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AN EXPLORATION INTO EFFECTIVE PUBLIC-PRIVATE PARTNERSHIPS IN JAPAN THROUGH AN ANALYSIS OF SIB CASES IN THE PRISONER REENTRY FIELD IN THE U.S.

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LIST OF ABBREVIATIONS

PPP	Public-Private Partnership
SIB	Social Impact Bond
PFS	Pay-for-Success
MRT	Moral Reconciliation Therapy
DOC	Department of Correction
PFI	Private Financial Initiative
VFM	Value for Money
VPO	Volunteer Probation Officer
PPO	Professional Probation Officer

Introduction

The term Public-Private Partnership (PPP) does not have a universally accepted legal definition. It can be used to describe a wide variety of arrangements between public and private sector actors collaborating to provide a public asset or service.¹ A Social Impact Bond (SIB), the main focus area of this research, is a type of PPP that embeds a Pay-for-Success (PFS) contract that is commissioned by public authorities to provide social goods and services.² SIBs mainly encourage non-profit organizations to raise funds for activities that aim to increase positive social outcomes and benefit society and all stakeholders, encouraging effective collaboration between public and private sectors.

The first SIBs began in the reentry field in the UK in 2010. Since then, SIBs have attracted worldwide attention. The Group of Eight (G8) hosted by the UK in 2012, marked a clear turning point and prominence of SIBs in the discourse. Since then, federal and local governments in the U.S. have developed the SIB model further. They have installed SIB frameworks in various kinds of fields, such as a criminal justice, education, health care, and so on. Therefore, the success of SIBs in the U.S. can be measured across a wide range of contexts.

In Japan, although the number of people who commit crimes has been declining, the recidivism rate is significant and still on the rise. In fact, roughly 50 percent of the cleared persons for Penal Code offenses in 2017 were re-offenders, and the percentage of re-imprisoned inmates represented about 60 percent of all inmates.³ Therefore, decreasing the recidivism rate is critical to decreasing crime overall and creating safe and secure communities. Preventing the

¹ Edward Farquharson et al., *How to Engage with the Private Sector in Public-Private Partnerships in Emerging Markets* (Herndon: World Bank Publications, 2011) 9.

² OECD, *Social Impact Investment: Building the Evidence Base* (Washington: Organization for Economic Cooperation & Development, 2015) 45.

³ Ministry of Justice, *White Paper on Crime 2018* (Japan: Ministry of Justice, 2018) pts. 5–1.

repetition of crimes and delinquencies, however, is a major challenge. The Ministry of Justice carries out various measures to ensure citizen safety, including countermeasures for repeated offenses. However, there is still a long way to go to reach its goal of effectively reducing criminal re-offense.

As the Japanese government has just recently started to become interested in SIBs, Japan does not have enough information or experience in this area. There have only been some cases implemented by local governments, and none by the central government. In order for the Japanese government to develop SIBs and enjoy their benefits most efficiently, it should refer to successful SIB cases carried out by the U.S. in the reentry field. The reentry field would be an appropriate area for Japan to install SIB models for two reasons: the first known SIB case was implemented in the reentry field, and the Japanese government is currently suffering from high-rate of re-offenses. If the government can successfully implement SIBs in Japan's reentry field, all stakeholders can benefit from their positive impact and take a major step toward reducing recidivism rates.

In this research, I explore how the Japanese government can maximize the benefit of SIBs in the prisoner reentry field for effective collaboration between the public sector and the private sector. However, there are huge cultural and institutional differences between the U.S. and Japan, such as the roles and maturities of key stakeholders in the SIB framework and the criminal justice system structure. Also, there are numerous practical issues that could negatively affect the successful implementation of SIB projects. Thus, in this paper, I seek to uncover the hurdles that hinder the widescale adoption of SIB models and identify ways the government and the private sector can collaborate more effectively to formulate impactful evidence-based reentry programs.

In the following sections, I first introduce what SIBs are and how they work by describing a significant early case. Then, I discuss the elements of SIBs by dividing them into four essential stakeholders' perspectives. Finally, after explaining the unique PPP environmental factors in Japan by putting SIBs in the PPP context, I analyze the main concerns of when SIBs are installed in Japan.

What are SIBs?

Definitions and Features

SIBs are a framework based on Pay-for-Success (PFS) contracting, an approach used to create contracts that tie the payment for service delivery that achieves measurable outcomes.⁴ The PFS concept is a financial instrument or strategy in which social service providers get paid only when a specified social objective is achieved.⁵ Traditionally, contracts or grants to support social service delivery have been “Pay-for-Service,” as payment is based on the volume of services delivered or output (e.g., number of students taught in a job training program). In contrast, “Pay-for-Success” outcomes can measure longer-term change; for example, number of job training participants who find and keep a job and experience an increase in earnings (see Table 1).⁶

PFS contracting describes the relationship between governments and social service providers (see Figure 1). SIBs, on the other hand, are a framework that combines the PFS contracting with investment from private investors and evaluation from independent evaluators

⁴ Nonprofit Finance Fund “Invest in Results: Pay for Success and Other Outcomes Funding” *Nonprofit Finance Fund*.

⁵ Ronnie Horesh, “Injecting Incentives into the Solution of Social Problems: Social Policy Bonds,” *Economic Affairs (Harlow)* 20 (3) 2000: 39.

⁶ Nonprofit Finance Fund “Invest in Results: Pay for Success and Other Outcomes Funding” *Nonprofit Finance Fund*.

(see Figure 2). In other words, PFS contracting only includes governments and social service providers as stakeholders. SIBs add private investors and independent evaluators to these stakeholder relationships. In the simple PFS contracting framework, service providers cannot be subsidized by the public sectors until they confirm that the onset outcome has been achieved. Therefore, some service providers that have promising services but weak operating foundations may not be able to afford the budget for social services. By combining the PFS contracting with investment from private investors, SIBs enable such social service providers to enter the framework, receive funding, and provide goods or services to their target population. In addition, individual evaluators play an important role in the SIB framework as they impartially determine whether social services meet onset outcomes.

As described above, governments, service providers/target population, investors, and evaluators are the four essential stakeholders in the SIB framework. It should be noted that the SIB model is designed based on the available resources; thus, different projects have slightly different structures. For example, in some cases, one of main four stakeholders may be absent from the structure. In other cases, an intermediary or special purpose vehicle (SPV) may add their roles to the basic framework that I already introduced.

Advocates for SIBs insist that the SIB model brings mainly three benefits:⁷

- Risk transfer - the public sector only has to pay for effective services as the third-party investor bears the risk of services that are potentially proven ineffective.
- Encouragement of innovation - the risk transfer enables innovation since investors and service providers have incentive to make their social enterprises as effective

⁷ Eleanor Carter et al., “Building the tools for public services to secure better outcomes: Collaboration, Prevention, Innovation,” *Government Outcomes Lab (GO Lab)* 2018, 11.

as possible. They may even have a chance to get high returns, as the larger the impact they have on the outcome, the larger the repayment they will receive.

- Formulation of evidence-based intervention - since the SIBs include an evaluation to determine if outcomes are met, they actively build evidence-based programs with a track record of success.

History and Current Situation of SIBs

The first SIB project started in 2010 as a program organized by the Ministry of Justice of the UK to support rehabilitation for short-term male prisoners at Peterborough Prison. Afterward, efforts to prevent recidivism using SIB models spread to the U.S.

Even though the U.S. represents just five percent of the world's population, American incarcerated population is approximately 2.2 million, representing 25 percent of the world's incarcerated population.⁸ These numbers have increased since 1980. Six hundred ninety-eight people per 100,000 people were incarcerated in 2014, which is almost five times the average rate among OECD countries.⁹ Given these high incarceration rates, the U.S. has incentives to improve effective ways to reduce recidivism.

There are some example cases of SIBs designed to reduce recidivism, such as “Social Impact Bond Project at Rikers Island,” “New York State Recidivism and Workforce Development Project,” and “Massachusetts Juvenile Justice Pay for Success Initiative” (see Table 2).¹⁰ The Rikers case has been evaluated as unsuccessful because it did not meet its pre-defined success threshold for reduction of the recidivism rate and was discontinued three years

⁸ Etienne C. Toussaint, “Incarceration to Incorporation: Economic Empowerment for Returning Citizens through Social Impact Bonds,” *Journal of Affordable Housing & Community Development Law* 25(1) 2016.

⁹ Brookings, “Correctional Rate in the United States, 1980-2014,” *The Hamilton Project* 2016.

¹⁰ Nonprofit Finance Fund, “Pay for Success: The First 25,” *Nonprofit Finance Fund* 2019: 6-9.

later. The New York State and the Massachusetts cases have not been evaluated yet.¹¹ Therefore, in this paper, I only go into the details of the Rikers case since the New York State and Massachusetts cases have not provided enough information to be analyzed. Although the Rikers case was ultimately evaluated as unsuccessful, a deep analysis of the Rikers case provides a sufficient explanation of how the SIB model works and to foster further discussion.

Case Introduction: Rikers Case

As the first step of this research, I analyze “Social Impact Bond Project at Rikers Island.” First, I present an overview of the Rikers case to provide a big picture of how the SIB model works. Next, I describe the evaluation of this case by scholars. The details of this case have been acquired from the report written by the Manpower Demonstration Research Corporation (MDRC), which participated in this project as an intermediary.¹²

Case Overview

The Rikers case is the first SIB case in the U.S. At that time, low-income adolescents continued to commit criminal activity in New York City, with nearly half of released individuals returning to prison within a year of their release. From the viewpoint of prison operating costs and the proper development of young people, these rates have become a huge problem. In 2012, New York City implemented a project using face-to-face group therapy (Moral Reconciliation Therapy: MRT) based on Cognitive Behavior Therapy in Rikers Island (Adolescent Behavioral Learning Experience: ABLE). The objectives of the project were to reduce recidivism rates and

¹¹ Social Finance, “Increasing Employment and Improving Public Safety in New York State,” *Social Finance*. ; Third Sector Capital Partners, “Massachusetts Juvenile Justice PFS Initiative,” *Third Sector Capital Partners*.

¹² Gordon Berlin, “Learning from Experience: A Guide to Social Impact Bond Investing,” *MDRC* 2016; Inna Kruglaya, “Financing Promising Evidence-Based Programs,” *MDRC* 2013.

break the cycle of repeated incarceration. A 9 percent reduction of recidivism rate was set as a minimum threshold of target outcome, which the service providers were supposed to achieve with the target population of the first year to continue the project. A 10 percent reduction of the recidivism rate was also set as the minimum threshold for the DOC to fully repay investors with the amount they had paid.

First, the Mayor's Office and the Department of Correction (DOC) in New York City selected the Manpower Demonstration Research Corporation (MDRC) as an intermediary, which was the core component of the project. The MDRC played a central role in project formulation based on communication from the early stages between the Mayor's Office and DOC. Goldman Sachs Bank announced its financial investment in this project, and Bloomberg Philanthropies promised to provide support to ensure a portion of Goldman Sachs Bank's investment as well. The Osborne Association (Osborne) and Friends of Island Academy (Friends) were selected as service providers. MDRC provided education and supervision to the service providers and operated the entire project. The results of the program were independently evaluated by the Vera Institute of Justice (Vera).

