

Silent Land Use:
The Political Economy and Legal Structure of a Government-Based System
of Land Use in Japan

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Abstract

Many foreigners liken Japanese houses to “rabbit hatch,” which may describe not only the small sizes of Japanese houses but also the disordered and uncomfortable land use planning. In contrast with the United States, land use in Japan is controlled by central ministries and local governments rather than the wishes of its citizens. Following public criticism of an existing, centralized administration system, the central government implemented decentralization reforms called “the third reform” in 1999,[is this a separate thing or another way of identifying the same reform.?] enacted Chihou Bunken Ikkatsu Hou [The Comprehensive Decentralization Law(CDL)] and revised Toshi Keikaku Hou [The City Planning Law(CPL)] in 2000.

However, even after the reforms, many municipalities hesitate to establish their own local ordinances, for fear that these will be preempted by national laws. Instead, they utilize undemocratic and informal measures to control land use, such as Youkou [Outline Guidance], and Gyousei Shidou [Administrative Guidance].

To clarify the problems underlying the land use system in Japan, this paper considers institutional, political and economic analyses of the Pre-Reform system as well as a statutory analysis of the legal reforms. In addition, to identify the effect of the reforms, this paper discusses empirical research conducted on municipalities which have adapted their land use programs to the reforms. This paper examines three hypotheses regarding the revision of the CPL:

- 1) That the reform enhanced the legal flexibility of municipalities in establishing local ordinances.
- 2) That the restricted delegation by the CPL leads to a “Chilling Effect” which prevents municipalities from adopting local ordinances despite their authority to do so.
- 3) That many municipalities are faced with a perverse incentive to spend as much as possible to be subsidized by the central government.

In conclusion, this paper suggests 1) that it is necessary to create a legal foundation for broader delegation of land use decisionmaking to municipalities, 2) that to increase transparency regarding the allocation of national tax income is desired and 3) that the implementation of land use policies based on the intent of citizens rather than a sectionalized bureaucracy should be promoted.

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