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Reconsidering Governance



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Many issues confronting the present-day world are condensed into debates on governance. The term "governance" became commonplace in Japan from the mid-1990s and was used in various contexts: "corporate governance" to discuss corporate scandals or management efficiency, "good governance" regarding the effectiveness of aid for developing countries, and "welfare governance" or "local governance" in the context of trying to find solutions to the stalemate of the welfare state. Many of these issues have been examined in the ISS's recent institute-wide joint research projects, "The Lost Decade?," "Comparative Regionalism," and "The Social Sciences of Hope."

Social Science Japan Newsletter 49 features presentations and discussions from the international symposium on "Reconsidering Governance" that was held on March 21, 2013. The "Reconsidering Governance" project invited specialists who work on theories of governance, corporate governance, and gender/diversity to discuss key issues in governance from a broad array of disciplinary and regional approaches. By facilitating discussion and debate among the project members, the "Reconsidering Governance" project aims to theorize a suitable concept of governance that can address the conditions of modern society.

This issue features three guest speakers from the symposium along with an introduction by Osawa Mari. Mark Bevir describes the influence of modern social theories on policymaking and outlines the shift to "new governance" based on "networks," "joined-up governance," and "whole-of-government agendas." Drawing from the case of Canada, Caroline Andrew suggests how we can explore the idea of governance in ways that would foster gender equity, inclusiveness, and diversity. Based on his research on hedge fund interventions in Japanese industry, Jonathan Buchanan reveals how local conditions affect the actual application of corporate governance in Japan. He also offers tentative predictions as to where corporate governance in Japan is moving.

In the next section, we introduce Fujihara Sho and Saito Tetsushi, associate professors who recently joined the ISS in April 2013. Fujihara outlines his ongoing research on the impact of parents' socioeconomic status on their children's secondary and post-secondary education choices. Saito Tetsushi explains his passion for his research and the appeal of understanding social differences through comparative research on legal systems.

Lastly, we feature recent updates on lectures by the ISS Contemporary Japan Group, recently published books written by ISS staff, and the "Focus on ISS" section that introduces the Social Science Japan Data Archive, a valuable source of survey data that can be accessed by professors and research students in and outside of Japan.

Managing Editor, Nana O. Gagné

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“Reconsidering Governance”: Insights from the International Symposium

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Introduction

On May 21, 2013, the Institute for Social Science held an international symposium on “Reconsidering Governance.” This issue of the SSJ Newsletter features the three guest speakers of the symposium. This essay presents part of the opening remarks given by myself at the symposium and some of the issues that were raised during the talks and the discussions that followed, which resonate with the insights accumulated through institute-wide projects of the ISS since the early-1980s.

The “Reconsidering Governance” symposium was part of the eponymous, interdisciplinary, and institute-wide research project that the ISS launched in 2010, led by myself and Iwao Sato. The project’s mission statement, presented on the project’s website (http://web.iss.u-tokyo.ac.jp/gov_e/), states:

Debates on governance epitomize the issues facing Japan and the world today. Our research emphasizes the following two perspectives:

1) Analysis of various types and levels of governance and synthesis of governance study results: the governance of organizations and systems, such as livelihood security, local governance, and the market and corporations, needs to be analyzed according to the structure and context specific to the particular organization or system. At the same time, our research comprehensively re-examines the concerns shared by various governance studies and the complementarities among them.

2) Why is governance posed as an issue: what does the seemingly coincidental development of multiple theories of governance imply? Were the advocates of existing governance theories fully aware of the significance of the problems as presented by themselves? Our research re-examines the effectiveness of governance as well as the factors that problematize reasons for governance to be posed as an issue.

Through these perspectives, it is our goal to 1) advance governance research with a cross-disciplinary approach involving law, political science, economics, sociology, and other academic disciplines, 2) offer an outlook for governance which can appropriately respond to the issues in contemporary society, and 3) contribute to the creative theorization of such governance.

In addressing these objectives, we focus especially on three areas of study: the livelihood security system and the global economic crisis, local governance, and market/corporations. In reaction to the Great East Japan Earthquake of March 2011, we also examine the governance of the reconstruction process.

The “Reconsidering Governance” project includes three research groups covering livelihood security, local governance, and corporate governance, which are organized respectively by myself, Shigeki Uno and Kaoru Iokibe, Wataru Tanaka and Masaki Nakabayashi. Monthly seminars led by project members and guest speakers are a major part of the project activities, together with

workshops conducted by the three research groups.

After the Great East Japan Earthquake and tsunami of March 11, 2011, which also triggered a radiation crisis at Tokyo Electric Company's (TEPCO's) Fukushima Daiichi nuclear power plant, the project posed the governance of disasters and reconstruction as a cross-cutting issue, and we have held three special seminars on this issue.

A compilation of project members' findings over the past three years is planned for publication in 2014. As one might expect, what we have learned from project activities covers a wide range of topics. The May 2013 symposium was designed with the forthcoming publication in mind to organize and synthesize the insights gained so far. The next task is to use these recent findings to re-evaluate and revise how we look at governance theoretically and empirically. We thus invited specialists in governance theory, governance and gender/diversity, and corporate governance to offer their perspectives at the symposium. Project members served as commentators and a lively discussion ensued, including questions and comments from the audience.

More details on our guest speakers' talks can be found in this issue. What I would like to discuss here are the valuable insights I gleaned from our international symposium in regards to the original objectives of the "Reconsidering Governance" project.

Why is governance posed as an issue?

First, all of our speakers emphasized that governance is a very local issue. The meaning of "governance" is contingent—it varies across societies, time, and even individuals. Mark Bevir raised important points on how diverse discourses of governance have developed since the late 1970s. He noted that the concept labeled "new governance" should be clearly distinguished from the general concept of governance. Bevir placed the development of new governance theories within the historical context of the development of "modernist social science."

New governance emerged in the late 1970s in response to the "crises" in the administrative state

and welfare state and was touted by proponents of public sector reform. New governance theory became a facet of neoliberalism. It was used to justify policy change and to give weight to arguments for replacing existing hierarchies and bureaucracies by introducing markets or quasi-markets to public administration ("new public management") that would, according to their proponents, make government agencies either more efficient or unnecessary. The "second wave" of new governance incorporated the neo-institutionalism of sociology and was championed by New Labour leaders in the United Kingdom who advocated for "joined-up governance," in which closer ties between government agencies and partnerships with other actors would bring more benefits than markets alone. The discussant, Shigeki Uno, asked Bevir why new governance took hold around 1980. He responded that, although Hayek had been formulating theories of neoliberalism since the 1930s, it took several decades for his ideas to reach the general public and become accepted folk theory.

Following a speech by Caroline Andrew, Hiroko Takeda's comments provoked a lively discussion with speaker and the audience regarding the argument that the calls for networking and partnerships may actually have expedited the exclusion of minorities. Andrew acknowledged that co-optation remains a risk because the state forms partnerships to serve its own interests. In reality, we can see how the neoliberal version of new governance tends to enable governments to cut spending, render gender issues invisible, and make gender issues instruments to pursue other objectives. Nevertheless, Andrew is interested in examining the conditions that would enable indigenous people, immigrants, women, and minorities acquire a sense of entitlement through partnerships and use them to achieve their own interests.

Effectiveness of governance as a framework of analysis

During the second half of the panel discussion, all of the speakers and discussants participated in a question and answer session with the audience about the effectiveness of governance as a framework of analysis. In her comments to Andrew, Takeda asked, "Is 'governance' the best governing

mechanism when an ideational change is necessary to bring about a political change?" This question actually challenged the significance of governance as an analytical framework, but in the panel discussion she referred to governance as a "model" for understanding society and political processes.

Jonathan Buchanan and his discussant, Wataru Tanaka, defended the use of corporate governance as a concept, arguing that it refers to a set of practices which actually exist and operate within firms and is therefore a highly convenient and practical term that will remain in use. The noun of corporate governance itself was "invented" in the United States in the wake of corporate scandals there. It was then taken up in the United Kingdom in the 1980s and in Japan in the 1990s. Although a relatively new concept, the phenomena or issues referred to by the noun "corporate governance" have existed since widely held joint stock companies became more or less enduring organizations, and we can expect such practices to continue.

Taking a different tack, Andrew noted that in North America and Europe (and presumably other places) citizens are launching a torrent of small-scale initiatives at the local level to connect their voices to both governance and government arrangements. It is important that this "local" is larger than the local used to be, and therefore questions of institutionalizing these local efforts are crucial. Governance is an apt tool for representing these phenomena and related issues. As the discussion proceeded, Uno continued to struggle with the use of the word governance, despite acknowledging the existence of the issues and phenomena to which the term is applied. Andrew led the other panelists in emphasizing that governance is a local matter and reaffirmed that the concept is a useful one. Uno responded that the discussion had deepened his understanding of the issues around governance.

Bevir noted that he is "pessimistic" in predicting that "new governance," that is, narrower governance meaning the shift from hierarchies to markets and networks, will continue. Even when many are calling for "collaborative governance", Bevir fears that this tends to end up as "yet another

centralized initiative defined by modernist social science." On the other hand, he has high expectations for governance in a broader and more general sense to continue.

Governance is useful in three ways. As a theoretical concept it is useful for representing order in general. As an empirical concept it alerts us to the processes or activities in which order, coordination and rule are established through the complex interactions among various actors in the public and private sectors. Finally, governance has value as a normative concept because it prompts us to pay more attention to ideals about social exclusion, participation, and dialogue. In his closing remarks, Bevir stated that if we had no word other than "government" to use in our models, then social science would be normatively impoverished.