Stakeholders had a contractual relationship centered on MDRC (see Figure 3). MDRC signed a PFS contract with DOC. Goldman Sachs Bank financed up to \$9.6 million to carry out the project. The cost to implement the project was estimated at \$2.4 million annually. First, Goldman Sachs Bank financed \$7.2 million for the three years from 2013 to 2015. Whether or not investments continued in the fourth year (2016) would be decided based on the outcomes (decreased recidivism rate) achieved up to 2015. When the desired outcome was achieved, DOC would pay a reward commensurate with the degree of achievement of the outcome to Goldman Sachs Bank through MDRC. Next, two types of subsidies from Bloomberg Philanthropies were

provided to MDRC. The first was payments guaranteeing the Goldman Sachs Bank's loan. If the desired outcome was not achieved, Bloomberg Philanthropies would pay a maximum of \$7.2 million to Goldman Sachs Bank, and DOC would pay no compensation. Second, Bloomberg Philanthropies also provided subsidies to MDRC for the transaction costs, such as monitoring and personnel costs that are necessary to manage the intervention program on a daily basis. Also, MDRC signed a contract with the service provider Osborne, and Osborne also signed a subcontract with Friends.

A one-year assessment of the MRT's effect on recidivism announced by Vera in 2015 showed that the program did not lead to substantial reduction in recidivism among participants at Rikers Prison. Because the initial outcome goal (the 9 percent reduction of recidivism rate) was not met, the payment from DOC did not happen. As a result, Rikers case was called off in 2015.

Evaluation by Specialists

The Rikers case was not able to achieve the initial outcome goal and was discontinued. Therefore, this project is often evaluated as a failed case. However, in examining the Rikers project as an example of SIB projects, some experts consider it successful for the reasons below.

First, the Rikers case proves that, as a function of SIBs, governments can avoid paying for underperforming programs. In this project, New York City and New York citizens spent zero dollars. Most governmental projects so far have paid service providers regardless of whether or not the goals were met based on the Pay-for-Service contracts. This case proved that, by introducing SIBs, setting the outcome goal of the project, and measuring the project's outcomes, the government and citizens only had to pay for successful projects.¹³

¹³ James Anderson et al., "What We Learned From the Nation's First Social Impact Bond," *Huffington Post* 2015: para.4; Rayanne Hawkins et al., "Using Pay for Success in Criminal Justice Projects," *Urban Institute* 2017: 13.

Second, the Rikers case also shows, by using the SIB framework, governments can accumulate and analyze data, which makes it possible to maximize the stakeholders' ability to find and select programs that can achieve real outcomes. Governments should have insight and data to judge the success or failure of a project. However, oftentimes, this data does not exist in the first place. And even when they do, governments often lack the ability to analyze it. In the Rikers case, New York City collected a lot of data about the effectiveness of the MRT program through the project implementation. New York City also analyzed the data with the cooperation of Vera, which calculated the recidivism rate and compared it with the number of the control group to determine how much it decreased. Therefore, the government could draw the reliable conclusion that "MRT cannot exert its expected effect at Rikers Island Prison and cannot achieve the expected results" from this case, and apply this conclusion to future cases.¹⁴

Finally, the Rikers case indicates that SIBs make it possible for governments to implement promising programs to prevent social issues before they become apparent, even when their budget is tight. Today, the budget situation is severe in most governments. The budget tends to be preferentially allocated reactively to address problems that have already emerged. On the other hand, the budget for programs aiming to proactively prevent social issues tends to be cut first. This tendency becomes more pronounced for new preventive programs because without a proven track record of success, they may be risky ventures. However, in the SIB framework, governments can utilize private funds. Therefore, governments can try new promising services expected to produce desired results without budgetary constraints.¹⁵

¹⁴ Jim Parsons et. al., "Impact Evaluation of the Adolescent Behavioral Learning Experience (ABLE) Program," *Vira Institute of Justice* 2016: 21.

¹⁵ James Anderson et al., "What We Learned From the Nation's First Social Impact Bond," *Huffington Post* 2015

Discussion of the Elements of SIBs (through Analysis of Rikers Case)

Essential Stakeholders of SIB Framework

In the Rikers case, the program did not achieve the onset outcome. However, experts see the SIB framework itself still functioned as expected: the government implemented the new project within their tight budget, taxpayers' money was not used for the program, and data about program progress and outcomes were collected and analyzed. This analysis is a silver lining for the popularization of SIBs. Still, SIBs require the collaboration of many stakeholders who all have different respective roles, perspectives, benefits, and challenges. These discrepancies sometimes make effective collaboration difficult. In this section, therefore, I explore the benefits, challenges, roles, and perspectives of each stakeholder by further analyzing the Rikers case and some other cases. As I mentioned earlier, the essential stakeholders of the SIB framework are investors, evaluators, service providers and target population, and governments. Thus, I mainly discuss (1) attractiveness for investors, (2) measurability of outcomes, (3) consideration of service providers and target population, and (4) commitment from the administrations.¹⁶

Attractiveness for Investors

Attracting investors is essential to the success of an SIB. One of the benefits of promulgating SIB frameworks is that governments can implement their policies and address social problems even within their tight budgets by utilizing private investments. Since SIBs adopt outcome-based payment that frees governments from paying investors back even when the

¹⁶ ゆり 細野 他, ソーシャル・インパクト・ボンドの導入可能性と課題: 平成26年度調査報告書 (横浜: 神奈川県政策研究・大学連携センター, 2015) 11; ゆり 細野, “ソーシャル・インパクト・ボンドの成立過程と日本における再犯防止への適用に関する考察: 英国行政改革と刑事政策の民営化を踏まえて,” 早稲田大学社会安全政策研究所紀要 / 早稲田大学社会安全政策研究所 編8 2015: 111-12.

projects do not achieve the onset outcome, the financial risk is transferred from governments to investors. Investors, in this structure, are the only stakeholders who can incur losses. At the same time, investors bring their critical and financial perspective to the framework, which can be helpful for innovation. Innovation is fostered in projects as investors analyze service delivery models with “fresh eyes,” question traditional approaches, and test new ways of working.¹⁷ Therefore, attracting investors for the SIB frameworks is an essential element of successful projects.

It should be noted that even though some specialists place the most emphasis on investment from charitable organizations and philanthropists, governments should not stop looking for new ways to attract for-profit investors.¹⁸ It would be more challenging to solicit charitable money in some countries, such as Japan, where donation culture has not been matured. Therefore, I illustrate below, what challenges exist in attracting investors to join the SIB framework, how to overcome those challenges, and how we should design SIBs as financial products to attract mainly for-profit private investors.

One of the challenges of attracting investors is the lack of evidence regarding the effectiveness of the reentry programs. From the investors’ perspective, they can pursue financial benefits by receiving the returns on investment in addition to the social benefits of joining the SIB framework (and a project that aims to benefit society), but it places the risk on them. For-profit investors, in general, estimate risks and returns before making investments. Specifically, for-profit investors often (1) analyze the mechanism of payment to ensure that the incentives of sufficient returns for achieving targeted outcome are enough, (2) investigate the service provider

¹⁷ Alice Sharman, “Peterborough SIB Did Not Foster Innovation, Evaluation Finds,” *Civil Society News* 2016: para. 9.

¹⁸ Y V Vertakova, “Development of Social Investment in Regional Indicative Planning: Possibilities of ‘Social Bonds’ in Public-Private Partnership,” *European Research Studies* 21 2018: 1005.

to check not only its capacity of program implementation, but also its project management and data management skills, and (3) assess the appropriateness of the intervention program by ensuring that it has a sound rationale.¹⁹ However, which interventions are most likely to deliver the desired result is not always clear because much remains unknown in the “what works, to whom, in what circumstance” study of reentry programs.²⁰ Lack of evidence for evaluating the effectiveness of SIB projects leads to difficulties for investors in making rational investment decisions.²¹

On the other hand, if investors only choose the programs with proven theoretical and empirical effectiveness, then one of the SIB’s benefits, encouragement of innovation, is underplayed. In this case, the methods of interventions are only supposed to replicate past interventions with proven results, which creates less room or discretion for innovation and experimentation.²² Therefore, stakeholders should consider the level of emphasis on the encouragement of innovation among other benefits to increase the attractiveness for investors. This argument can be easily understood by comparing the current trend in the U.S. and the UK. In the UK, SIBs have mainly been used to try seemingly innovative interventions. In the U.S., by contrast, SIBs have typically been used to scale up pilots, initially financed by governments or philanthropies, that have already shown positive results. In the U.S., SIBs are characterized to scale up interventions that have already been proven to be effective, so that investors, who focus on proven results, can be solicited relatively easily. In contrast, in Europe, including the UK,

¹⁹ 明治大学 非営利・公共経営研究所, “2015年度 英国調査 英国におけるソーシャルインパクト・ボンド (SIB) と社会的インパクト投資に関する研究,” 非営利・公共経営研究 調査研究シリーズ No.32 2017: 61.

²⁰ David B. Muhlhausen, “An Overview of Offender Reentry (2018),” *National Institute of Justice* 2018: 1.

²¹ Chris Fox et al., “Payment by Results and Social Impact Bonds in the Criminal Justice Sector: New Challenges for the Concept of Evidence-Based Policy?,” *Criminology & Criminal Justice* 11(5) 2011: 401.

²² Chris Fox et al., “Payment by Results and Social Impact Bonds in the Criminal Justice Sector: New Challenges for the Concept of Evidence-Based Policy?,” *Criminology & Criminal Justice* 11(5) 2011: 404.

SIBs are regarded as financial tools to try out new untested ideas because they mitigate the governments' economic risks even if the project fails. Compared to the U.S. model, the UK model places emphasis on the second benefit of SIBs: encouraging innovation.

In addition, there are various kinds of risks in each stage, which could prevent investors from ultimately receiving returns. Investors face dual risks of investing in SIB projects: performance risks and appropriations risks.²³ The definitions of those risks are:²⁴

- Performance risks: the chance that the project will fall short of its intended outcomes, leading to an investor failing to receive a return and losing all or part of its principal.
- Appropriations risks: the potential that the end payer (typically a government) will not repay the investor even if the project meets its outcome targets.

In other words, investors suffer not only from the risk that the interventions will not achieve predefined outcomes, but also the risk that governments will not reimburse returns even if predefined outcomes are achieved.

Performance risks stem from various factors, such as the lack of service providers' capability, the overestimation of intervention program efficacy, and even the limitation of measurability. To mitigate performance risks, investors should work on effective due diligence for the capabilities of not only service providers but also evaluators.

Appropriations risks stem from the relatively long operation time of the projects. SIB projects, in general, have an average length of 4.4 years.²⁵ Because of the complexity of contractual relationships and the necessity to obtain relevant data for detailed evaluation, the actual operation period may be longer considering the time for preparation and evaluation. Thus,

²³ Rebecca TeKolste et al., "Managing Investors' Risk in Pay for Success Projects," *Urban Institute* 2016: 3.

²⁴ Rebecca TeKolste et al., "Managing Investors' Risk in Pay for Success Projects," *Urban Institute* 2016: 3, 8.

