faculty members with their own general finances. → If there were a concern over securing State's national minimum, such criteria/standards which State = MEXT, considers to be used as a target could be stipulated by decree. (And should there be still some anxiety about just setting criteria/standards only, let State strengthen its control power on these.)
- 3) Disparities among regions caused by the transfer of tax sources can be compensated by the tax allocation system to adjust finances.

- ② Against Abolition = Maintenance of Current System

- 1) Under the current situation where significant disparities in financial capability exist among autonomous bodies, the national contribution system is playing an

important role to ensure rectifying disparities among autonomous bodies and State's national minimum..

- 2) It is Compulsory Education Standard Act and the system of the prefectural treasury burdens of faculty members' costs that have a strong control over class composition and quota/allocation of faculty members, and the national contribution system only mechanically secures State's 50% share of the number of faculty members calculated on the basis of the Standard Act. → If the objective is to expand discretions of autonomous bodies on class composition and quota/allocation of faculty members, the Standard Act and the system for prefectural bearings of faculty members' cost have all the more reasons to be reexamined.
- 3) The tax allocation system is also responsible for having brought forth the local finances' dependence upon State, and in order to attain independence and healthy balance of regional finances, the tax allocation system ought to be overhauled in wide range. = A substantial reduction and for minimally rectifying disparities among regions.

(2) To Maintain Institution on Prefectural Treasury Burdens of Faculty Members' Costs, or To Transfer Costs and Personnel Affairs Authority to Municipalities

Peculiar Structure in Local Public Employee System = Prefectural Treasury Burdens of Faculty Members' Costs

- 1) When recruitment and personnel affairs are conducted on the municipality unit, there is a concern that huge disparities might incur in terms of securing teaching manpower, attributable to disparities in socioeconomy/culture and capabilities in administrations and finances among municipalities. → Few faculty members take their posts in schools and municipalities under such geographical conditions as depopulated areas, remote places, or isolated islands. (teachers with families, in particular).
⇒ A balanced allocation of faculty members is difficulty to implement without mandatory/rule-bound policies of personnel interchange.
- 2) The present institution for the prefectural treasury burdens of faculty members' costs has been in place, except the period from 1940 in the prewar era and the short span after the war (1950-1952), due to the historical development where the following requests had been made:

The scheme to produce a proper balance among municipalities within a prefecture by placing the power for recruiting and personnel affairs on the level of the prefecture; another scheme for the prefecture to bear salaries of faculty members which forces an excessive burden on finances of municipalities.

3) Nonetheless, the position of faculty members of compulsory-education schools is a municipality's public employee, and the supervision over their services is supposed to be managed by the municipal education board. Personnel affairs for such faculty members of compulsory-education schools, if conducted by disposition of prefectures alone, would present problems from the standpoint of municipalities. The principle = public stance, for personnel affairs is that the municipal education board submits an "evaluation" to the prefectural education board, and the latter executes personnel affairs with due respect to the "evaluation" by the former.

*Article 28 of Local Education Admin Law: "The prefectural education board is to wait for the evaluations from the municipal education board before implementing the appointment and dismissal and other courses of actions for faculty members on the prefectural treasury burdens."

4) Merits and demerits regarding system for prefectural treasury burdens of faculty member's costs and personnel affairs mechanism

While providing equal compulsory education services by rectifying/reducing disparities among municipalities and schools in a prefecture, the system, however, sets a limitation on an individual municipality and school in collecting necessary manpower, and on flexibility in personnel affairs, etc.

5) Amid calls for the reform of public schools, some opinions are growing stronger to grant each municipality and school the authorities on personnel affairs and payrolls in order to promote a structure corresponding to building quality into schools by the municipality and school, by abolishing the system for prefectural treasury burdens of faculty members' costs and the personnel affairs system which centralize powers on the prefectural education boards.