From Corporate-centered Society to Governance

According to Buchanan, Japanese corporate governance was a product of the "corporate hegemony" in Japanese society. Japanese corporate governance is known for aiming to do more than maximize shareholders' interests. Boards of directors of large, widely-held companies, whose members rise through the ranks of their firms, also take into account the long-term interests of a variety of stakeholders including employees, customers, and suppliers, which created a view of companies as communities of shared interest. The economic controls imposed during World War II and the fierce labor unrest of the late-1940s and early-1950s shaped contemporary corporate governance in Japan. This governance style remains prevalent despite widely publicized hostile takeovers attempted by hedge funds in the mid-2000s. Buchanan's understanding of "corporate hegemony" draws from labor historian Andrew Gordon. In fact, the role of corporations in Japanese society and governance within corporations including employment practices were major topics of the ISS's institute-wide research project in the late-1980s, titled "Contemporary Japanese Society." Before the "Contemporary Japanese Society" project, the ISS conducted an institute-wide project titled "Welfare State" in the early-1980s. The project examined the development and current status of welfare states in Europe and North America. It also considered Japan's social

security system and economy, labor relations, aging population problem, and other matters. However, the project did not clearly identify characteristics of Japan's welfare state, except in examining how the social security schemes were developed relatively late, and that Japan had substituted economic growth for welfare.

In the course of the "Contemporary Japanese Society" project, the "corporate-centered" nature of Japanese society and the characteristics of corporations' internal governance were recognized without using the term governance, and this recognition of the characteristics made characteristics of Japan's welfare regime more evident. Specifically, during the period of rapid economic growth, male employees of larger companies were provided employment security, seniority-based wages, family and housing allowances, and other benefits. Thanks to stable family wages that husbands could earn, wives stayed at home as full-time homemakers and care-givers. As a result, the government did not increase its spending on social programs—including various social services for the working-age population in particular—as much as it might otherwise have.

However, in the 1990s it became clear that the system relying on private companies and family (i.e., full-time housewives) to ensure employment and livelihood security was failing. The ISS took up the conditions of post-bubble Japan in the early-2000s as a research theme in an institute-wide project titled "A Lost Decade?" It grappled with Japan's economic stagnation and prolonged business slump as well as dysfunctional aspects of the social security system. The word "corporate governance" started to be used in post-bubble Japan to criticize the Japanese model as one of the causes of the bubble burst and subsequent stagnation, and there were proposals to transform the Japanese model into American model. In the "A

Lost Decade?" project, the corporate governance of banks in particular was examined, and the conclusion was that it was not Japanese corporate governance per se, but corporate behaviors and management strategies that were problematic.

In the mid-2000s we launched a comprehensive area studies project on the efforts of a declined "company town" to recover from the loss of jobs and population. The focus of this project which was titled "Hopology"—short for the "social science of hope"—was Kamaishi City in Iwate Prefecture. Kamaishi was one of the places that suffered a great amount of damage due to the earthquake and tsunami of March 11, 2011. After the disaster, the ISS used its Hopology survey data and community ties to devise ways of helping Kamaishi to recover and rebuild.

The "Reconsidering Governance" project benefited from the achievements of these earlier ISS projects. At the May 2013 international symposium, Bevir stated that "new governance" theories were a response to a rising sense of crisis in regards to the administrative state and the welfare state. Buchanan underscored how Japan's corporate governance was predicated on its "corporate-centered society." Furthermore, Andrew emphasized that the actors working towards "gender equitable, diverse and inclusive cities" include researchers with strong community attachments participating in action research. Each of these important points resonates deeply with the ISS's own research efforts.

In closing, I would like to express my gratitude to our guest speakers and discussants and to note that I will continue to reflect on Bevir's statement that "social science can serve to change and create the world as well as describe it," while we work to synthesize and publish the results of the "Reconsidering Governance" project.

The New Governance

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What is Governance?

Governance means two concepts that capture changes in the public sector. First, as a theoretical concept, governance concentrates as much on processes as on institutions. It draws our attention away from parliament and towards the activities by which a vast range of different actors make policies. In doing so, governance takes us away from the state and towards seeing how patterns of rule and order can arise within civil society, and from the interaction of the state with civil society. Second, governance refers to the way in which the public sector has changed since roughly 1975. In that time, the use of hierarchy and bureaucracy as policy instruments has declined and the use of markets and networks has increased.

This paper is mainly about the second understanding of governance, and I will illustrate the changes in public organization and public action. The shift of emphasis from hierarchy and bureau-

cracy to markets and networks has occurred in different ways and to different extents in different policy sectors and in different countries. Nonetheless most social scientists would grant that some such shift has been widespread.

Social Science Theories and Changes in Public Action

My contribution to the discussion is in my suggestion that the rise of the new governance should be understood to a large extent in terms of the impact of particular social science theories on public organization and public action. In other words, the shifting emphasis away from hierarchy and toward markets and networks results from the impact of social scientific theories on policy actors. While I doubt that most policy actors have actually read the relevant social science theories themselves, nonetheless the impact of such theories on policymakers is clear. The relevant theories influence them through, for example, think tanks and policy advisors. Thus I will analyze the two main types of theories and the ways in which they have led respectively to an emphasis on markets and on networks.

For much of the 19th century, people typically made sense of social and political life by telling historical narratives. These narratives were about the ways in which the nation had arisen and then progressed towards statehood and liberty. Nineteenth century thinkers and commentators (Comte, Hegel, and Mill, and numerous less well known contributors to periodicals) used these historical narratives to understand themselves and their world. As the 19th century turned into the 20th, however, there was a shift away from these historical narratives towards more formal approaches to the study of social and political life, along with the development of the modern social sciences. Economics turned from the diachronic and social analyses of classical political economy to the more formal analyses of neoclassical economics. Departments of political science first appeared in the late 19th century but really only

flourished in the early and mid-20th century. Similarly departments of sociology began to appear in the early 20th century but only blossomed in the mid-20th century.

The new modern social sciences rested heavily on two ahistorical and formal concepts of rationality—economic and sociological. I argue that the economic concept of rationality, located in neo-classical economics (but also in game theory) led policymakers to emphasize markets rather than hierarchy. Then, in an analytically distinct second wave of reforms, the sociological concept of rationality led policymakers to turn away from both hierarchy and markets and instead emphasize networks, joined-up governance, and whole-of-government agendas.

When the modern social sciences first arose, their apparent expertise was brought to bear on public organization and public action through the bureaucracy. The bureaucracy became the governmental home to the kind of expertise that social scientists allegedly had to offer. The bureaucracy was supposed to be able to solve social problems and introduce effective policies. The state became increasingly tied to bureaucratic forms of organization.

In the 1970s, however, many societies suffered from what can loosely be described as “a crisis in the state.” Inflation seemed to be rampant, especially in many developed states. Many of these states also worried about rising weights of welfare dependency and possible state overload. Crucially, it was in response to this crisis of the state that the economic and sociological concept of rationalities led policymakers to turn first to markets and then to networks. In the following sections, I will describe how each social science theory understood “the crisis in the state,” show how each theory advocated a shift away from bureaucracy, and then offer a concrete illustration of the impact of each theory.

Economic Theories and Neoliberal Reform

The new governance rose in two waves. The first wave reflected the impact of economic theories that rejected bureaucracy and instead advocated markets and marketization as policy instruments. This wave consisted largely of neoliberal reforms.

The advocates of neoliberal reforms tended to analyze the crisis of the state as a product of state overload. In their view, bureaucratic hierarchy was inherently inefficient because it lacked the price mechanism. As a result, they argued that the more the state grew—the more functions the state took on—the less efficient society became until bureaucracy inevitably ran aground. Hierarchy and bureaucracy were seen as inherently inefficient. For these neoliberal advocates, the solution had to be a turn to markets and public policies that in effect act as a pricing mechanism.

Consequently, advocates of neoliberal reforms proposed a range of market-based reforms of public organization and public action. They argued for the introduction of contracting out as a way of creating quasi-markets and price sensitivity within the public sector. At times they also advocated wholesale privatizations. The results of this first wave of reforms are often called the new public management, reinventing government, or marketization.

The impact of economic theories on the first wave of reforms can be analyzed through the lens of principal-agent theory. Principal-agent theory initially rose in the 1930s as a way of discussing the separation of ownership and control in corporations. Later, in the 1970s, principal-agent theory was extended, often through game theory, from the analysis of the private sector to the analysis of public administration. Some social scientists argued that, in bureaucracies, the bureaucrats were agents of politicians or, more commonly, of the voters. Moreover, they argued that just as in the corporate sector, in the private sector as well the agents could act on their own interests instead of the interests of their principals.

Theorists and other public administration scholars inspired by neoclassical economics and game theory thus began to argue that bureaucrats tried to promote their own power and prestige rather than to promote the public good. They therefore advocated the introduction of various mechanisms—typically involving prices or other incentives—to ensure that the interest of bureaucrats stay in line with the public good or the interests of the voters. These measures included much of the new public management and also related

changes in budgetary procedures. This is just one example of how a modernist economic theory directly inspired the first wave of reforms.

Furthermore, we can identify particular individuals who applied social scientific theories to public policy. One example is Allen Schick, an American public administration theorist. Schick was one of the first theorists in the 1970s who was directly inspired by modernist economic theory, worked as an academic applying principal-agent theory to the public sector, and then wrote the blueprint for the first set of public management reforms. He extended principal-agent theory from the corporate sector to the public sector. In the 1980s, Schick was asked by the government of New Zealand to write a white paper outlining a public sector reform agenda. The resulting white paper was used as the basis for the New Zealand government's introduction of what is often considered to be among the first examples of the new public management.

Sociological Theories and the Second Wave of Reforms

The story of the new governance does not end with neoliberal reforms. In fact, there was a second wave of reforms inspired by modernist sociological theory. Sociological theories analyze the crisis of the state in a very different way from economic theories. They do not argue that hierarchies are inherently inefficient or that markets are inherently efficient. Instead sociological theories typically argue that we exist in “new times”—to use one of their key phrases—and these new times make hierarchies increasingly inefficient. In these new times we need to turn to a different form of organization.