²⁵ Veronica Vecchi et al., "Is a Social Empowerment of PPP for Infrastructure Delivery Possible? Lessons from Social Impact Bonds," *Annals of Public and Cooperative Economics* 90 (2) 2019: 355.

it is difficult for investors to anticipate how governments' potential to pay might be impacted by new leadership, economic conditions, or budget priorities over multiple budget cycles. For example, in the first SIB case, the UK's Ministry of Justice terminated the project launched in Peterborough in the middle of the project. The project had achieved its goal at the interim evaluation, so the UK's Ministry of Justice deemed this project a success and adopted the project's intervention country-wide to reduce the recidivism rate. As a result, there was no more control group to compare to the target group and evaluate the project's impact.²⁶

To date, however, several tools have been identified to mitigate risks for investors, such as grants and guarantees (for performance risks), prepaid or sinking funds, full faith contracting, and multiyear appropriation (for appropriation risks).²⁷ For instance, in the Rikers case, a guarantee for performance was adopted. In this guarantee, Bloomberg Philanthropies, the guarantor, secured Goldman Sachs bank against the loss of its principal up to \$7.2 million, which provided a 75 percent guarantee of the total investment.²⁸ The New York State case also utilized guarantees from Rockefeller Foundation to enhance the project and attract investors.²⁹ Some cases, for example the Rikers case, choose to include the output (how many convicts join the MRT program) as a criteria in addition to the outcome (recidivism rate reduction) to mitigate investors' performance risks. In other words, rather than judging a case based on the simple question of whether or not an onset outcome is achieved, these cases judge effectiveness by also

²⁶ Emma Disley et al., *The Payment by Results Social Impact Bond Pilot at HMP Peterborough: Final Process Evaluation Report* (RAND Corporation, 2016) 1–2; Eva Coruzzi Schneider, “Disparate Impact Lacks an Impact: The Need for Pay for Success Programs to House Formerly Incarcerated People,” *Fordham Urban Law Journal* 44(2) 2017: para. 2.

²⁷ Rebecca TeKolste et al., “Managing Investors’ Risk in Pay for Success Projects,” *Urban Institute* 2016: 6, 7, 9, 10.

²⁸ Timothy Rudd et al., “Financing Promising Evidence-Based Programs: Early Lessons from the New York City Social Impact Bond,” *MDRC* 2013: 24-25.

²⁹ Social Finance et al., “Investing in What Works: ‘Pay for Success’ in New York State: Increasing Employment and Improving Public Safety” *Social Finance* 2014: 17.

looking at the quantity of participation or quantity of service. In this way, investors can ensure certain repayment when service providers can serve the expected amount of service, even if a project fails to achieve its onset outcome.

Even though grants and guarantees are a common way to mitigate performance risks that investors confront, a negative effect of those methods must be noted. If guarantees of any kind are provided, the possibility of moral hazard increases.³⁰ Investors tend to be disincentivized to work towards the success of a project when their risk of loss is softened by various financial guarantees. In the end, investors may lose incentives to make the interventions efficiently and achieve the target outcomes.

In terms of the strategies for mitigating appropriation risks, the most robust option is funds and full faith contracting. In 2012, the Massachusetts Legislature passed the legislation called Social Innovation Financing Trust Fund (SIF), with up to \$50 million in success payments backed by the full faith and credit of the Commonwealth.³¹ Also, in Oklahoma, the fund called Criminal Justice Pay Revolving Fund was established. This fund is utilized to cover payments to service providers for the delivery of predefined justice outcomes in contracts for criminal justice programs that have outcomes associated with reducing governments' costs.³²

Although investors can mitigate the risks for participating in SIB projects, how much return do they expect to receive? Is the potential return proportionate to the risks they take? The expected return of the SIBs is generally low compared to other financial products because of its small market. The impact investment market is estimated to be worth \$502 billion, but more than

³⁰ Veronica Vecchi et al., "Is a Social Empowerment of PPP for Infrastructure Delivery Possible? Lessons from Social Impact Bonds," *Annals of Public and Cooperative Economics* 90 (2) 2019: 364.

³¹ The 192nd General Court of the Commonwealth of Massachusetts "Part I, Title II, Chapter 10, Section 35VV," *The 192nd General Court of the Commonwealth of Massachusetts*.

³² LegiScan Bringing people to the Process, "Oklahoma Senate Bill 1278," *LegiScan*.

half of the world's 151 SIBs each serve fewer than 480 people.³³ Given their limited number, investors may consider other ways to use their capital to create a just society while maximizing their profits.³⁴ The size of the SIB market is too small for investors, so increasing its size is a necessary condition for attracting investors.

Furthermore, SIB frameworks are generally complicated and difficult for investors to understand. From an investor's perspective, the attractive SIBs are not the ones that are complex, unique, or innovative, but rather the ones that are simple, easy to understand, and less risky.³⁵ Unless the negative image of SIBs, as complicated and time-consuming, is eliminated, for-profit investors will not be motivated to invest in SIBs and the SIB market will not scale.³⁶

As shown above, SIBs, as financial products, are not necessarily attractive to commercial investors, which may disincentivize them to take part in the SIB framework. For investors, pursuing economic returns while contributing to the betterment of society sounds like an attractive prospect. However, the question of how to balance these two is not easy to answer.

Measurability of Outcomes

An analysis of U.S. government spending shows that the efficacy of its projects has generally not been evaluated. Indeed, Liebman indicates in his article that:

Performance is rarely assessed and measurement tends to focus on tracking the number of people served and the amount of service provided, rather than the outcomes that are achieved. Although some local governments and federal agencies have improved their measurement of outcomes in recent years, most programs have never been rigorously evaluated. Just as problematic, most agencies lack sophistication in coding and analyzing the data they do collect so

³³ Nadine Pequenez, "The Downside of Social Impact Bonds," *Stanford Social Innovation Review* 2019: para. 15.

³⁴ Nadine Pequenez, "The Downside of Social Impact Bonds," *Stanford Social Innovation Review* 2019: para. 15.

³⁵ 明治大学 非営利・公共経営研究所, "2014 年度 米国調査 米国におけるソーシャルインパクト・ボンド (SIB) 等のインパクト投資に関する研究報告書," *非営利・公共経営研究 調査研究シリーズ* No.31 2016: 52.

³⁶ Rayanne Hawkins et al., "Using Pay for Success in Criminal Justice Projects," *Urban Institute* 2017: 6-7.

they fail to spot patterns and variations in performance that might point to promising or problematic practices. When a government contract with multiple service providers, it almost never puts systems in place to compare their relative performance so that future funding can be allocated to the best performers. There is no systematic ranking of the cost-effectiveness of different programs.³⁷

The reason for the lack of the evaluation is the time-consuming process and high financial costs associated with collecting, analyzing, and then professionally evaluating the data. Another reason is that, until now, pay-for-service has been the centerpiece of government-private sector contracting, so there has been less incentive to measure the project's outcome.

However, in the SIB framework, measurability of outcome is an indispensable element because evaluation of project outcomes determines whether and how much to pay the service providers. Experts in favor of SIBs argue that SIBs are an innovative way to pursue better outcomes while transferring the financial risks from taxpayers to private investors.³⁸ In order to shift the taxpayers' financial risks, however, SIBs need to draw the interest of investors. And in order for investors need to be interested, the probability that the SIB projects are likely to achieve a predetermined outcome must be calculated as high. For this purpose, it is necessary to ensure that the selected programs are supported by evidence and that the post-project evaluation is appropriate and reliable. These two processes overlap with each other. In other words, appropriate and reliable evaluation of completed projects will lead to better identification and accumulation of programs supported by evidence.

For appropriate measurement, evaluators must follow the two steps: (1) collecting accurate data from past projects, and (2) evaluating whether and to what extent potential cost reduction has been achieved in governments by implementing SIB projects. The collection and

³⁷ Jeffrey B. Liebman, "Building on Recent Advances in Evidence-Based Policymaking," *Brookings* 2013: 4.

³⁸ Adriana Barajas et al., "Social Impact Bonds: A New Tool for Social Financing," *Princeton University* 2014: 10.

evaluation of data are crucial for both project formation and investor solicitation. When project managers set up a SIB project, they must first establish the desired outcomes to be achieved. However, without data and clearly established methods for data evaluation, the project managers cannot measure the government's cost savings and thus, set target outcomes. At the same time, without data indicating which programs can achieve outcomes efficiently, the program selection process becomes less rational. Investors cannot take rational investment actions unless a reasonable target outcome is set, and reliable data confirms the likelihood of success of the selected programs. Therefore, investors tend to avoid fields where data collection and evaluation methods have not been established. This makes the structuring of SIB projects even more difficult.

To date, the importance of data-driven policy has been recognized in the reentry field. For this reason, research on “what works, to whom, in what circumstance” has been active. Although extensive data has been collected on this topic, it is still a work in progress. The Director of National Institute of Justice recently argued that most criminal justice practitioners, agencies, and community, and faith-based providers do not have the resources to provide every person leaving prison or jail with the services to reduce their likelihood of reoffending.³⁹ He indicates that ex-offenders have faced a lack of evaluated treatment services available before release from incarceration, thus this situation makes it difficult to collect data about what programs work.”⁴⁰

³⁹ David B. Muhlhausen, “An Overview of Offender Reentry (2018),” *National Institute of Justice* 2018: 1; Daniel P. Mears et al., “Recidivism and Time Served in Prison,” *Journal of Criminal Law & Criminology* 106 (1) 2016: 84.

⁴⁰ David B. Muhlhausen, “An Overview of Offender Reentry (2018),” *National Institute of Justice* 2018: 1.

It should be noted that both quantitative and qualitative data must be used to demonstrate the effectiveness of reentry services.⁴¹ For example, the analysis method used to estimate the cost of commissioning from the government requires quantitative data that can be captured in monetary terms.⁴² Although it is possible to understand whether changes are occurring or not from quantitative information, qualitative information, such as interviews and case studies, is also necessary to know what kind of changes are taking place and how they are being produced.⁴³ In other words, the analysis must also include qualitative information to provide investors with the necessary information so that they make rational management decisions, and to link impact to the improvement of service providers' operations.⁴⁴

The evaluation of collected data is also challenging. Identifying and summing up the societal benefits of SIB projects and correlating them to cost savings can be done in many different ways, depending on the availability of data and evaluation methods.⁴⁵ By evaluating available data, stakeholders have to agree on specific outcomes: stakeholders must decide what indicators to use, and define how much those indicators should be achieved to define preset outcomes. This is oftentimes a challenging process. Evaluators are required to have a high degree of specialized knowledge and participate in the project from an early stage to ensure the measurability of outcomes. For example, in the Rikers case, a 10 percent reduction of the recidivism rate was the minimum threshold that the service providers had to meet for the DOC to

⁴¹ 明治大学 非営利・公共経営研究所, “2014年度 英国調査 英国におけるソーシャルインパクト・ボンド (SIB) と社会的インパクト評価に関する研究,” *非営利・公共経営研究 調査研究シリーズ* No.27 2015: 63.

⁴² 明治大学 非営利・公共経営研究所, “2014年度 英国調査 英国におけるソーシャルインパクト・ボンド (SIB) と社会的インパクト評価に関する研究,” *非営利・公共経営研究 調査研究シリーズ* No.27 2015: 63.

⁴³ 明治大学 非営利・公共経営研究所, “2014年度 英国調査 英国におけるソーシャルインパクト・ボンド (SIB) と社会的インパクト評価に関する研究,” *非営利・公共経営研究 調査研究シリーズ* No.27 2015: 63.