At the heart of these new times are things like globalization, the rise of information technology, and the growing interdependence of states. Sociological theorists argue that the new times are such that states have less direct and unhampered control over their territory. States are more dependent on other states and non-state actors. Sociological theorists also suggest that these new times mean that policy actors have to respond more quickly, because changes happen more quickly. The new times thus make bureaucracies and hierarchies seem slow, inefficient, and inadequate for

handling many of the problems we face today.

Sociological theorists did not argue that there was something innately wrong with bureaucracy; they simply argued that in our current world, hierarchy and bureaucracy have limitations. As a result, they also did not believe that markets were some sort of panacea. On the contrary, they often stressed the reasons bureaucracies had been so successful for so long. They emphasized that humans are embedded in social worlds, that these social worlds mean that humans have shared public and collective goods, and that hierarchies and bureaucracies had often been better at pursuing these public goods than had markets. For sociological theorists, the new times made hierarchy and bureaucracy outdated, but that did not mean that markets were a solution. Sociological theorists argued, on the contrary, that policymakers should turn to networks, partnerships, joined-up governance, and whole-of-government agendas. These ideas inspired a massive second wave of reforms.

Indeed, when we look at public organization and action today, whether it is in individual states or it is global, whether it is about social security or disasters such as the Japanese earthquake, there seems to be relatively little reliance on the markets advocated by economic theorists. Instead, there is a much greater attempt to build the kinds of networks, partnerships and joined-up arrangements that the sociological theorists advocated. In this sense, I suggest that we live in a post-neoliberal world, characterized more by networks than by markets.

The impact of sociological theories on public policy can be illustrated by the idea of wicked problems. “Wicked problem” was a concept developed in sociological approaches to planning theory in the late '60s and early '70s. The key idea was that some problems are so complicated that they cannot be properly addressed by a single department of state. Instead these problems cut across departmental silos. For instance, imagine confronting a problem with inner-city crime. At first glance, the problem might seem to be one for a department of criminal justice. But a closer look reveals that most of the crime is being committed by children who are truant from school, making

the problem look like it should also involve the department of education. Furthermore, if it is discovered that the majority of the children who are truant are from broken homes with one parent who is out of work, it is also a problem of social welfare.

The key feature of a wicked problem is, therefore, that it does not fit neatly into the bureaucratic model of functionally-organized departments. Wicked problems require exchange and cooperation among different departments. Sociological theorists thus concluded that wicked problems could be solved only by some form of network organization that would join up these different departments. They insisted that what was needed was a whole-of-government approach. In fact, the first time the phrase “whole-of-government” was used in a policy document was in a white paper published by the Australian government, titled “Wicked Problems: A Whole-of-Government Agenda.” The phrase ‘whole-of-government’ first entered the policy world as a way of addressing “wicked problems”; this is an example of a social science theory impacting upon a policy practice.

Another case of an individual who contributed to the impact of social science theory on policy was the British social scientist called Perri 6. In the 1990s, Perri 6 was a visiting professor at the University of Strathclyde and hosted conferences on topics such as Durkheim and the new institutionalism. In the academy he championed the shift in sociological theories from an old institutionalism to a new institutionalism. At the same time, Perri 6 was working for Demos, a British think tank, for whom he wrote a series of policy papers including “Holistic Governance,” which argued for joined-up solutions to a range of policy problems. When New Labour was elected in Britain in 1997, Perri 6 played a role in drafting the government’s white paper on modernizing public services. In this way, Perri 6 is another example of an academic who brings formal social science theories to bear on policy problems and writes policy documents enlivened by these theories.

Issues in the “Reconsidering Governance” Project
Thus, in my story of how modernist social science helped create the new governance, economic

modernism lies behind the new public management and related reforms, and sociological modernism lies behind whole-of-government approaches. Next I will explain how this co-development of theory and policy applies to each of the four topics at the center of the ISS’s “Reconsidering Governance” project.

First, consider corporate governance. Corporate governance initially started with a hierarchical approach where great emphasis was placed on the board of directors. Over time concerns about issues such as the principal-agent theory led to more market-based attempts to promote good corporate governance, giving rise to an emphasis on issues such as tying executive pay with performance. Later, corporate governance took yet another tack, which was less successful. The new approach drew more on sociological theories and was tied to the idea of stakeholders. The key idea here was that good corporate governance involves appropriate relationships across the network of actors with whom the corporation is involved. Obviously these different approaches to corporate governance coexist. Yet, the development of corporate governance mirrors the shift from hierarchical bureaucracy to an increasing reliance on market mechanisms and to the introduction of a concern with networks.

Finally I will turn to the thematic foci of the ISS project on governance—disaster governance, risk governance, or, as it is often called, crisis governance. The very concept of “crisis governance” is relatively new. People have always tried to manage risk, but social scientists have rarely thought about the governance of risk and crisis as an analytically separate category.

Because “crisis governance” is so new, there is not much discussion of the role of markets in dealing with disasters. People started to talk about crisis governance or disaster governance only after 2000—in the United States, only after 9/11—and by that time the economic theories mentioned previously had largely given way to the sociological ones. Thus, discussions of crisis governance have been conducted almost entirely in terms set by the sociological theories with their idea of new times. Indeed, crisis governance is generally defined in a way that sees all of the issues that

had been earlier associated with new times—such as the need for speedy responses and the idea of wicked problems or highly complex systems—as associated instead with the peculiar risks or disasters. As a result, effective crisis governance is seen as depending on networks, partnerships, whole-of-government agendas, and collaborative governance.

Policy Intentions and Resistance

While my story has been almost entirely about policy intentions and the ways that social science theories have inspired policy agendas, these theories and these agendas have not necessarily worked as intended. In implementing policies, often a range of actors—from senior civil servants down to citizens—do what could be seen as “resistance.” Other actors resist the intention of policymakers, sometimes consciously, sometimes without realizing that they are “resisting.” In either case, by resisting the policies, they transform how those policies work. Today almost every policy document advocates markets or networks, which gives the impression of a very uniform policy universe. But if you look less at documents and more at practices, the practices are far more diverse. This diversity appears because a range of different actors in different societies draw on different traditions to resist the introduction of markets and networks.

When we interviewed Sir Richard Mottram, a senior civil servant (the head of a department of state) on joined-up governance, he said: “When I was in defense, we had long since discovered joined-up government. It’s presented as such a revolutionary idea. But I have worked for my whole career in defense on the basis that we joined up everything we did with the Foreign Office and with the Cabinet Office and with 10 Downing Street. It was just deep in our culture: that this was the way you worked, and we got it off to a fine art.” Perhaps he does not sound like he is resisting—it sounds like he approves of the policy. But in some ways he was saying “joining-up is a great idea but I don’t need to do anything about it because we’ve already got it in place.” In other words, when confronted by New Labour’s

most dramatic reforms, one of their most senior civil servants was basically saying “good idea, but I don’t need to do anything.”

My second quote comes from a street level bureaucrat: a police officer reflecting on the attempt to introduce a network-based approach to community policing. He said, “I think your biggest problem will be for culture. It’s still isolated, a ‘boy’s own’ club—community policing means beat policing to them, to the rank and file officers, and they don’t do that well. They don’t like all this touchy feely stuff. For what it’s worth, that’s true.” So, although the government wanted to introduce community policing, the local police force seems to have been trying instead to concentrate on the traditional responses to crime that they preferred.

My final quotes offer examples of citizens resisting neoliberal attempts to turn people from citizens into consumers. Successive governments in Britain used the language of customer and consumer to refashion the National Health Service. One citizen says, “I don’t feel I’m a customer of the National Health Service. I feel I’m a patient and I would like to develop my relationship with my healthcare professional. Because the way I view it is, being a diabetic, and any other problem I may have I’m the one who’s got the problem and I have to lead the attempt to manage it. The people who are around me are my team who are helping me to manage it. A healthcare professional is part of my team but I am his or her patient.” Another patient said, “Choice may be a political ploy to take our eye off the ball and confuse us as to what really matters. Choice sounds like a good thing. But is it?”

In short, although the policy intentions behind the new governance reflect social science theories that have encouraged attempts to move policy away from hierarchy towards markets and networks, the day-to-day practices of the new governance are far more complex and varied because of different patterns of resistance rooted in different local traditions.

Using Governance to Create Gender Equitable, Diverse and Inclusive Cities

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Most of my work on governance has been in one particular sector of governance, so it is useful to be stretched to think about governance in the corporate sector and in the public sector, particularly because of the very diffuse, ambiguous, and often contested nature of the concept of governance. Governance has been a very useful tool in two different ways for me. First, it has been useful in terms of “content,” affecting how I frame my decisions about what to research in greater detail. Second, it has also been a very useful tool in terms of my thinking about “process,” because I tend to develop my research with partners. Governance offers a way of thinking about how to develop the research that I wish to pursue with a variety of different partner groups. Governance alerts us not only about how to think about developing a research project but it also alerts us to particular issues that need to be examined.

My favorite definition of governance is: “the effective mechanisms of coordination in situations where power, resources, and information are widely distributed” (Hubbard and Paquet, 2007:3). Certain issues are raised by this definition. First, what has been the impact of governance on government? The thought that governance would necessarily mean the hollowing out of the state has simply not played out empirically. Following a newer generation of thinking, we now understand that governance does not eliminate government, but rather that they work together in concert. The second important question is about process, and whether or not one should look at governance in terms of “phases of development” or by “crucial elements.” Finally, we must ask to what extent there is a wide distribution of power, resources, and information. There may be major imbalances of power, resources, and information. However, the concept of governance is relevant whenever there is more than one actor, and it is an empirical question as to the specific nature of the distribution of power, resources, and information in any given situation. I like this definition because it puts the emphasis on the process of working together rather than simply on a decision.

I am particularly interested in how we can use the idea of governance to think about creating cities that would be gender equitable, inclusive, and diverse. In line with the definition of governance that I am using, the processes of working together and creating partnerships are of central importance to our objective. We know that our objective is far from being achieved at the present time and therefore we need to be thinking strategically about how best to try to bring about the transformative changes that we wish to have in our cities. In what follows, I will concentrate on what seems to me to be the four important categories of actors who must be mobilized in order to even attempt to reach this very ambitious objective: elected officials, civil servants, community based groups, and researchers. (Regarding the second group, I use the word “femocrats,” a term coined by Australian scholars

to denote feminist bureaucrats; this word was an Australian invention in the period when the Australian government was advancing key reforms in the order of gender equity.) It is worth noting that each of these four categories involves a wide range of very diverse players. In what follows, I will go through each of these categories of actors to look briefly at what they bring to the table in terms of power, resources, and information. I should be clear that this is a very Canada-centric paper, bringing a Canadian perception of these actors and the roles they tend to play in governance in Canada.

Elected Officials

The power of elected officials depends heavily upon their role in the political system. Let us consider the common assumption that local officials are always less important than national or regional officials. Certainly in terms of formal power in the Canadian system, local elected officials are generally less powerful than federal or provincial government officials. However, it is important to think about power in a contextual sense. Power depends on the governance challenges under consideration. For example, if we are talking about trying to ensure that adolescent girls have equal access and resources in terms of sports facility times, which are normally biased in favour of boys' sports, it is likely that a local official will have more power over that issue or jurisdictional matter than a federal government official.

In other words, power is contextual. In some cases, local officials are not necessarily less important, so it depends on where that elected official figures within the various levels of power in his or her political realm. For instance, ministers in our parliamentary system of government have more power generally, but as ministers they are constrained because typically they are not supposed to comment on policy areas outside of their appointed department. They are restricted to speaking about their own policy area and so too are constrained by the formal power and formal jurisdiction of that power.

As a related matter, we also have to look at the fact there are far fewer female elected officials in all political systems worldwide. Female elected officials are not always more interested in gender equity, but many empirical studies suggest that,

overall, female elected representatives have greater interest in policies related to gender equity than the average male elected politician. If there are few female elected politicians in the system, the decreased general interest in gender equity among elected officials may bear upon the overall weight that those few female officials can bring forth with the power they wield.

In terms of resources, elected officials have staff who constitute an important resource. They likely have supporters who may be mobilized in support of a given issue. If they are very popular elected officials, they may be able to rally their supporters to put pressure on others in the system. And they may have access to some discretionary funds in the system. Local elected officials in the Canadian system have very little access to discretionary funds, but they are able to influence funding for government policy, and therefore they do have some basis of affecting the use of available financial resources.

Elected officials also have very good information about voters' attitudes. We do not have much information on public opinion polls pertaining to gender equity so the information elected officials can provide about public interest in these questions is valuable. They certainly have information on official policies, programs, and practices, and through their staff, they have access to a wide range of information that is a key resource.

Civil Servants

Of the four categories of actors, civil servants have the most power in terms of expert knowledge. They also have greater ability to move between elected officials and community groups, which gives them power to serve as go-betweens in certain circumstances; and this yields more power.

In terms of resources, civil servants certainly have the accumulated resources of a bureaucracy, which is a very powerful model of organization, albeit heavily criticized. In some occasions, civil servants are uniquely situated in having the acceptance of both elected officials and community groups, but this is not always true; there are some circumstances when they will be unacceptable to one or both groups. However, they can often gain more resources by being able to successfully deal with both of these groups.

In terms of information, civil servants have crucial insider information about upcoming policies and they are often more at liberty to talk about proposed policies than elected officials who will get into difficulty if they openly announce a policy proposal before it has been adopted. Conversely, bureaucrats can share confidential information about emerging policy frameworks, and they can hold consultations with community groups and other stakeholders to seek input and advice on the how best to implement the policy.

Sometimes, without the permission of elected officials, civil servants will talk to groups about anticipated policies in the hopes that those groups will be prepared to enthusiastically support the policies. This leads to the question of where the interests of the political actors and the civil servants lay. Civil servants can sometimes leak policy information when the policy they are promoting is considered to be a good policy, although this opinion may not be shared by all of the elected officials. But civil servants will pursue this course of action in order to gain the support of community groups whom they hope will eventually support the policy when it becomes public.

Community Groups

There is a hugely varied and wide cross-section of groups that fall within this category of actors. Given our interest in creating gender equitable, inclusive, and diverse cities, it is first and foremost women's groups at a community level who are key, but there is also a whole series of other relevant groups, those advancing social justice, those working for diverse groups, those with expertise on a disability, groups focused on gender equality or sexual orientation, and so on. The first resource these actors bring is the power of their numbers and their capacity to mobilize their membership. Their power comes both from their ability to mobilize their membership to vote in elections and decide who will be elected, and to mobilize their membership to raise issues in public debates, to sensitize people, and to do all kinds of awareness-raising projects. The numbers are important. Their power also comes from their reputation. Some groups are seen to be more legitimate, either because they represent important people, or because they are very good at what they do as lobbyists and advocates. Or they may be good at

"telling a good story" and as such, they can convince the public that their story is "the story" that needs to be taken into account. Or they may wield power as a result of making use of key networks that have power and influence.

It must be noted that very often community groups do not have power; they often have little or no power, and this is particularly true of groups working not only for gender equality but for equality for marginalized groups. Their resources comprise the numbers of human beings they can mobilize to play various volunteer roles, such as lobbying politicians and civil servants, talking to the public, and the like. They sometimes have financial resources from donors. An interesting phenomenon that holds true more so for the United States than Canada, but that is emergent in Canada, is the recent number of wealthy female philanthropists who want to financially support very specific community groups who are achieving specific goals. This is a very new trend, but as wealth gets differentiated within certain societies, it will bring new potential sources of funding and resources to community groups.

The most important resource of information of community groups is likely the voice of lived experience. Having people talk about their own experience with government policy and share their particular views of how it has impacted them or changed their lives (or not), and how it has made their lives worse or better, is a very strong form of power for community groups. The tacit knowledge they bring, based on practice and experience, is a form of knowledge that is increasingly seen as a useful addition to different sorts of knowledge and expertise. These groups also bring an enormous array of tools for transmitting lived experience—safety audits, street surveys, focus groups, and personal accounts; there is a growing literature about the kind of tools that can be used to convey this kind of lived experience.

Researchers

The fourth category of actors, researchers, do not really have power in Canada. We may have prestige or even influence, but within Canadian society, different elite groups are very much separate from one another and there is not much movement between elite groups. So in fact the advan-

tage enjoyed by researchers may be 'distance'. In the phrase that is often used, researchers can "speak truth to power." The disadvantage of course is disengagement from policy influence because researchers are not seen as bringing useful information to governments. I think this has to do with the very broad nature of Canadian society and of the way elites have been organized across Canadian society.

That said, there is a growing number of researchers who are interested in "action research" that yields policy implications. Certainly a greater number of these researchers have tended to be feminist scholars interested in questions of gender equity. They tend to relate to community groups on issues of governance, because there is some policy work being done with government on the question of gender equity, or intersectionality and gender equity. Still, compared to other societies, there has not been a great deal of direct power for researchers in Canada.

A key resource that researchers can bring is students. We have students working with us on projects, and many of them (more than the researchers) are actually very interested in community-based participatory action research. They are also very interested in internships in practice-based organizations. This interest stems from both a desire to understand how these organizations work, and because of the longer-term employment possibilities they may offer. Students are very anxious and very interested in these lines of research, and they tend to push us in the direction of wanting to make our research more connected to community groups. Researchers are also occasionally distributors of money, and have the ability to hire students for research, or offer access to on-campus facilities for meetings and other key conversations (but we are more often seekers of financial support and outside funding than providers of funding).

Of course, as creators of information and knowledge, we also have good access to a wide range of information, especially those of us lucky enough to have access to university resources. We also have the ability to evaluate and disseminate information, though we are certainly not the best example in terms of disseminating information.

Conclusion

In my closing comments on models of effective governance, I wish to reiterate the point that all of the aforementioned actors are place-sensitive and context-specific. There can be no fixed model for developing a partnership that would create gender sensitive, diverse, and inclusive communities. An interesting debate about partnerships is whether one must start with common aims, or rather, whether common aims can develop over time. It seems clear to me that we do not often start with common aims, because generally speaking, except at the most vague level, elected officials and community groups do not have common aims in a specific partnership. However, these common aims can develop over time, and this has to be monitored. Although common aims are not necessary at the beginning, after two or three years, collaborating partners need to see whether some common aims have developed. If there are no emergent common aims after two years of partnership, there is a problem.

Finally, where the literature is all in agreement is on the important question of trust and how trust gets established. Certainly trust takes time to develop, and this is always a dilemma in the modern world where time is often lacking. Trust gets established as actors pursue goals together and as both sides do more or less what they said they would do. That builds trust. Trust is also built when the shared work is enjoyable. Enjoying working together builds trust. This has implications for celebrating victories. Celebrating early victories and celebrating them in a big way makes people begin to feel that it was worth spending time on the partnership in question. Once again, building trust through working together is centrally important because each step forward creates cities that are slightly more gender equitable, inclusive and diverse. The transformation we are aiming for is so major that building the partnership and building trust are crucial steps to the cities we all want.