⁴⁴ 明治大学 非営利・公共経営研究所, “2014年度 英国調査 英国におけるソーシャルインパクト・ボンド (SIB) と社会的インパクト評価に関する研究,” *非営利・公共経営研究 調査研究シリーズ* No.27 2015: 63.

⁴⁵ V Kasturi Rangan et al., “The Payoff of Pay-for-Success,” *Stanford Social Innovation Review* 13 (4) 2015: 31.

fully repay investors with the amount they had paid. To choose “10 percent reduction of recidivism rate” as the line between the project’s success or failure, MDRC (intermediary), with the cooperation of Vera (evaluator), estimated the cost of imprisonment per prisoner and calculated the reduction in operating costs per one fewer detainee. This was done because the reduction in the recidivism rate is directly linked to the number of prisoners in prison. In calculating this “10 percent,” collecting data representing the present and past situations in Rikers Island Prison was essential. At that time in the U.S., there were few cities that accumulated the raw data necessary to set the outcomes. However, New York City had implemented robust financial controls since 1970. In updating and calculating expected spending amounts, the Office of Management and Budget (OMB) had accumulated sufficient raw data on prisons to allow for an accurate calculation of what a “10 percent reduction of recidivism rate” meant financially. In sum, the more focus was placed on the realization of savings in the public budget as a consequence of improved outcomes rather than on the improved outcomes themselves in Rikers case.⁴⁶

However, the Rikers case’s method of establishing onset outcomes is just one example and can vary across different cases. Some scholars argue that the impact of crime on “quality of life” should be considered. They indicate that the costs of the “quality of life” of potential victims and crime-impacted communities would not be captured through a measurement approach that only focuses on the costs of criminal justice agencies such as the police, courts, and prisons.⁴⁷

⁴⁶ Veronica Vecchi et al., “Is a Social Empowerment of PPP for Infrastructure Delivery Possible? Lessons from Social Impact Bonds,” *Annals of Public and Cooperative Economics* 90 (2) 2019: 364.

⁴⁷ Paul Dolan et al., “Estimating the Economic and Social Costs of the Fear of Crime,” *British Journal of Criminology* 47 (1) 2007: 122–23; Mark A Cohen, “Valuing Crime Control Benefits Using Stated Preference Approaches,” *SSRN Electronic Journal* 2007: 3–4.

Overall, the collection and evaluation of data are a big issue because it directly affects the feasibility of SIB project formations. On the other hand, SIBs give us the incentive to evaluate projects that have not previously been evaluated and turn them into evidence-based projects. If governments use SIBs in this way, they can create more transparency and accountability by introducing outcome measurement in their contracting, which can positively influence the behavior of service providers.⁴⁸ Even if the projects cannot achieve their onset outcomes, a significant amount of data can be stored and made available for future projects.

It should also be noted that even if a project with measurable data is selected and implemented, generalizing results still requires further consideration. The external factors that influence the results are different for each project, and the effectiveness of interventions is highly context-specific.⁴⁹ Thus, what is missing from systematic reviews is the development of theories that explain why some projects work and others do not.⁵⁰ Obviously, what works in one situation at one time may be ineffective in other settings and at other times. Without revealing these points, utilizing previous projects' data would be still difficult.

Consideration of Service Providers and Target Population

What kind of benefits do service providers obtain from joining the SIB framework? First of all, since service providers can implement their accumulated know-how in large-scale projects, they can expect to receive more rewards when their goals are achieved than in their previous projects. Another major incentive is that service providers can provide services in their

⁴⁸ Sarah Guminski, "Pay for Success: How 'Impact Investing' Can Make Government Services Better," *Scientific American* 2016: para. 5.

⁴⁹ Chris Fox et al., "Payment by Results and Social Impact Bonds in the Criminal Justice Sector: New Challenges for the Concept of Evidence-Based Policy?," *Criminology & Criminal Justice* 11(5) 2011: 401.

⁵⁰ Mike Hough, "Gold Standard or Fool's Gold? The Pursuit of Certainty in Experimental Criminology," *Criminology & Criminal Justice* 10 (1) 2010: 14.

own way. The performance-based contracting allows service providers to exercise broad discretion, giving them more flexibility in allocation of staff, time, and how they perform their work than in a traditional outsourcing contract.⁵¹ Such large discretion is a prime source of innovation. In addition, a wide range of other benefits can be obtained, such as securing initial and operating funds, stable employment through long-term contracts, and increased trust from service users.⁵²

On the other hand, service providers face several risks if the project fails. According to the general SIB contracting framework, the economic risk is transferred to investors, so service providers do not have to bear the economic risk in the project's failure. However, service providers are still at reputational risk if the projects fail. Due to the limited number of service providers with business models that are well-suited for participation in outcome-driven financing in the U.S, service providers that are not prepared to operate programs sometimes join SIB projects.⁵³ In this case, such providers may easily fail to achieve onset outcomes and therefore compromise the organization's reputation for providing good results to people in need, which threaten their longevity and ability to survive.

To avoid such risks, achieve their onset outcomes, and secure rewards, scholars indicate that service providers may abuse their positions. For example, because SIBs prioritize the delivery of specific metrics over general activity, service providers may over-focus only on the SIB project to get paid, sacrificing the quality of other services.⁵⁴ There is also a risk that service

⁵¹ 明治大学 非営利・公共経営研究所, “2014年度 英国調査 英国におけるソーシャルインパクト・ボンド (SIB) と社会的インパクト評価に関する研究,” *非営利・公共経営研究 調査研究シリーズ* No.27 2015: 55.

⁵² 宏一 唐木, “ソーシャル・インパクト・ボンドの「論点」: 活用のための前提を考える,” *事業創造大学院大学紀要* 1 2016: 100.

⁵³ Kristin Giantris et al., “Pay for Success: Understanding the Risk Trade-Offs,” *Community Development Investment Review* 1 2013: 37.

⁵⁴ Emily Liner, “Social Impact Bonds: A New Model for Investing in Social Services,” *Third Way* 2016: para. 16.

providers will concentrate their services on a target population that is more likely to achieve the outcomes, while the services for those who are less likely to achieve outcomes tend to be neglected. In this regard, from the target population perspective, SIBs may deepen inequalities in service provisions as service providers evaluate certain populations over others as more deserving of receiving services.⁵⁵ Therefore, it is crucial to ensure that services can be provided to those outside of the SIB project and to those who are not as likely to achieve the project outcomes, while sustaining the service providers' motivation to achieve outcomes.

In terms of a SIB project's success, selecting the right program for the target population should be paid considerable attention. Even if the interventions are generally well-supported by evidence, it does not necessarily mean they may work well in the SIB setting. In the Rikers example, the project formulators were sure that MRT (face-to-face group therapy) had worked in older populations in other settings and studied the effectiveness of MRT in prison before the project. Based on the research, they modified the conventional MRT method to fit the Rikers situation, focusing on its flexibility. However, implementing it at Rikers Island Prison proved to be challenging. The rapid cycle of youth inmates entering and exiting the prison meant most participants did not receive the full recommended length of services, and the effectiveness of the intervention for juveniles was limited.⁵⁶ Also, in the unique environment of Rikers Island Prison, it was likely that the MRT could not exert its intended effect. Most detainees were awaiting their sentencing, so they were in unstable mental states. They did not know whether they would go home or spend a more extended period in prison. The prison environment was also full of

⁵⁵ Randolph R. Myers et al., "Virtuous Profits: Pay for Success Arrangements and the Future of Recidivism Reduction," *Punishment & Society* 20 (2) 2018: 168-69.

⁵⁶ Timothy Rudd et al., "Financing Promising Evidence-Based Programs: Early Lessons from the New York City Social Impact Bond," *MDRC* 2013: 41-42; Jim Parsons et al., "Impact Evaluation of the Adolescent Behavioral Learning Experience (ABLE) Program," *Vera Institute of Justice* 2016: 21.

violence that conflicts with the concept of moral education of the MRT programs. Under such circumstances, it is not hard to imagine that vulnerable youth experience tremendous stress levels. It is conceivable that under such high levels of stress and uncertainty, the moral education of MRT would not exert its expected effect.⁵⁷ Conducting extensive research on pre-implemented projects in advance and examining which programs are suitable for SIBs is necessary.

The target population chosen for programs also matters in terms of the attractiveness for investors. Investors may be unwilling to fund the services for the malicious crimes involved populations (i.e., sex offenders) because they may be too risky for investment or because investing in this group would build lousy publicity, especially if the intervention failed. Some scholars suggest that the ideal investment may be juveniles, who are costly to incarcerate, have more potential future incarceration costs ahead of them, and are a more sympathetic group than others within the criminal justice system.⁵⁸

Commitment from the Administrations

Throughout the lifecycle of SIB projects, the governments, oftentimes in collaboration with intermediaries, play an indispensable role that leads all stakeholders towards an ultimate goal. The government agency, first of all, identifies social problems it would like to address through a SIB-funded program. Then, the agency sets the objectives for the program works with intermediaries and takes the initiative in projects. Upon completing the program, the government

⁵⁷ Timothy Rudd et al., “Financing Promising Evidence-Based Programs: Early Lessons from the New York City Social Impact Bond,” *MDRC* 2013: 42; Jim Parsons et al., “Impact Evaluation of the Adolescent Behavioral Learning Experience (ABLE) Program,” *Vera Institute of Justice* 2016: 21.

⁵⁸ Randolph R. Myers et al., “Virtuous Profits: Pay for Success Arrangements and the Future of Recidivism Reduction,” *Punishment & Society* 20 (2) 2018: 166.

pays for the project if the evaluators determine that the project successfully achieved the goals. In the Rikers case, New York City, with the cooperation of MDRC, has led all the stakeholders to collaborate from the project's formulation to the implementation and evaluation stages. Also, the Peterborough case, which had to be canceled when the UK government lost its commitment, shows that the government's continuous support is essential for SIB projects.

The governments also play a significant role in promulgating the SIB concept. They are expected to keep practitioners informed of previous effective cases and raise funds to encourage the creation of new projects. For example, the U.S. federal government launched the Social Impact Partnerships to Pay for Results Act (SIPPRRA) that aims to support outcomes-based financing and provide funding for social impact partnerships, including SIB projects.⁵⁹ SIPPRRA creates a \$100 million standing fund held by the U.S. Treasury to make outcome payments in social impact partnership projects and to fund feasibility studies.⁶⁰ Even though some reported that the authorization process is too long and complicated, the fund is expected to increase the number of SIB projects in the U.S.

SIBs in the PPP context

Overview of PFI in Japan

In the previous sections, I have reviewed and introduced the general discussion on SIBs in Western countries. In the following sections, I discuss how to make best use of the SIB frameworks in Japan. As I identify SIBs as a new approach of PPP, this section first provides an overview of the discussions on PPP in Japan. Next, since Private Financial Initiative (PFI) is the traditional method of PPP in Japan, and SIBs and PFI are both methods for achieving public

⁵⁹ Urban Institute, "Social Impact Partnerships to Pay for Results Act (SIPPRRA)," *Urban Institute* 2018: para. 1.