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Corporate Governance as a Local Remedy for an Unstable System: Evidence from Japan

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Corporate Governance as a Local Remedy for an Unstable System: Evidence from Japan

In this paper I will address four aspects of corporate governance. The first two aspects are two premises. The first premise is that joint stock companies that are widely held are inherently unstable because they combine too many conflicting interests. The second premise is that corporate governance is a kind of remedy that makes joint stock companies more or less workable but not really stable; it simply compensates for the instability. Although the various interests are mediated by the board of directors, there are no clear rules about how to balance these different interests—it is something that the board has to work out for itself. Various laws say what a company can or cannot do, but the law is generally set up after problems have been discovered.

The third and most important aspect relates to the research that two colleagues and I conducted on hedge fund interventions in Japanese industry

which reveals several interesting dimensions of corporate governance generally and of Japanese corporate governance in particular. Finally, I will offer tentative predictions as to where corporate governance in Japan is moving.

Instability of Widely-held Companies and Corporate Governance

This paper draws on an empirical study of hedge-fund activism that took place roughly between 2001 and 2008 in Japan (Buchanan et al. 2012). It revealed a rather unusual situation in which two different ideas of how corporate governance should be carried out met each other face-to-face within a single market. This is much more unusual than it may seem; corporate governance generally exists in a particular market and it does not come into tension with other sorts of corporate governance. In this case, however, it did just that, and provided a demonstration of how corporate governance works when two separate versions of it collide with each other. This is relevant globally, not just in Japan. To make this case clear, I will elaborate on what I claim to be the instability of the widely held joint stock company.

When a group of founding shareholders contributes capital and sets up a business, nobody (usually) denies that they own what they have created. They can do what they like with it. But when you have large companies with portfolio shareholders, often very widely diversified, shareholders see their shares as investments. They are not trying to run the company—very often they lack the ambition to do so. Most portfolio investors just want the money. Another aspect is that as companies stay in business, over the years they tend to accumulate long-term stakeholders, such as employees, suppliers, and customers. This creates a network of conflicting interests and thus instability.

What does corporate governance do for all this instability? The board is appointed to mediate all of these interests, but as I have explained, there

are no formal rules. As a result, corporate governance tends to evolve as an informal set of practices that the board has to use, and which informs the board's judgment. These practices are institutionalised ideas that emerge from historical experience. In other words, in order to understand why people do certain things in the course of their corporate governance, you have to understand the society in which they live. And the society in which they live, of course, has been created by a historical process. So this makes corporate governance very much a local phenomenon.

It is quite possible to have convergence of corporate governance among different societies—indeed, different countries can have similar systems. However, I would argue that in order to converge, there must be a convergence of local experience. This is not a top-down process. One cannot simply say, 'Here are some good elements of corporate governance. We are going to feed them into your system,' and expect corporate governance practices to take root exactly as hoped or in the same way as in another society. There is resistance to such interventions from everyone who has adapted to the existing order, and a wide range of stakeholders and established interests are affected in issues of corporate governance.

Evidence from Japan: Cases of Hedge Fund Activism

In Japan, a process of widely publicised hedge fund activism emerged roughly between 2001 and 2008, although it continued in other forms after 2008. These hedge funds went out of their way to make sure that newspapers reported what they were saying, and they also posted their comments on their websites. In most cases, the companies responded by doing the same thing.

To put it simply, here there were two different corporate governance systems actually clashing face-to-face, which is very unusual because corporate governance is usually carried out by boards in private. But in this particular instance, these boards found themselves compelled to reply publically to various criticisms made of them. The criticisms were often made through the press or through the Internet on websites. The boards had actually to think about how they ran

their businesses and explain why they were doing things the way they were, and why their way of management was appropriate.

The other aspect of these instances of hedge fund activism is the environment of the hedge fund activists themselves. A hedge fund is basically an investment fund, usually arranged through private contract. In theory it is no different from any of the big institutional investors like pension funds, and has professional managers running it. Because it caters generally to very rich people or institutions, however, it is willing to take bigger risks. And since hedge funds are established by private contract, they are not inconvenienced by the sort of requirements that large institutional pension funds or life insurers would be inconvenienced by. The activists among them are a small minority who invest in companies and try to change the way the company does business in order to increase their return. The way they change companies might be to put pressure on them to pay more dividends, or to get them to change their strategies so that the share price goes up. Basically they become shareholders quite purposely so that they can complain as shareholders and try to change things, and thus make a profit for their investors through these changes.

These hedge funds developed in the U.S.A. first. The U.S.A. is an excellent market for activist hedge funds, where shareholder primacy and shareholder value have become accepted as orthodoxy. Institutional investors had gradually gained more and more ground there through a fairly linear process since the 1940s, so that by the 1980s or 1990s, they held 60-70% of the top companies. As a result of this environment, the dominant belief there is that companies are run purely for their investors, and activist hedge funds have been able to target boards that were not complying with this orthodoxy. They know that the basic ideas they are putting forward will be accepted by the companies, the shareholders, and society at large.

When activist hedge funds came to Japan, they came to a market where the shareholder primacy era had existed in the past but had ended in the 1930s. In contrast, the post-war system of corporate governance in Japan was built around three

pillars: committed employees, autonomous management, and bank finance. None of these are very friendly to activist shareholders, and very little attention had been paid from the 1940s onward to portfolio shareholders.

This process has been reinforced since the 1970s when Japanese companies, or at least the stronger ones, shifted to the capital markets to secure their major tranches of funding. As they took on capital market funding through bonds, convertible share issues, and so forth, they reduced their bank loans, and this of course further reduced the banks' ability to interfere. In the end, there was almost autonomous management as long as the company was going well. Management's focus was on what we call the "community firm," a firm that was a community for all of its employees—at least as far as large, listed companies were concerned.

This idea of the community firm has been discussed in various forms. It is what Gordon (1998) called "corporate hegemony," where the focus of people's lives really is the company. By putting the company at the centre of one's existence, people give it enormous loyalty, and the companies respond with loyalty to the people concerned. In other words, highly insider-oriented community firms emerged in Japan; people were interested in the business, not in shareholder value.

One may wonder why activist hedge funds began to enter Japan if their managers were aware of the local conditions. Fortunately for them, there was some attraction in the Japanese market as well. Formal law in Japan supports shareholders' rights, and of course corporate articles empower shareholders in various ways. Shareholders with the right percentages can call meetings, they can vote to dismiss directors, to appoint directors, and to approve dividend payments. So, in theory, shareholders have a great deal of power in Japan.

Moreover, after the bursting of the equity and real estate bubble in the 1990s, there was much less trust in the old system. By around 2000, the situation could be summarised by these four points: 1) There were doubts about whether the post-war system really was as good as everyone, including many foreign observers, had thought. Many

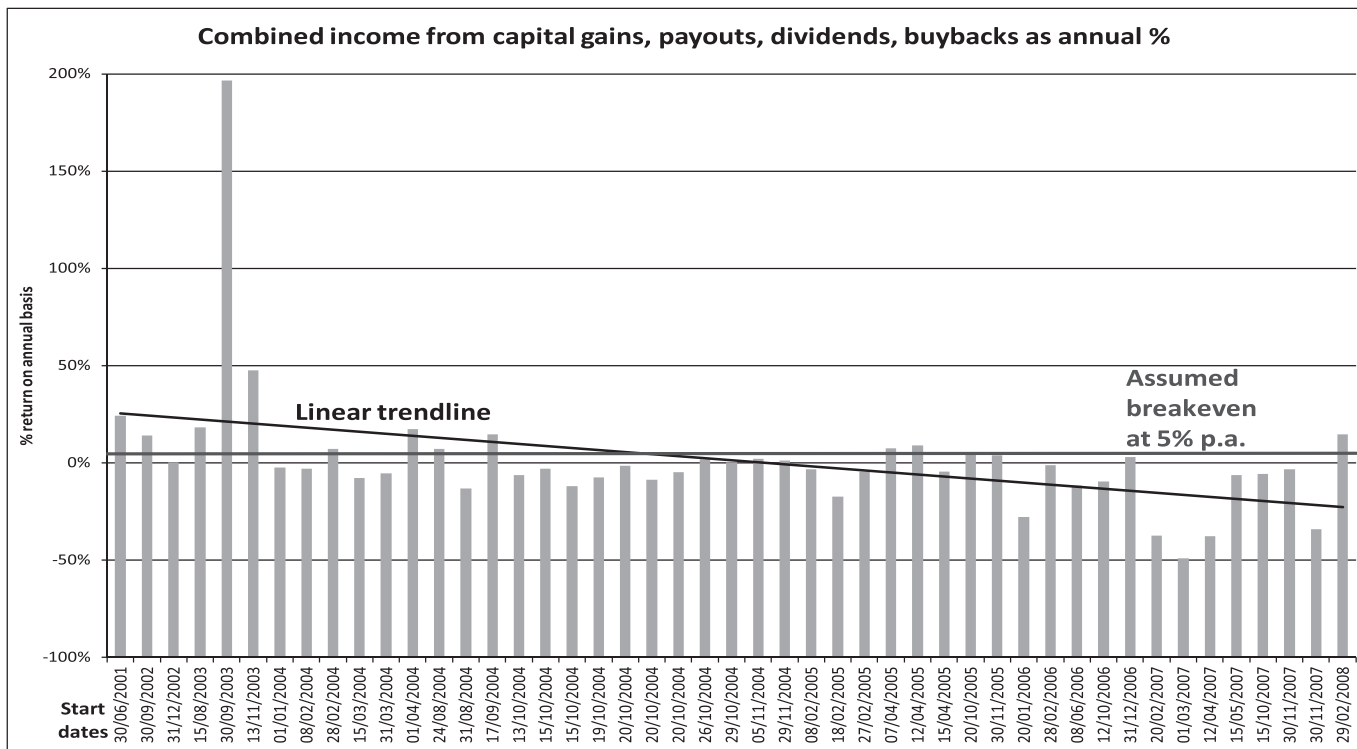
investors and managers, as well as the general public in Japan, were genuinely worried. 2) There was admiration for "U.S.-style" corporate governance. 3) On the financial side, there were low market valuations and very high cash balances for a lot of companies on the Tokyo and Osaka markets. 4) In addition, a group of funds run by Murakami Yoshiaki, known as the Murakami Fund (although there was no such fund of that name) had been investing in and agitating at Japanese companies since 1999. These actions showed foreign investors that their way of thinking could perhaps be imported to Japan.

However, the interventions were not as successful as hoped. Considering the outcomes of interventions in various Japanese companies that started in the years between 2001 and 2008 (Figure 1), all but one had finished by 2010. In terms of successes, defined by a 5% return (a pretty low benchmark given that, for example, in the same period U.S. treasuries had been yielding about 4.6% on average, and the index that Credit Suisse produces on hedge fund returns for activists or semi-activists' shareholdings was about 7.6%), it is clear that success became harder and harder to achieve. At the beginning, there was one case with a 200% return on investment, which was also a quick turnaround. Then, gradually things became worse and worse. The linear trend is that returns consistently declined. Obviously something went wrong.

To consider what went wrong, it is first useful to consider some of the reactions of the management. A senior managing director of Bull-Dog Sauce, a company that was targeted by the activist fund Steel Partners, explained, "I wonder why our company became a target and would like to know the real intention behind this tender offer." This particular company had about 70% of its balance sheet in the form of cash and cash equivalents, yet this senior director still asked the question, "I wonder why our company was targeted?" From the perspective of the hedge fund activists, it is fairly obvious: they wanted the money.

In May 2008 the vice president of J-Power, talking about another fund, TCI, told the Financial Times: "We have exhausted the list of things we can talk

Figure 1: Outcomes in Japan 2001-8: 47 interventions initiated between 2001 and 2008



about.” In other words, he implied that there was no common ground at all; what the fund wanted and what the company was willing to give was so different that there was no way they could come together to reach an agreement.

The CEO of a car parts company offered a very traditional view: “There’s not a single employee in our company who thinks he’s working for the shareholders.” He went on to say, “It’s basically all hard work keeping the customers happy. And that’s how it all hangs together.” He was asserting that the employees in his company don’t care about the shareholders. While this is a particularly outspoken gentleman, and most people wouldn’t have put it so bluntly, many people felt the same way—and still do.

If we look at the reactions of investors, we know that some investors refused even to meet the hedge funds. When Bull-Dog Sauce put through a three-for-one rights issue to dilute Steel Partners, the fund that was trying to take it over, over 80% of Bull-Dog Sauce’s shareholders supported it, even though they were going to pay a lot of money essentially to buy the fund off. When TCI tried to put proposals to Annual General Meetings (AGMs) at J-Power to double the dividend in 2007 and 2008, they were defeated. They got a

surprising amount of support, but never above about 30%. At that time, about 35–40% of the company’s shares were held by non-resident institutional investors, so the AGM proposals didn’t even get the full support of those investors. Finally, when Steel Partners forced out the board at Aderans in 2008, they barely made it, getting just over the 50%, and that was only because one major foreign shareholder changed sides at the last moment. So the investors didn’t like them either.

Moreover, the courts and the bureaucracy certainly didn’t like them. When Steel Partners took Bull-Dog Sauce to court, the Tokyo High Court said: “A company can’t earn its profit without associating with employees, suppliers, and consumers. Thus, it can be said that a company is a social entity. Therefore, it must consider its relationships with stakeholders to enhance its corporate value. The idea that it is enough for a company exclusively to consider shareholder value is too limited.” The Supreme Court said something rather similar, although their main point was that a fund was not really suitable to take control of a company because it couldn’t run it. Steel Partners rather foolishly said that they would not interfere if they took the company over, but this was actually held against them. People thought if they

weren't planning to run the business, they must obviously just be asset-strippers. Finally, when TCI tried to increase its shareholding in J-Power, of course it had to get permission as a non-resident to hold more than 10% in a strategic industry. The comment from the ministries involved was, "Judging by the various proposals from TCI to date...there is undeniably a possibility of unexpected influence upon national energy security." The courts and the bureaucrats didn't like activist hedge funds either.

Clearly, just having laws that protect shareholders and corporate articles that give shareholders power is not enough. There has to be a similarity in corporate governance too. And the drivers of corporate governance are institutionalised practices, outside the law. Management, investors, the courts, and the bureaucracy all followed these embedded practices in one way or another. They kept a form of the law and a form of the regulation. But they interpreted them in ways completely coloured by how they thought a company should be run. Convergence will only come when these drivers are similar. You can't force-feed corporate governance.

Prospects for Change

We have seen that Japanese companies were able to face off activist hedge funds very effectively with the support of their major local investors, the bureaucracy and the courts. However, that does not mean that everything is cast in stone and will never change. I believe that change is possible and that convergence is possible. Although the experience we've just looked at shows robustness, there are also some signs of fragility. The fragility comes in various ways.

First, there is a greater acknowledgement of portfolio shareholders. In Japan it is no longer acceptable to ignore portfolio shareholders, both for economic reasons, because these portfolio shareholders support the company, and for social reasons, because it's no longer acceptable to snub them. Second, there is a definite, very strong need for investment income in Japan for pensions, because of the rapidly aging population. There is a possibility that this will lead to more pressure from Japanese pension funds, from life insurers, and from anyone involved in this industry, to

extract more dividends. And indeed, dividends are going up year by year in Japan.

It's also important to consider the implications of the "atypical workforce," or short-term labour. If the ratio of people on short-term contracts increases steadily, the whole idea of security of employment at the community firm will begin to be undermined. This is a problem for the future. Plus, there has been a focus on excessive management autonomy, beginning in the 1990s with various scandals, through the early 2000s. Most recently, in 2011 there was the Olympus scandal where it became evident that sometimes, if management is not monitored properly, it will get out of control. So pressures for change already exist.

However, change will most likely not bring about an ideal outcome, because historical experience drives corporate governance. Corporate governance is really a series of tacit understandings that "we must fix this," ideas of how to make things work that somehow come together. It isn't written down in a manual anywhere. If it changes, it is unlikely to change in a particularly tidy way. I personally don't believe that Japanese corporate governance will ever be the same as that of the U.S.A., because the local experience has been too different.

I should make one quick note here about American corporate governance. Because the U.S.A. is such an important market and because its economy was so successful in the 1990s, people tend to think of the U.S. system as a benchmark. The unfortunate result is that people tend to talk about other countries' corporate governance models as though they were somehow a deviation from the norm, which they are not. Every country in the world has its own particular blend of corporate governance. People talk about "Anglo-American corporate governance," but there's no such thing. There are a lot of similarities, but corporate governance in the U.K. differs in significant respects from what prevails in the U.S.A. Every country in the world is different, and it's completely wrong to look at the U.S. experience and say, 'This is the way it should go.' As Roe (1996) said: "Although the American result may sometimes be seen as the only efficient path imaginable, it should be viewed as an adap-

tation to the American environment." The same applies in every other country in the world.

What could the outcomes of change be? On the left side of Figure 2, I list three things that I believe distinguish the Japanese system: the idea of the community firm, a high degree of management autonomy, and a lack of shareholder primacy. All of these things bring both benefits and dangers, as the chart shows. The essential point is to find some way of combining the benefits without running into the dangers. I don't know whether this will happen, but these are the choices that the Japanese system faces at the moment.

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Figure 2: Directions of change

<i>Currently</i>	<i>Benefits</i>	<i>Dangers</i>	<i>Pressures</i>	<i>Potentially</i>
Community firm	-Loyalty -Stability -Business focus	-Introspection -Weak financial awareness -Complacency	-Atypical labour -Mobile management	-More focus on finance/reward -Less loyalty -Less business focus
Management autonomy	-Strong leaders -Executive leadership -Collegiate controls	-No controls if internal controls fail	-Calls for external supervision -TOB defence measures	-Dispassionate monitoring -Weaker leaders -Entrenchment
No shareholder primacy	-Investment in business	-Less payout	-Pension needs -Shareholder awareness	-Higher payout -Less invested -Short termism
<i>Somehow these benefits need to be preserved and these dangers need to be avoided</i>				

Inequality of Educational Opportunity in Japan

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Inequality of Educational Opportunity in Japan: Testing the Breen and Goldthorpe Model

The growth of higher education in Japan and inequality of educational opportunity

The government's annual School Basic Survey findings indicate that in 2002, 40.8 percent of men and 35.7 percent of women entered into four-year colleges. By 2012, the college participation rates for men and women had risen nearly 10 percentage points to 50.3 percent and 44.8 percent, respectively. If vocational schools and junior colleges are included, 65 percent of men and 75 percent of women enrolled in post-secondary institutions after graduating from high school. Although interrupted from the mid-1970s to the early 1990s by government policies limiting the expansion of higher education, the rate of student enrollment in post-secondary schools has on the whole climbed throughout the postwar period.

Despite this broad upward trend in higher education, each high school student makes an individual choice over whether and where to continue

her education, a choice that is influenced by the socioeconomic status of her family. College is a costly undertaking and consequently students from affluent families attend college at higher rates than their less financially secure peers.

Money is not the only factor shaping young people's education choices. Their parents' occupations and educational backgrounds have a significant impact as well. For example, students whose parents are professionals such as lawyers and teachers or graduates of four-year colleges are more likely to go to college than other students. These parental impacts on higher education persist after controlling for students' grade point averages.

As the percentage of students entering post-secondary institutions continues to rise in Japan, in my research I aim to clarify how socioeconomic disparities affect educational attainment. In other words, what are the mechanisms that give rise to inequality in educational opportunity?