⁶⁰ Urban Institute, "Social Impact Partnerships to Pay for Results Act (SIPPRRA)," *Urban Institute* 2018: para. 2.

interest objectives in collaboration with private sectors, I identify the significance of SIBs in Japan by comparing SIBs and PFI. In doing so, I also discuss how SIBs can solve challenges posed by the conventional PFI projects.

Japan is facing unique challenges in mobilizing the government to effectively address social problems. There are various social problems that the government should confront. However, the national and local governments have difficulty adequately addressing such issues under severe financial constraints and limited human resources. Under these circumstances, public opinion has called for diversification of financing, including the utilization of private funds and know-how to promote essential public goods and services. Therefore, the enactment of the “Act on Promotion of Private Finance Initiative” (PFI Act) in July 1999 started a widespread movement to utilize private sector know-how and funds in the field of public services, which until then had been the responsibility of the national and local governments.⁶¹

PFI is defined as “a form of PPP that seeks to combine the advantages of competitive tender and flexible negotiation, and transfer risk away from the public sector.”⁶² Japan’s PPP/PFI Promotion Office sees PFI as a method of providing public services more efficiently and effectively than solely central or local governments’ efforts, as PFI enables the utilization of private sectors’ funds and managerial and technical capabilities in the fields of construction, maintenance, management, and operation of public facilities, etc.⁶³ The PPP/PFI Promotion Office also indicates that the central and local governments aim to reduce their operating costs and provide higher quality public goods and services by introducing PFI.⁶⁴ A total of the 913 PFI

⁶¹ Cabinet Office, “Act on Promotion of Private Finance Initiative (Japanese Law Translation),” *Cabinet Office*.

⁶² Li Bing et al., “The Allocation of Risk in PPP/PFI Construction Projects in the UK,” *International Journal of Project Management* 23 (1) 2005: 25.

⁶³ 内閣府, “PPP/PFI とは: 民間資金等活用事業推進室 (PPP/PFI 推進室),” 内閣府.

⁶⁴ 内閣府, “PPP/PFI とは: 民間資金等活用事業推進室 (PPP/PFI 推進室),” 内閣府.

projects have been implemented as of the end of 2020, covering a wide range of fields, including the construction and development of public facilities such as toll bridges, railroads, hospitals, and schools.⁶⁵ Studies show that there are several forms of PFI projects. From the perspective of how service providers receive projects' cost, there are three types of PFI projects: the “self-supporting” type, in which project costs are covered by income from user fees; the “service purchase” type, in which government pays for the services provided by the project; and the “mixed” type, which combines both types.⁶⁶ The SIB framework is intended to create a mechanism that allows private actors to earn profits in the areas that they were not able to join in the past due to the lack of cash flow from users. Thus, the programs that the SIB projects decide to invest in are designed to cover their costs with payments from governments rather than user fees. Therefore, SIB projects are considered to have most in common with “purchase-type” PFI projects. Thus, in the following, I examine the significance of SIBs in Japan by comparing the “purchase-type” PFI project with the SIB model.

Comparison of SIBs with PFI

Evaluation methods: First, the method of project evaluation for SIB is different from PFI. Specifically, while PFI evaluates projects on an output basis, SIBs assess them on an outcome basis.⁶⁷ In Japan's PFI, the concept of Value for Money (VFM) has been used as a synonym for cost-effectiveness and as an evaluation method that shows how much costs a PFI project can save compared to its conventional counterpart.⁶⁸ In this evaluation method, a service can be

⁶⁵ 特定非営利活動法人 日本 PFI・PPP 協会, “PFI 事業案件一覧,” 特定非営利活動法人 日本 PFI・PPP 協会.

⁶⁶ 一郎 塚本 他, ソーシャルインパクト・ボンドとは何か: ファイナンスによる社会イノベーションの可能性 (京都: ミネルヴァ書房, 2016) 77.

⁶⁷ 宏一 唐木, “ソーシャル・インパクト・ボンドの「論点」: 活用のための前提を考える,” 事業創造大学院大学紀要1 2016: 99.

⁶⁸ 内閣府, “Q13 VFM (Value for Money): 民間資金等活用事業推進室 (PPP/PFI 推進室),” 内閣府.

positively evaluated as retaining VFM if (1) it provides the same level of service as before at a lower cost, or (2) it provides a higher quality service at the same cost as before.⁶⁹ VFM could encompass the outcome-based evaluation method used by SIBs since VFM evaluates the value brought by not only outcomes, but also many other values in relation to the costs.

However, in PFI projects in Japan, attention to the quality of services has been rare. In evaluating PFI projects, mere cost comparison with conventional projects have dominated, with improvement of service quality rarely being considered.⁷⁰ This evaluating tendency results from the abstract definition and quantification of “value” to estimate the project’s quality. Some scholars are concerned about the possibility of arbitrary VFM calculations by the government. They point out that it is rarely made clear to the public what is used as the basis for VFM calculations, on what specific reasons, and what risk adjustments have been made based on what factors. Therefore, the evaluation methods of PFI in Japan have continued using the traditional output-based ones, which offers an easier and straightforward way of value calculation.⁷¹ On the other hand, the outcome-based target in SIBs is a concept that essentially includes the evaluation of project’s quality since it is done in consideration of future cost reductions. Therefore, the evaluation method in SIBs provides a concrete example of a measurement tool for VFM, which has been mostly used only cost comparisons as measurement of value.

Connection between the evaluation methods and returns: In SIB projects, if the predetermined outcome goals are not achieved, no payment is made by governments (or only the minimum guaranteed amount is paid); thus, the evaluation of projects directly affect whether or

⁶⁹ 善花 宣, “刑務所民営化の運営・機能に関する研究: 日韓米の制度を中心として(本文)” 慶應義塾大学大学院法学研究科 2017: 122.

⁷⁰ 一郎 塚本 他, ソーシャルインパクト・ボンドとは何か: ファイナンスによる社会イノベーションの可能性(京都: ミネルヴァ書房, 2016) 87.

⁷¹ 秀訓 榊原, “イギリスにおける PFI の「終焉」と現在の行政民間化の論点,” 南山法学 42 (3-4) 2019: 184; 道雄 岸, “PFI における本質的問題に関する一考察,” 政策科学 21 (1) 2014: 20-21.

not payment is made (or how much governments should pay). This feature of SIBs incentivizes the stakeholders to pay more attention to the quality of services, especially in comparison to the PFI model. On the other hand, since the mainstream evaluation method for PFI is output-based, if the output targets are achieved as predetermined in contracts, governments pay predetermined amounts of rewards, regardless of the projects' quality. According to the website of Japan's PPP/PFI Promotion Office, the main effect expected from PFI projects is the provision of low-cost, high-quality public services.⁷² However, since the output-based payment method is not connected to the service outcome, it is difficult for PFI to achieve the expected effect. The service providers are not likely to be incentivized to improve the quality of their service, and the economic risks of potential project failure remain with the government.

Expectation of SIBs as the alternative to PFI: Recent policy change in the UK and the U.S. reveals that the SIBs are the alternative to PFI. In 2018, the UK government announced that it suspended new PFI projects due to a lack of effect validation and evidence showing effective cost reduction and service quality improvement.⁷³ Also, during the Obama administration in the U.S., the Justice Department, which had been expanding the operation of private prisons, decided to gradually abolish private prisons because, while the cost and quality of service of state-run and private prisons were similar, there was no clear evidence that the expected effects of the privatization of penal institutions had been realized.⁷⁴ This decision in the U.S. is considered to be motivated by politics, as the Trump administration immediately shifted course to overturn the

⁷² 内閣府, “PFI の効果: 民間資金等活用事業推進室 (PPP/PFI 推進室) ,” 内閣府.

⁷³ GOV. UK, “Budget 2018: Philip Hammond’s Speech,” GOV.UK 2018.

⁷⁴ Julia Zorthian, “Justice Department Will Stop the Use of Private Prisons,” *Time* 2016: para. 1; Brad W. Lundahl et al., “Prison Privatization: A Meta-Analysis of Cost and Quality of Confinement Indicators,” *Research on Social Work Practice* 19 (4) 2009: 383; Matthew D. Makarios et al., “Is Private Time Quality Time? A National Private–Public Comparison of Prison Quality,” *The Prison Journal (Philadelphia, Pa.)* 92 (3) 2012: 350–51.

Obama administration's decisions and support private prisons robustly⁷⁵ (however, the Biden administration signed an executive order that would phase out the Department of Justice's use of private prisons).⁷⁶ On the other hand, the number of new PFI projects in the UK has been consistently decreasing since 2009. Thus, an expert says that the announcement of the cancellation of the new project meant to confirm the current situation with the supported evidence.⁷⁷ People started to doubt the PFI's effectiveness as a method of PPP in the UK. It should be noted that the UK government still recognized the importance of PPP or the necessity of public investment by private capital in their announcement.⁷⁸ In this regard, the implementation of the first SIB project in Peterborough in 2010 may be considered as a trial run of an alternative PPP method, based on the fact that conventional PFI prioritizes cost reduction and output over outcome and quality of services.

Concerns when SIBs are installed in Japan

In Japan, Hachioji and Kobe City launched the first full-scale, multi-year PFS projects in 2017. Since then, several PFS projects, including pilot projects, have been established under local governments' initiative. In 2018, the Cabinet approved the "Growth Strategy" and the "Basic Policies for the Economic and Fiscal Management and Reform," which set out specific measures to promote performance-based projects.⁷⁹ In March 2020, based on the Growth Strategy, the Cabinet office formulated the "Action Plan for the Promotion of PFS," which

⁷⁵ Hauwa Ahmed, "How Private Prisons Are Profiting Under the Trump Administration," *Center for American Progress* 2019: para. 4; Reuters Staff, "U.S. Reverses Obama-Era Move to Phase out Private Prisons," *Reuters* 2017: para.3.

⁷⁶ Char Adams, "Biden's Order Terminates Federal Private Prison Contracts. Here's What That Means," *NBC News* 2021: para. 1.

⁷⁷ Lorna Booth, "Goodbye PFI," *UK Parliament* 2018: para. 4.

⁷⁸ GOV. UK, "Budget 2018: Philip Hammond's Speech," *GOV.UK* 2017.

⁷⁹ 首相官邸, "成長戦略 (2019年): 日本経済再生本部," 首相官邸 2018; 内閣府, "経済財政運営と改革の基本方針 2018," 内閣府.

contains more specific policies to promulgate performance-based projects.⁸⁰ The Action Plan regards the reentry field as a priority area, along with medical and health care fields, even though no reentry projects were implemented until the fiscal year 2019. This development shows that Japan's government has been more interested in using the PFS concept in the reentry field.

In this section, based on the development of PFS policies and implementations, I discuss the main concerns and issues in promoting the spread of SIBs in Japan, dividing the discussion into the issues common to all fields and ones specific to the reentry field.

Common Issues

SIB model or simple PFS contracting: Many academic experts have discussed the SIB framework, but it does not necessarily mean governments should implement the exact same SIB framework and involve the same stakeholders in practice. Therefore, governments should look for the ideal framework and stakeholders suitable for each case—somewhere between SIBs (meaning PFS contracting + investors + evaluators) and simple PFS contracting—by considering the benefits of each structure. Looking at previous cases in Japan, there are diverse combinations of stakeholders—investors, independent evaluators, and intermediaries—and the specific framework can vary from case to case.

What would be the advantage of adopting just the simple PFS contracting instead of the SIB framework for projects? In this regard, the three benefits of SIBs mentioned above (risk transfer, encouragement of innovation, and formulation of evidence-based intervention) can be achieved even with the simple PFS framework. In addition, the PFS framework, compared to the SIB framework, decreases transaction costs caused by the inclusion of a large number of

⁸⁰ 内閣府, “成果連動型民間委託契約方式の推進に関するアクションプラン: 成果連動型民間委託契約方式 (PFS : Pay For Success) ,” 内閣府.

stakeholders. With this simple PFS framework, governments can structure projects at a lower cost and in less time, and increase the number of cases quickly.

In addition to those benefits of the simple PFS framework above, the other reason so many cases adopt the simple PFS framework at present is that investors have not been successfully solicited. Also, there may not be enough technology and actors to evaluate projects because the Japanese government has paid little attention to the importance of project assessment and evaluation so far. Therefore, governments may have not been able to secure investors and independent evaluators.

On the other hand, there are advantages to adopting the SIB frameworks. By using private funds and placing the financial risk on investors rather than on service providers, who generally do not have sufficient financial resources, service providers can easily participate in the frameworks. Thus, governments can utilize the expertise of competent service providers. Besides, SIB models offer a further advantage by involving independent third-party evaluators. This is key because transparency can only be ensured if the results and efficacy of the projects are appropriately evaluated. The PFS contracting does not feature this kind of transparent evaluation and data collection.

Therefore, considering the benefits of the SIB framework, governments should not stop looking for the possibility of utilizing the SIB framework. If participation of investors and independent evaluators is feasible and beneficial, governments should opt to use the SIB framework instead of simple PFS contracting, especially in consideration of their limited resources.

Transaction costs: SIBs are frameworks that incur high transaction costs due to their structure that requires the coordination and collaboration of many stakeholders. Comparing

conventional PFI or simple PFS frameworks with SIBs is an easily understandable way to discuss the issue of transaction costs. While the contracting parties of PFI or simple PFS frameworks only include governments and service providers, SIB frameworks incorporate investors, independent evaluators, and oftentimes intermediaries as contracting parties. Therefore, stakeholders need to coordinate a larger number of interested parties, and the cost of projects' formulation and operation is greater than that of PFI or simple PFS frameworks. The previous study indicates that the transactions costs of the SIB contract design are higher since transaction costs need to involve not only the identification of the interventions, service providers, and evaluation process, but also the recruitment of private investors and the structuring of investment repayment structures, which can be quite complex.⁸¹ Another expert observes that the transaction costs can be as high as 7 to 10 percent of total project costs in some U.S. cases.⁸²

The high transaction cost is also caused by the fact that the SIBs are relatively new frameworks, with great diversity and complexity in the combinations of interventions and stakeholders that can occur for each deal. PFS projects in Japan have the diverse combinations of the stakeholders in them. Therefore, all the stakeholders must spend a long time discussing and implementing the projects through trial and error, which increases cost.

To address the high transaction cost issue, several approaches would be effective. First, scaling each project (expanding the number of participants who receive the program and increasing the project budget) offers one promising solution. The scale of each SIB project has been relatively small to date. Since the SIB program has high fixed costs, a larger scale of

⁸¹ Mildred E. Warner, "Private Finance for Public Goods: Social Impact Bonds," *Journal of Economic Policy Reform* 16 (4) 2013: 306.

⁸² V Kasturi Rangan et al., "The Payoff of Pay-for-Success/UP FOR DEBATE: RESPONSES," *Stanford Social Innovation Review* 13(4) 28: para. 26.

projects is more cost effective because it minimizes the ratio of fixed cost within the total project cost. To overcome this transaction cost issue, SIBs require either a large initial scale or a realistic vision for scaling up an initial successful SIB project into a larger (e.g., countrywide) initiative.⁸³ It should be noted that as the scale increases, it becomes more difficult to design the program and manage its operation after its launch.⁸⁴ Second, to improve the efficiency of project formulation and implementation, composing model cases and creating general formats of contracts in each field to generalize the knowledge obtained from previous cases may also help reduce transaction costs.⁸⁵ In this regard, Japan's Cabinet office recently announced the "Guideline for a PFS project," which details the entire process to implement a PFS project to create a model contract based on previous cases.⁸⁶

In addition, many SIB projects have reported incurring additional costs that were not initially anticipated.⁸⁷ At the onset of projects, no stakeholders can predict the full range of activities that will emerge. Some of these activities fall outside of the typical tasks associated with closing a financial transaction in the negotiation stage and turn to be costly at the implementation stage. This problem has emerged because stakeholders underestimated the scale and complexity of the issues before contracting. Since each party has been tackling this problem on an ad hoc basis without additional funding, one of the stakeholders have been forced to bear unreasonable additional costs. To address this issue, it is necessary to identify the activities

⁸³ Hanna Azemati et al., "Social Impact Bonds: Lessons Learned so Far," *Community Development Investment Review* 2013: 26.

⁸⁴ 利博 森, "ソーシャル・インパクト・ボンドの可能性と課題," *証券経済学会年報 第49号別冊* 2015: 12.

⁸⁵ ケイスリー株式会社, "経産省と厚労省による「SIBセミナー」イベントレポート," ケイスリー株式会社.

⁸⁶ 内閣府, "成果連動型民間委託契約方式 (PFS : Pay For Success) ," 内閣府.

⁸⁷ Benjamin Nichols et al., "Scaling and Sustaining Pay for Success: Recommendations for Creating a More Sustainable and Scalable Financing Model," *Enterprise Community Partners* 2017: 12-13.

containing extra costs and discuss who will be responsible for these activities before the projects launch.⁸⁸

Wrong Pockets Problem (cost sharing between different end payers): The wrong pockets problem describes a situation where the entity that bears the cost of implementing a practice does not receive a commensurate benefit.⁸⁹ In other words, money comes out of one “pocket” (i.e., agency or budget area) and goes into a different “pocket.”⁹⁰ For example, an effective intervention for high school students at risk of dropping out may ultimately reduce the number of students involved in the criminal justice system. This means that while the criminal justice agencies reap the benefits of this reduction in crime, the entire cost of the program will have been borne by the agencies managing the education system.

In Japan, as most PFS cases are implemented by local government, the wrong pockets problem has been discussed as arising between central and local governments. If the central government receives benefits, local governments should not be the sole payers of PFS projects. They are generally reluctant to take risks on “innovative” projects, or unable to implement as many projects as they desire with their limited resources. In some previous projects in Japan, only the local governments have been responsible for the payment, even though the central government also benefits from the PFS projects.⁹¹ Also, even though the central government prepares subsidies for PFS projects led by local governments, most of the subsidies are not based

⁸⁸ Benjamin Nichols et al., “Scaling and Sustaining Pay for Success: Recommendations for Creating a More Sustainable and Scalable Financing Model,” *Enterprise Community Partners* 2017: 13.

⁸⁹ John Roman, “Solving the Wrong Pockets Problem,” *Urban Institute* 2016: 1.

⁹⁰ J. Mac McCullough, “Declines in Spending Despite Positive Returns on Investment: Understanding Public Health’s Wrong Pocket Problem,” *Frontiers in Public Health* 7 2019: 1.

⁹¹ 内閣府, “PFS 事業 事例集 : 成果連動型民間委託契約方式 (PFS : Pay For Success) ,” 内閣府.

on what extent they achieve the project outcomes, rather, based on the predetermined ratio (50:50, etc.) of the total costs according to the burden ratio in particular fields.⁹²

To address the wrong pockets problem, the ratio of subsidies should be decided according to how much benefit the central governments receive from a project. Even though estimation of which public sector organizations will accrue the benefits of an intervention is challenging for PFS advocates, for now, it is still necessary to analyze and evaluate how much each organization profits.⁹³

Issues Specific in the Reentry Field

Resistance to using taxes for offender rehabilitation: The reentry field is unique compared to other PPP fields. Supporting offender rehabilitation often gives the impression of neglecting victims' support, and the implementation of these projects often invites criticism from the public. In most types of PPP projects, this negative impression is not an issue. For example, in the case related to health care in the Hachioji city, although debates about whether the project effectively achieved its goal using limited tax revenue did occur, any opposition to the improvement of the cancer screening rate itself was not reported. On the other hand, in the reentry field, when governments try to provide prisoners with education for their lives after release, people often argue that support for the victims of the crimes must be prioritized rather than help for the offenders. In this regard, there may be a considerable degree of opposition to the idea of conducting a new reentry program in the form of SIBs.

⁹² 内閣府, “PFS 事業に活用可能な支援制度等について: 成果連動型民間委託契約方式 (PFS : Pay For Success) ;” 内閣府.

⁹³ Chris Fox et al., “Payment by Results and Social Impact Bonds in the Criminal Justice Sector: New Challenges for the Concept of Evidence-Based Policy?,” *Criminology & Criminal Justice* 11(5) 2011: 401.

In recent years, the public's understanding of the field of offender rehabilitation has been increasing, but not enough. According to a public opinion poll conducted in 2018, randomly chosen people were asked what they thought about the statement that "to prevent recidivism, it is important to realize a society where ex-offenders are not excluded or isolated from society, but can naturally be accepted again in their communities." According to the poll, 79.5 percent (33.8 percent "agree" + 45.7 percent "somewhat agree") of respondents answered "agree," and 17.2 percent (12.3 percent "somewhat disagree" + 4.9 percent "disagree") answered "disagree."⁹⁴ However, to the question of whether they want to help those who have committed crimes reintegrate into society, 53.5 percent of the respondents answered "agree" (17.8 percent "Yes" + 35.7 percent "Rather yes") and 40.8 percent "disagree" (25.3 percent "Rather no" + 15.4 percent "No").⁹⁵ The result shows that even though 80 percent of respondents are in favor of offender rehabilitation in general, only about 50 percent are willing to provide concrete cooperation. In addition, about 40 percent of the respondents have no specific intention to cooperate in reentry projects. The result means that they have a sense of resistance to reentry projects using tax money from individual taxpayers indicating that the opposition is still strong.

On the other hand, in the U.S., the term reentry has received significant attention and has been accepted by the public as the rehabilitative strategy that facilitates the successful return of prisoners to their communities.⁹⁶ A 2006 national poll reported that 87 percent of responders are in favor of rehabilitative services for prisoners as opposed to a punishment-only system.⁹⁷ The higher supporting rate can be attributed to the fact that the public understands and accepts that

⁹⁴ 内閣府, "再犯防止対策に関する世論調査," 内閣府.

⁹⁵ 内閣府, "再犯防止対策に関する世論調査," 内閣府.

⁹⁶ Cheryl Lero Jonson et al., "Prisoner Reentry Programs," *Crime and Justice (Chicago, Ill.)* 44 (1) 2015: 522.

⁹⁷ Lisa Leone, "Attitudes of U.S. Voters Toward Prisoner Rehabilitation and Reentry Policies," *Corrections Compendium* vol. 31 2006: 1.

high crime rate in the U.S. is an urgent issue to be solved, and that the government has implemented supportive measures, including the enactment of the Second Chance Act in the Bush administration.⁹⁸

Considering the negative attitudes toward reentry programs in Japan, the implementation of SIB projects in the reentry field will be harder than in the U.S. The governments need to mitigate public resistance to allocating tax money to reentry programs by repeatedly enlightening the public on the importance of this field and the benefits of SIBs.