Long-term trends in inequality of educational opportunity

I have been grappling with the issue of longitudinal trends in access to educational opportunities since I was a master's degree student at Osaka University. Using Japanese social survey data (the Social Stratification and Social Mobility Surveys), I have analyzed the relationships among trends in educational opportunity inequality, education policy, and educational expansion. I found that as secondary education expanded, socioeconomic status became a less powerful predictor of which students would go beyond the compulsory middle years of education to attend high school. However, the reverse was true for college—as higher education expanded, socioeconomic differences became a stronger predictor of which high school graduates would go on to post-graduate institutions. The data reveal that this trend was

reversed when government policies restricted the growth of higher education from the mid-1970s to the early 1990s.

What impact has the continuous rise in the percentage of students attending college had on educational opportunity inequality from the 1990s to today? Data collected from surveys of adults during this period make it difficult to form a clear picture of recent trends. There is, nevertheless, no mistaking the fact that socioeconomic disparities continue to affect educational attainment.

The mechanisms that generate and sustain inequality of educational opportunity

In addition to Japan, evidence from Europe and the United States clearly shows that educational opportunity inequality is also a long-standing problem in the West. Although cross-national comparative research in recent years indicated that the levels of education inequality were declining, inequalities undoubtedly remain, but there have been few studies of the mechanisms that generate these disparities and shape their trends.

In order to understand these mechanisms, I have been applying Breen and Goldthorpe's (1997) model of educational decision-making. Their model points to three mechanisms that shape the education choices of young people: differences in ability and expectations of success, differences in resources, and relative risk aversion. The most innovative aspect of Breen and Goldthorpe's model is their treatment of risk aversion, more specifically, the perceived risk of failing to do as well as one's parents. They hypothesize that, regardless of socioeconomic background, children aspire to achieve at least the same status as their parents. Through the mechanism of risk aversion, the universal wish to avoid downward mobility leads students to pursue different educational strategies depending on the socioeconomic status of their parental reference points.

With middle-class jobs more closely tied to higher education than ever before, children from advantaged households are motivated to enter college to avoid becoming downwardly mobile. Children from disadvantaged households can reasonably conclude that they do not need a college educa-

tion to avoid earning less than their parents. The relative risk aversion hypothesis offers an explanation of the process by which socioeconomic differences are transmuted into unequal levels of education attainment.

Breen and Goldthorpe's hypothesis has been tested in several societies. In Japan, I have tested that the relative risk aversion hypothesis by examining the relationship between fathers' occupations and their expectations for their children's careers and education (Fujihara, 2011). I also have assessed whether differences in high school selection that were associated with socioeconomic status could be explained by relative risk aversion (Fujihara, 2012). The results of these tests generally support the hypothesis, but because secondary data was used in both studies, Breen and Goldthorpe's mechanism was not directly validated.

Identifying the mechanism linking the expectations of high school students and their mothers

To test Breen and Goldthorpe's model with primary data, I formed a research group to conduct a survey of high school students and their mothers in 2012. From November to December of 2012, questionnaires were mailed to 1560 pairs of high school students and mothers. 1070 pairs participated in the survey, a response rate of 68.6 percent. The questionnaire asked for information on the students' expectations regarding their post-secondary education and employment. We also asked the students to rate various career paths and to report on their grades. Their mothers were asked about their expectations for their children's future education and careers as well as detailed questions about the parents' employment, educational background, and household income.

Currently, I am analyzing this data to determine if Breen and Goldthorpe's model can be fruitfully applied in Japan. I am considering high school students' socioeconomic backgrounds, their views of different career paths and higher education, and the relationship between their expected education track and career expectations. I find that, controlling for respondents' likelihood of success and their level of concern over paying for college, high school students are clearly hoping to make career choices that will enable them to

avoid downward mobility (Fujihara, 2013a). Furthermore, 14 to 23 percent of the difference between the college plans of students from different social classes can be ascribed to relative risk aversion (Fujihara, 2013b). This finding, based on primary data, validates the applicability of Breen and Goldthorpe's model in Japan.

In Europe and the United States, research on disparities in educational attainment across social classes has been conducted within the framework of "performance versus choice in educational attainment" (Jackson 2013) in recent years. Unfortunately, this framework has rarely been used in Japan despite its potential to give highly valuable insights into the problem of educational opportunity inequality. Given that the problems of academic standards and achievement disparities are now fueling debate, isn't it time for us to be focusing more on the issue of choice?

Acknowledgement

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What is the point of comparative research? The appeal of examining social differences

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In recent years, I have concentrated on French inheritance and property law, especially its usufruct rights (under which someone may have the right to what is produced on a piece of property even if he does not own the property itself). Although Japan's current civil law system was modeled in part on continental European law, including the Civil Code of France, the concept of usufruct rights was not adopted. The term itself does not appear in the Civil Code of Japan, which makes it quite clear that Japanese law differs from that of France.

If Japan lacks a functional analog to usufruct rights, one might ask why the topic deserves further investigation in Japan. People who study systems of other nations often face questions about what purpose their research serves, and comparative law scholars seem particularly popular as targets of such questions. As I see it, the primary reason for entering any field of study is because it interests you. If a research topic that, at first

glance, seems of little practical use is nevertheless interesting, you may be led to inventory your own thoughts in order to clarify what exactly appeals to you. Furthermore, reflecting on your interest will enable you to become aware of the peculiarities of your own society. In my own case, the more deeply I engage with French law, the more insight I gain into Japanese law and the structures of Japanese society. Venturing outward to understand where one came from is the true purpose of studying other cultures and a central tenet of humanism.

Article 578 of the French Civil Code states, "Usufruct means the right to enjoy things of which another has ownership in the same manner as the owner himself, but on condition that their substance be preserved." Traditionally, a usufruct was described as a product of the "dismembering" (*démembrement*) of the right to property. In dismembering it, the usufruct rights entitle the holder to use (*usus*) and profit from (*fructus*) the property of another person. After usufruct rights are spun off, the owner of the residual property rights has lost two important subdivisions of the powers over his property. This diminished state of ownership is called "naked" or "bare" ownership (*nue-propriété*). The Japanese equivalent of this term is *kyoyūken*, which can be translated as "empty" or "nominal" ownership. A bare owner may have had his property rights stripped down, but because he retains the power to dispose of the property (*abusus*), the most important power of all, he retains ownership whether or not he can use and profit from what he owns.

The above description of the conceptual operation of usufruct rights has been a legalistic one, so turning to how usufruct rights are used may bring the issue into slightly sharper focus. The following is a typical example. The owner of a

piece of real estate gives up a portion of her property rights by creating a usufruct. The original owner retains the usufruct and transfers bare owner property rights to another party. This type of transaction most commonly occurs when parents give property to their children prior to the parents' deaths; these transfers are formally known as donations *inter vivos*. Because the parents with the right to property hold the usufruct, they are said to "retain usufruct rights" (*réserve de l'usufruit*).

Through this process, the usufruct holders/donors/parents can continue to use a property throughout their lifetimes. As for the bare owners/donees/children, they can eventually inherit the property without legal complications because usufruct rights expire upon the death of the usufruct holder (French Civil Code, Art. 617); in other words, they are not inheritable. When the usufruct holder dies, the usufruct rights are automatically returned to the bare owner (*réunion*), who becomes the sole owner with full authority to use, profit from, and dispose of the property.

The real reason why usufruct arrangements are prevalent in France is the preferential treatment they receive under French tax laws. If, during her lifetime, a parent gives a child property, the transferred property is subject to a gift tax. Giving a child only bare ownership exempts the usufruct value of the property from taxation. When the parent dies, the usufruct rights will be held by the child, but that "reunion" of property rights is seen as the legal effect of the extinction of the usufruct and not an intentional transfer from parent to child. Therefore, an inheritance tax is not imposed. The "retention of usufruct" is a well known tax-avoidance scheme.

After reading this outline of how usufruct rights are used to transfer property among family members in France, the reader may well be wondering what is so interesting about this topic. To make that case, I need to introduce one more function of usufruct rights—the protection of surviving spouses. As noted above, usufruct rights are extinguished once the "usufructuary" (the one who holds usufruct rights) dies, but there is a specific legal exception to this rule. If the first usufructuary dies, his usufruct rights go to the

second usufructuary under what is known as the usufruct reversion (*réversion de l'usufruit*) clause. It is quite common for one spouse to be designated as the first usufructuary and the other spouse as the second usufructuary. In this situation as well, the bare owners are in most cases the couple's children.

Imagine a married couple in which the husband is the property owner. When the usufruct rights are reverted, his wife, who was living with him, receives the use rights to the home they had shared and thus can continue to live in that home after her husband's death. If she prefers to enter an elderly care facility, she can even rent out the home on the basis of the right to profit from property, and so cover the expenses through the rent she receives. In short, her ability to use (*usus*) or profit from (*fructus*) the property throughout her lifetime is guaranteed. Because the bare owner children never possessed usufruct rights, they cannot legally object to the way their mother, the second usufructuary, takes advantage of the property. The reversion of usufruct rights to the surviving spouse is presumably most consequential in cases where the widow or widower is a step-parent. This legal arrangement can therefore forestall family disputes.

Let us turn to the Japanese way of handling inheritance. Although I cannot offer quantitative data, the surviving spouse situation described above is generally handled by families in Japan in one of two ways. First, after a spouse dies, the property not immediately divided among his or her heirs. Until the surviving spouse dies, the division of inheritance is "postponed." The second option is that the estate is divided up among all of the heirs, at which point all of the heirs except for the widow or widower "renounce" their inheritance (technically, the heirs transfer their portion of inheritance to the surviving spouse, which is not the same as a renunciation of succession). This situation is most common for couples with children. Both of these ways of dealing with inheritance are intended to protect the surviving spouse from any family disputes that might be incurred in a more complicated ownership arrangement.