Volunteer Probation Officer system: Regarding the system in the reentry field, one of the major differences between Japan and the U.S. is the Volunteer Probation Officer (VPO) system. The VPO system originated in Japan back in the 1880s.⁹⁹ In this system, community volunteers are appointed as unpaid part-time government officials to support the work of a Professional Probation Officer (PPO).¹⁰⁰ The primary duty of VPOs is to supervise and assist offenders in their communities.¹⁰¹ VPOs are vital individuals who facilitate offender rehabilitation and convey a sense of acceptance from the community to offenders.¹⁰²

A Japanese scholar points out that the SIB framework does not fit into the Japanese rehabilitation system, which has a long history of a VPO system.¹⁰³ Japan's Offenders Rehabilitation Act, which was enacted after World War II, stipulates that VPOs shall supplement

⁹⁸ Cheryl Lero Jonson et al., "Prisoner Reentry Programs," *Crime and Justice (Chicago, Ill.)* 44 (1) 2015: 521.

⁹⁹ Fumiko Akashi, "The Role of Volunteer Probation Officers in Japan - Recent Challenges and Responses," *International Journal of Law, Crime and Justice* 54 2018: 122.

¹⁰⁰ Fumiko Akashi, "The Role of Volunteer Probation Officers in Japan - Recent Challenges and Responses," *International Journal of Law, Crime and Justice* 54 2018: 122.

¹⁰¹ Fumiko Akashi, "The Role of Volunteer Probation Officers in Japan - Recent Challenges and Responses," *International Journal of Law, Crime and Justice* 54 2018: 122.

¹⁰² Fumiko Akashi, "The Role of Volunteer Probation Officers in Japan - Recent Challenges and Responses," *International Journal of Law, Crime and Justice* 54 2018: 122.

¹⁰³ ゆり 細野, "ソーシャル・インパクト・ボンドの成立過程と日本における再犯防止への適用に関する考察: 英国行政改革と刑事政策の民営化を踏まえて," *早稲田大学社会安全政策研究所紀要 / 早稲田大学社会安全政策研究所 編* 8 2015: 111-12.

the work that is not covered sufficiently by PPOs.¹⁰⁴ VPOs have been regarded as private volunteers who are incorporated into the larger public system that is responsible for ex-offender reintegration into society.¹⁰⁵ Indeed, VPOs do not receive any economic remuneration for their activities, and the central government reimburses them only for their actual expenses.¹⁰⁶ Thus, the introduction of the outcome-based payment framework like SIBs for offender rehabilitation services does not seem to be suitable for the traditional system, which has been institutionalized based on the concept of unpaid volunteer spirit.¹⁰⁷ Therefore, if SIBs are to be introduced in Japan, where the VPO system is dominant, unlike in the U.S., the design should allow the project to coexist with the existing VPO system.

Monopolization of know-how by the central government: In Japan, the central government has traditionally had a monopoly on the know-how of the offender treatment inside of prison and in society. The VPO system is a notable example of public-private cooperation in offender rehabilitation, which means that VPOs are also equipped with a certain level of knowledge about offender treatment. However, as mentioned above, the VPO system does not necessarily fit into the outcome-based payment framework of SIBs. This means that when governments commission the offender treatment to the private sector based on the SIB framework, few private organizations outside the VPO system may have the know-how to effectively rehabilitate offenders. Therefore, the concern is that it may be challenging to find a competent and knowledgeable organization in the private sector.

¹⁰⁴ Ministry of Justice, “Offenders Rehabilitation Services Act (Japanese Law Translation),” *Ministry of Justice*.

¹⁰⁵ ゆり 細野, “ソーシャル・インパクト・ボンドの成立過程と日本における再犯防止への適用に関する考察: 英国行政改革と刑事政策の民営化を踏まえて,” *早稲田大学社会安全政策研究所紀要 / 早稲田大学社会安全政策研究所 編8* 2015: 118.

¹⁰⁶ 法務省, “保護司法 | E-Gov 法令検索,” *法務省*.

¹⁰⁷ ゆり 細野, “ソーシャル・インパクト・ボンドの成立過程と日本における再犯防止への適用に関する考察: 英国行政改革と刑事政策の民営化を踏まえて,” *早稲田大学社会安全政策研究所紀要 / 早稲田大学社会安全政策研究所 編8* 2015: 118.

The concern is even more significant for Japan than in the U.S. First, in the U.S., the non-profit organization (NPO) communities are culturally more developed than in Japan. In the U.S., the number and size of NPOs and the amount of donations are larger than Japanese ones, and the social status of some NPOs is as high as that of corporations.¹⁰⁸ They are significant actors for governments as partners. NPOs mostly tackle social issues that governments and for-profit companies do not deal with, since governments cannot focus on specific micro-projects, and for-profit companies only complete projects that return profits. Second, the U.S. has a more developed thinktank community as well.¹⁰⁹ Thinktanks publish articles, studies, or even draft legislation on particular matters of policy or society. This information is then readily used not only by governments but also by the private sectors to lead them to better understand the government's measures in their interest fields. Third, since the U.S. governments have a long history of outsourcing or privatizing their criminal justice measures, the know-how of offender treatment has been shared among the federal and state governments and private sectors. As a result, many non-governmental organizations have acquired the know-how on treatment and innovated upon it, as outsourcing to the private sector facilitates innovation.

However, such a situation does not exist in Japan. The number of private organizations with know-how is limited, making it difficult for the governments to find organizations to entrust. Besides, even if the governments find a candidate organization in the private sector, the service tends to be inadequate compared to the central government's treatment. Thus, in this case, the central government needs to transfer appropriate know-how or foster private

¹⁰⁸ 千葉県, “社会貢献活動の参考モデルの調査について,” 千葉県 2018: sec. 1.

¹⁰⁹ 崇弘 鈴木, “日本になぜ (米国型) シンクタンクが育たなかったのか?,” 三菱UFJ リサーチ&コンサルティング 2011.

organizations' capabilities and skills. This work of sharing and fostering know-how would significantly increase the cost of conducting SIBs.

Handling after the project completion: If SIB projects achieve the preset outcomes and expected effects, they are regarded as successful. However, since the SIB projects' duration is predetermined, the governments need to consider how to tackle the targeted social issues after the project is over. Four major possible options can be taken: (1) the governments continue the new program conducted under the SIB project, (2) the private organizations continue the new program, (3) the governments continue the conventional program that existed before the SIB project, or (4) the private sector can continue the conventional program. For option (3), the governments should not continue the conventional program, especially if the SIB project has proven to be more successful and effective than the conventional way. If the governments do so, they would abandon the economic benefits of outsourcing and more efficient intervention methods that the SIB project produces. It is also not realistic to take option (4) because the private organizations lack the know-how to conduct the programs that traditionally run by the government. Therefore, I focus on option (1) and (2) below.

Option (2) seems to be ideal in many ways. Because private organizations have accumulated an effective way to implement the program through the SIB project, they are likely to carry out the intervention more effectively than the governments taking the lead.

However, there is an obstacle to taking option (2). Even though SIBs denote outsourcing to the private sector, the government's legal responsibility for public service supply is not necessarily eliminated.¹¹⁰ Unlike many other sectors, the criminal justice field is characterized by the services involved in the exercise of public authorities by the government. Therefore, at least

¹¹⁰ 明治大学 非営利・公共経営研究所, “2015年度 英国調査 英国におけるソーシャルインパクト・ボンド (SIB) と社会的インパクト投資に関する研究,” 非営利・公共経営研究 調査研究シリーズ No.32 2017: 19.

in the projects that entail the exercise of public authorities, the government cannot legally outsource the services to the private sector completely. Even in other projects without public authorities, the government would still be responsible for providing services after outsourcing them. Therefore, even if the government takes option (2), it needs to monitor the projects continuously and devise ways to absorb the private sector's know-how.

The government's responsibility after outsourcing has been similarly discussed in the U.S. A study indicates that the state retains its power regardless of delegation of services; without the state, the coercive inherent in privatized criminal justice and crime prevention practices would lose its legitimacy.¹¹¹ Therefore, the state should steer, and legitimate crime control initiatives carried out by private organizations, even when they are funded by private monies.¹¹²

Based on the discussion above, option (1), which posits that governments continue the new program conducted in the SIB project, also seems justified. Taking option (1) means that SIBs should be regarded as a method to absorb the private sector's know-how. From this perspective, the SIB concept should not necessarily assume that private organizations will continue their interventions after the project ends.

However, whether to take option (1) or (2) requires flexible consideration. The governments should consider whether the success obtained through SIB is due to the SIB framework as a PPP method itself or the private sector's creativity and ideas. If the success comes from the SIB framework itself, option (2) will be relatively more justifiable because the private organization needs to continue participating in the project to maintain the benefit of the

¹¹¹ Randolph R. Myers et al., "Virtuous Profits: Pay for Success Arrangements and the Future of Recidivism Reduction," *Punishment & Society* 20 (2) 2018: 168.

¹¹² Randolph R. Myers et al., "Virtuous Profits: Pay for Success Arrangements and the Future of Recidivism Reduction," *Punishment & Society* 20 (2) 2018: 167.

SIB framework. In contrast, if the project's success comes from the private sector's creativity and ideas, option (1) will be more reasonable because the government should have absorbed enough of the private sector's innovations and know-how to continue the project without the private sector's continued participation. Whichever option is chosen, stakeholders should weigh it against the option of continuing the program by remaining a partnership between the government and private sector.

On the other hand, how do governments deal with the failed SIB project after its completion? If the program is proved to be ineffective, the government simply should not keep it in operation. Still, whether the government's economic risk caused by the failed project is zero or not is worth considering. After all, if the project fails, the governments do not need to pay any remuneration for the project, or only need to pay the minimum guaranteed amount because the SIB framework transfers the economic risk of failure to the private sectors. However, even in this case, the governments still have a legal obligation to provide the service, as mentioned earlier. In other words, even if the governments outsource the provision of services, they cannot outsource their legal responsibility. Therefore, if the SIB project fails, the governments may have to provide the service from scratch, ultimately incurring higher costs.¹¹³ In particular, if certain third-parties perceive the benefits made available by the SIB project, they may force the government to continue the project at the full cost of the government after the project is over.¹¹⁴

After all, even though the service providers oftentimes need to keep helping their target population for better lives, how to handle the programs after the SIB projects have been

¹¹³ 明治大学 非営利・公共経営研究所, “インパクト投資活用による社会的企業の公共サービス改善効果に関する研究,” 平成26年度～平成30年度「私立大学戦略的研究基盤形成支援事業」研究成果報告書概要 2019: 81-82.

¹¹⁴ 宏一 唐木, “ソーシャル・インパクト・ボンドの「論点」: 活用のための前提を考える,” 事業創造大学院大学紀要1 2016: 101.

completed has not fully been discussed in Japan, or even in the U.S. Therefore, it would be desirable for stakeholders to discuss how they plan on continuing the projects after its completion earlier into their partnership. In addition, they should analyze not only the project's formulation and implementation stages but also how the programs were handled after its completion in future research.

Conclusion

In this research, I have discussed SIBs by examining them from the perspectives and roles of four essential SIB stakeholders—investors, evaluators, service providers and target population, and governments. After introducing the unique environmental factors of PPP in Japan, I have analyzed the main concerns of installing SIBs in Japan within the unique PPP context. I have categorized them into two groups: common issues for all industries and issues specific to the reentry field. By taking the process above, this research provides a comprehensive overview of the issues that Japan will have to address to maximize the benefits of SIBs and to achieve effective collaboration with the private sector.

However, this research does have limitations. Since the SIB concept is relatively new, there has not been enough accumulation of completed cases in Japan that can be analyzed. Therefore, this research has not been able to provide a sufficient discussion of what specific measures can be or should be taken to successfully promote and implement impactful PFS projects in Japan. In recent years, Japan's Cabinet Office has published the Action Plan, the Guideline, and the official brochure to spread the PFS concept across the country and encourage local governments to create more PFS projects. It is hoped that more case studies will be accumulated in the future and that research based on them will progress.

To better understand the implications of this research, develop solutions, and create desirable specific measures, future studies could address two issues: (1) the flexibility of the framework and (2) the prioritization of the benefits. First, flexibility of the framework is important because every SIB project calls for different combinations of stakeholders. A future direction of research into flexible frameworks in Japan would be to examine the government's role in determining the degree of involvement of various stakeholders in each project based on PFS contracting. The essence of SIBs lies in their ability to combine all stakeholders' interests to achieve common goals that benefit the target population. For all stakeholders to achieve the common goal, it is crucial to maximize three main benefits of SIBs: risk transfer, encouragement of innovation, and evidence-based intervention. It should be noted that all three benefits are derived from the PFS contracting, which is a fundamental part of the SIB framework. Based on this PFS contracting, the SIB framework encourages investors' participation to ease the financial burden on service providers and the usage of evaluators to ensure the accuracy and fairness of evaluations. After all, the government does not have to cling to one exact SIB model. Multiple factors would affect stakeholders' participation and their challenges. No matter what framework the government takes, it is important to focus on maximizing the benefits above.

Second, the prioritization of the benefits is also important because the decision of what kind of intervention should be chosen may depend on how much importance should be placed on the second benefit: encouragement of innovation, and also because the innovation is traded off the attractiveness of investors. If the emphasis is on inducing innovation, SIB projects are likely to adopt new innovative programs that have not been implemented in the past. However, the adoption of the new program makes it difficult to present evidence to support their effectiveness,

which means the attractiveness for investors may decrease. The governments have to balance attracting investors and encouraging innovation.

The SIB concept sounds ideal as a tool for PPP, but there are many practical hurdles to address. Regardless of these challenges, what can be said for sure is that continued research on SIBs will help implement sustainable and effective PPP frameworks in Japan.

TABLES

Table 1 (Comparison of Pay-for-Service and Pay-for-Success)

	Pay-for-Service (Conventional)	Pay-for-Success (PFS)
Criteria of measure	Output	Outcome
Measure of value	do not address the impact or value of the services	is reflected by the level of achievement or performance achieved by the activities or services provided
Mode of assessment	is not an appropriate indicator of effectiveness	is an appropriate measure of effectiveness

Table 2 (Comparison of Four Cases in the Reentry Field)

Location	Intervention description	Target population	Project period	Outcomes of interest	Result
Peterborough, UK	Six service providers to deliver support and stability services (the "One Service")	Men who were exiting Peterborough Prison after being incarcerated for a year or less	2010- 2015	Reduce recidivism by 7.5 percent	Reduced recidivism by 9 percent, but was terminated by UK government
New York City, New York	Moral reconnection therapy	Youths currently in or already left Rikers Prison	2013- 2015	Avoid recidivism bed days	Failed to meet performance goals; ended August 31, 2015
Rochester and New York City, New York	Training and employment services for formerly incarcerated people	Formerly incarcerated adults	2015- 2019	Reduce recidivism (number of jail bed days) by at least 8%; increase employment by at least 5%	N/A
Boston, Chelsea, and Springfield, Massachusetts	Cognitive restructuring and skills development	High-risk male youths who are in the probation systems or exiting the juvenile justice system	2015- 2019	Reduce (re)incarceration by 40%, increase employment	N/A

FIGURES

Figure 1 (Framework of PFS contracting)

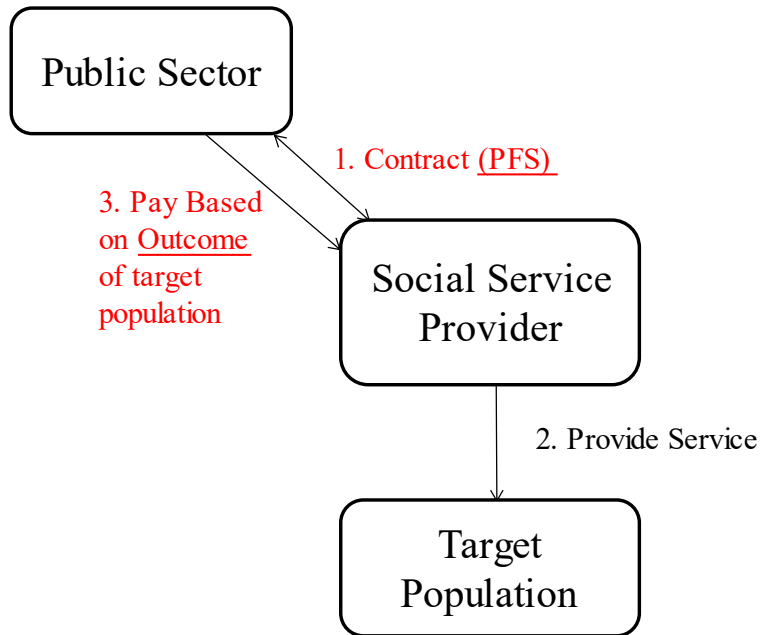


Figure 2 (Framework of SIBs)

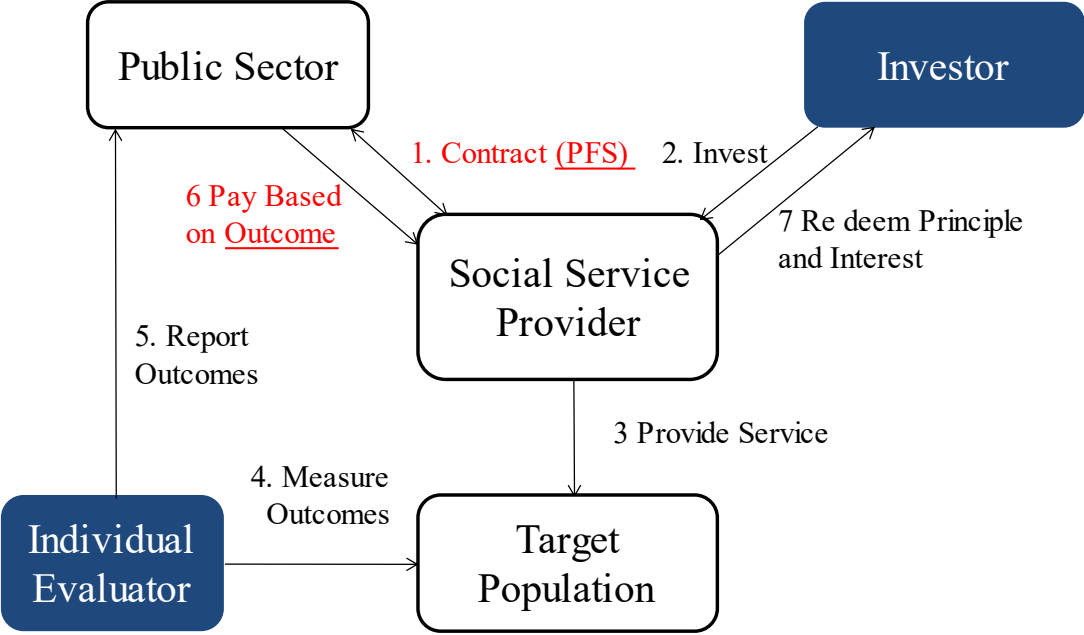
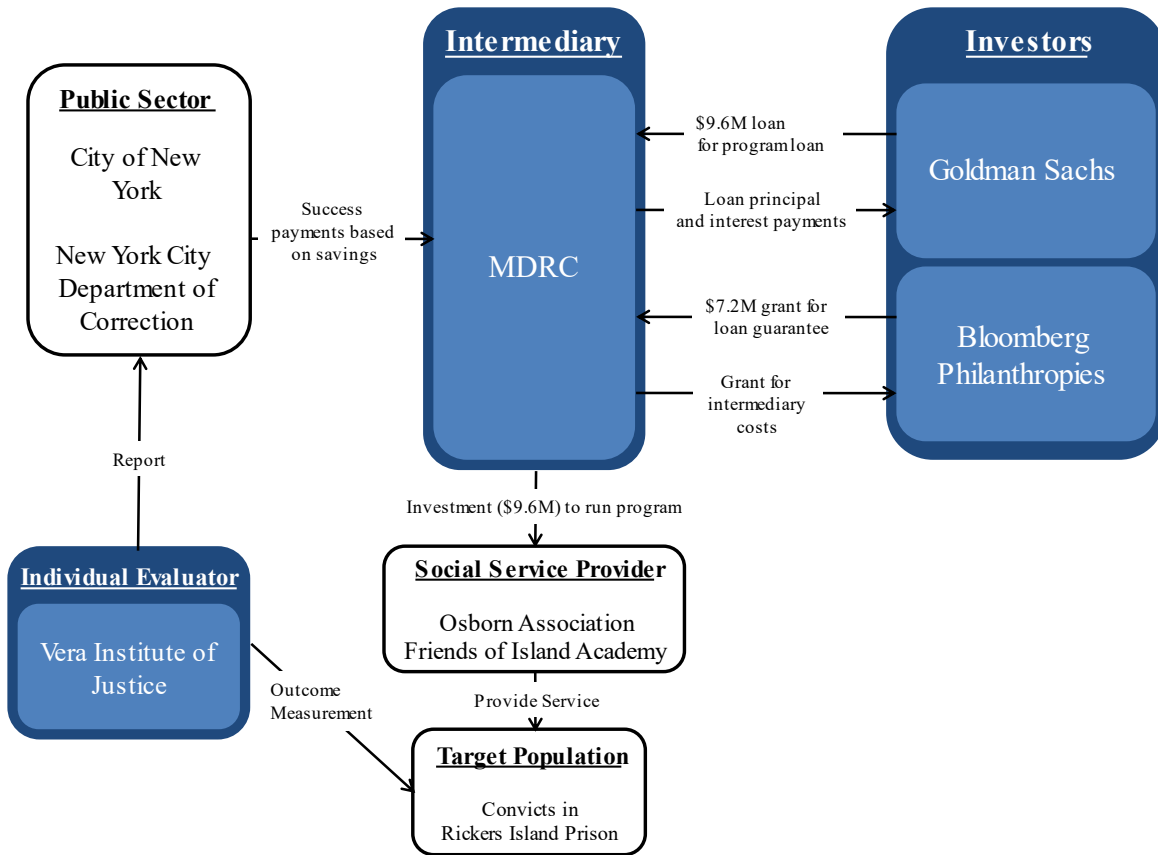


Figure 3 (Key Partners in the Rikers Case)



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