These methods share a common shortcoming,

which is they only work when the other heirs are willing to put the surviving spouse's interests ahead of their own. Indeed, Japanese law does ensure that a surviving spouse inherits a larger share of the estate than in other nations, but the potential for disputes over the division of the estate remains (the architecture of the legal mechanisms that greatly preserve the widow or widower's share in inheritance in cases where there is no will is one of peculiarities of Japanese law. This is related to Japan's matrimonial property regime, a topic that cannot be discussed in detail here).

Although more people are now clarifying how their property should be handled after their deaths by writing wills, such preparations are not yet common. Still more uncommon are people who can correctly anticipate potential conflicts amongst their family members by donations *inter vivos* and lead them to consensus over exactly how any property should be dealt with. For example, if one child has been the sole caregiver for his elderly parents, that child might assume that he would therefore deserve to be the sole heir. Such interpretations and expectations can lead to family infighting when the parents' intentions are not documented.

In France, as touched upon briefly above, it is standard practice to make arrangements for the transfer of property to family members during one's lifetime (of course, the frequency and extent of arrangements differ depending on the size of the estate). For instance, their children can agree on a *donation-partage* with parents, a mutual agreement over how their eventual inheritance will be apportioned. As in the case of giving bare ownership while retaining usufruct rights mentioned earlier, or the reversion of usufruct rights to a surviving spouse, *donation-partage* is a type of contract among family members.

These agreements are overseen by *notaires*, legally trained professionals empowered by the state to draft and execute legal deeds such as wills (incidentally, Japan's public notaries (*kōshōnin*) are government officials whose duties are similar but not identical to France's *notaires*). It is even possible that families that create usufructs to reduce their taxes may end up paying much of what they saved to cover their *notaires'* fees. Whatever one makes of estate planning in France in regards to its costs, its use as a tax avoidance tool, or its serving as the *notaires'* livelihood, the usufruct system helps the relevant parties to decide for themselves, in advance, how family property will be parceled out when a family member dies.

On a different note, we can credit French society for creating an intricate blend of various systems to facilitate family estate planning based on mutual agreement, in accordance with French social norms. If you look at legal systems as dry and colorless abstract formulations, you will not understand why I find them intriguing. But if you look beyond the formal structure, you will find that a legal system expresses a society's shared understanding of a particular issue and thereby reveals a society's structure and the ties that bind it together.

What do Japan's inheritance laws reveal about its society? What characteristics are embodied in its tax system? Or in the role lawyers play? Can we say that Japan has a proper gift law system? Studying the laws of other nations opens up new lines of inquiry; finding answers to each of the questions along those lines is, to me at least, a worthy objective. As I mentioned at the beginning of this essay, carefully delving into what led us to intuitively find a topic interesting is the starting point for productive research.

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Daniel P. Aldrich

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New Data on the Black Wave: The Role of Village-Level Factors in Mortality

April 25, 2013

Abstract: The consequences of the 3/11 compounded disaster were not distributed equally across the coastal towns, villages, and cities of the Tohoku region of Japan. Instead, the mortality rate due to the tsunami varied tremendously from zero to ten percent of the local population. What accounts for this variation remains a critical question for researchers to answer. This paper uses a new data set of roughly 300 coastal villages in five prefectures to untangle the factors connected to mortality during the disaster. With data on demographic, geophysical, infrastructure, social capital, political, and economic conditions, we find strong effects of tsunami characteristics, social capital measures, and demographic conditions. These findings have important policy implications for future disasters in Japan and abroad.

Andrew Gordon

Lee and Juliet Folger Fund Professor of History, Harvard University

Making Sense of Japan's "Lost Decades"

May 15, 2013

Abstract: The change in domestic and global understanding of Japanese society and economy over the past twenty years has been extraordinary, from Japan as miracle, model, or menace in the 1960s-80s, and into the mid-1990s, to Japan as declining land of systemic failure. Surely the former perceptions were exaggerated, and the recent drumbeat of a discourse of decline may be so as well. How might we parse the grammar of the discourse of decline? And how does it connect to social trends and political economy? As I am at the early stages of a project to examine these questions, I hope to use this occasion to raise them (rather than to answer them), and to seek thoughts and guidance from the audience on ways to approach them.





Tom Gill

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Fukushima and Furusato: Rural Community After Nuclear Disaster

Abstract: Everyone in Japan is supposed to love their hometown or *furusato*, celebrated in hundreds of sentimental songs as an idyllic rural community with a relaxed pace of life. There is an irony there, of course, since some most of Japan's population has long since abandoned rural life. But many victims of the 3.11 disasters lived in small rural communities, with a lifestyle based on the three-generation family living under a single roof. The 3.11 disaster has forced people displaced from rural communities in

Fukushima to confront the question of what 'home' really means. Is it defined by a locality, or by the people who live there? And if you have to abandon one or the other, which do you choose? The land and the houses are still there; the radiation levels are slowly coming down. As the government slowly lifts evacuation orders on the contaminated towns and villages, the questions of who will return and when are becoming more pressing.

Many thorny issues are involved such as whether one trusts government assurances of safety, whether one still considers the place home after years living elsewhere, whether children now used to the conveniences of city life will be happy to return to a remote rural dwelling, whether living in the ancestral *furusato* will expose one's family to discrimination, and whether one can afford to live elsewhere after government compensation payments cease. In this presentation I will take a close look at how these issues are playing out for people from one of these rural communities – the hamlet of Nagadoro in Iitate village. The hamlet is now deserted and barricaded, its population scattered. Will the community survive and, if so, how and where?

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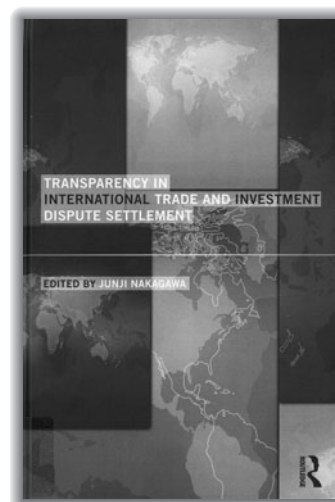
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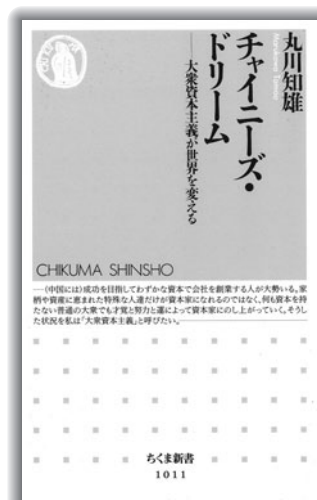
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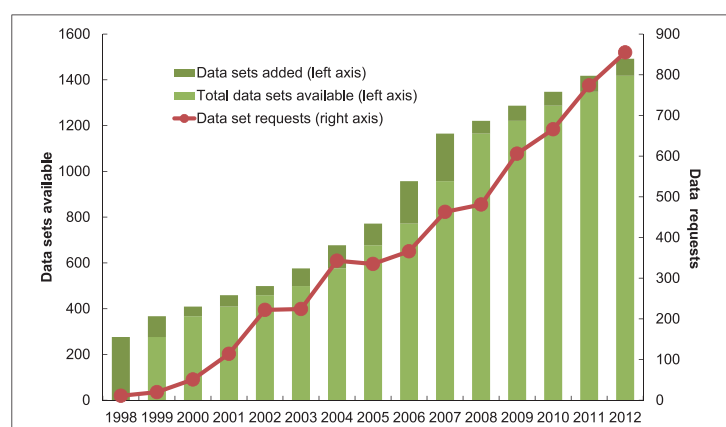
The Social Science Japan Data Archive—Accessing Insight into Japan

SATO Kaoru

Background

The SSJ Data Archive (SSJDA) was launched by the Institute for Social Science (ISS) in 1996. Originally known as the Information Center for Social Science Research on Japan, the archive has been providing micro data from social surveys to researchers since April 1998. Following a reorganization in 2009, the archive was made part of the Research Infrastructure Group within the Center for Social Research and Data Archives (CSRDA). The SSJDA's mission is to collect and store social survey micro data from a wide range of institutions and researchers, and to keep this valuable information from disappearing from view. The SSJDA makes these data sets available to the academic community for secondary analysis. Currently, more than 1400 data sets are available. In 2012, the SSJDA received 855 requests for data from around the world (chart 1).

Chart 1. Growth of the SSJDA Collection and Data Requests



Major Surveys at the SSJDA

The data sets are archived at the SSJDA, where each set undergoes data cleaning to facilitate analysis and are provided to researchers free of charge. The SSJDA data sets include major studies such as the Japanese General Social Surveys Series, the Japanese Life Course Panel Survey, the National Family Research of Japan Surveys, and Nationwide Longitudinal Survey Study on Voting Behavior in the Early 21st Century (JES III). English language abstracts of many of the important data sets at the SSJDA can be found at <http://ssjda.iss.u-tokyo.ac.jp/en/access/datalist/>. Each of these data sets offers exceptional insights into Japanese society and Japanese people.

Research and Education

The SSJDA data can be used in two ways. First, researchers as well as graduate students have full access to the data for their own research and analysis. Second, a limited amount of data is available for researchers for educational purposes and for undergraduates for their own research. For more information, please refer to the CSRDA website: <http://ssjda.iss.u-tokyo.ac.jp/en/access/how/>.

The SSJDA was created to assist researchers by providing them with empirical data that will deepen their understanding of Japan. Inquiries and requests, which are most welcome, can be sent to ssjda@iss.u-tokyo.ac.jp. The SSJDA staff look forward to working with many researchers around the world.