

The State, Planning and the Public Interest: The Development of City Planning in Japan

Kuniko Shibata

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Abstract

The recent development of civil society in Japan has resulted in considerable attention to the concept of the public interest. The increasing demand for accountability in its policy-making has led to an intense exploration of the concept of the public interest in Japanese planning practices. Despite this, comprehensive studies of the role of public interest in the development of Japanese planning are absent. Although the legitimacy of the public interest has been largely discredited among Western academics, the concept did have a significant impact in developing and shaping planning objectives and procedures in Western liberal states. Acknowledging the importance of the public interest for mobilising Western planning, this thesis investigates the origins and developments of the public interest in Japanese planning, within the framework of the country's progress towards modernisation.

Japan's late entry to modernisation significantly affected its interpretation of the public interest and planning. As Japan's prime modernisation objective was the creation of economic growth to establish sovereignty, the boundary between the state (public) and the market (private) led to contradictory planning regulations. Japan's central bureaucracy dominated the public sphere to maintain the developmental state regime, by restraining and guiding civil society, as well as preventing local autonomy in planning operations. Moreover, whereas the rule of law protects citizens from the arbitrary powers of the state in Western liberal states, the legal justice in Japan's planning system has not been very successful in defending the public interest as a collective concern for citizens. In fact, the public interest in Japan worked to prevent its citizens from challenging planning policies. The concept

of the public interest has been so static in Japan that its planning policy has failed to be more accountable to its citizens.

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Usage for Japanese Names

Japanese names are given in the text in their normal Japanese order, surname first.

However, all names in references appear in first name-surname sequence.

Part One

Chapter One: Introduction to the Study

Article 25: All people shall have the right to maintain the minimum standards of wholesome and cultural living. In all spheres of life, the State shall use its endeavours for the promotion and extension of social welfare and security, and of public health.

Chapter III. Rights and Duties of the People, The Constitution of Japan, Promulgated on 3rd November 1946

An individual living in modern democracies expects to be entitled to human rights. These rights are not limited to fundamental ones such as liberty, but also include 'positive' rights such as a right to a minimum standard of life. Although this right to social citizenship is often taken for granted in advanced liberal democracies, it in fact took over 100 years to become established. Indeed, while clean water, fresh air, roads, public transport networks and parks consist of the basic human needs in contemporary society, the state did not always provide or protect those public goods for its citizens until recently. Providing and maintaining these physical infrastructures necessitated the state's involvement, which became to be called regional and urban planning. Although regional and urban planning is often interpreted simply as the control of developments, regeneration and town building, the above short list of physical infrastructures indicates that planning in fact deals with a broad range of policy concerns in contemporary society. Planning, as a shorthand for regional and urban/ town and country/ city/ environmental planning, determines the quality of human life, and thus has a strong link to the foundation of citizenship rights in the modern state.

Notwithstanding its central importance in contemporary society, planning represents a relatively new role for the state. This is particularly noteworthy given the fact that policy choices and decisions in planning now affect a great majority of population in

a country. Modern planning became widespread from the early twentieth century (Hall 1996a; Ward 1994). This is also the period when the idea of positive rights started to emerge in advanced economies. The development of the mass media, telecommunications and transport as well as a large increase in the number of planning professionals enhanced exchanges of ideas and the creation of theories in the field of planning studies. Not only did this increase in producing a large number of innovations, but it also led to a certain level of convergence of central ideas in planning. Nonetheless, the outcomes of planning policies as well as their impacts on living conditions appear to be dissimilar across various modern nation-states. Differences in the built environment are more pronounced when comparing Western states and former colonial and Asian states.

Planning represents a paradox in a liberal economy. While the core principle of a liberal economy rests on the idea of individuals' freedom, wills and choices in pursuing personal happiness, individuals still have to rely on the state's control and intervention for the provision of basic necessities for living and other public goods, which are provided only through planning in the public interest. As such, the studies of the public interest in planning can illuminate the current debate about the desirable role of the state to protect citizenship in liberal economies.

In Asia, Japan provides a very good case for research of the development of planning in a modern nation-state, as the country is the first successful liberal democracy outside the Western world. Joining in the OECD in 1964, Japan became one of the richest countries in the world by the end of the twentieth century¹. However, despite

¹ Japan's National Income per capita in 1994 came to the third (\$29,244) among OECD countries, next to Switzerland (\$32,709) and Luxembourg (\$29,375). The figure was much larger than the USA

its substantial economic wealth and the endorsement of human rights in the Constitution of Japan, the majority of Japanese still face substandard housing stocks and insufficient infrastructures² (Japan. Economic Planning Agency 1995: Ch.1). Opinion polls also show that many Japanese are still dissatisfied with their quality of life (Japan. Economic Planning Agency 1995; McCormack 2001). The condition of Japan's planning indicates that technology, knowledge, wealth and even its formal democracy regime is not sufficient to bring the best planning practice to its people.

Regarding Japan as a latecomer to modernisation, some may believe that its modern planning system is still underdeveloped. This claim, however, appears to be invalid since Japan's first statutory planning system dates back to as early as 1919, just ten years after the introduction of the Housing, Town Planning, etc. Act in the UK. Moreover, the concept of *Garden City* initiated by Ebenezer Howard (1850-1928) in 1898 in the UK was swiftly introduced to Japan³ shortly after his publication of *Garden Cities of Tomorrow* (Howard 1902). Inspired by the original design of Garden City by Raymond Unwin, the development of Japan's Garden Suburbs, *Takarazuka* and *Denen Chōfu*, also started in the 1910s.

During my study abroad, I encountered a hypothesis to understand the paradox in contemporary Japan: the discourse on the public interest. The public interest was a rarely used term in Japan's planning policy-making. Therefore, I was very surprised when I learnt that the wording of the public interest is included in almost all articles in planning regulations of British Columbia during my study in Vancouver, Canada.

and other EU countries. Asahi Shimbun. 1996. *Asahi Shimbun Japan almanac* 1997 ed. Tokyo: Asahi Shimbun. p.74.

² Please see the next section, 1.1 for the details of this account.

³ The Home Ministry's staff published a report titled 'Garden City' which introduced Britain's Garden City developments to Japan in 1907. Ishida, Yorifusa. 1987a. *Nihon Kindai Toshi Keikaku no Hyakunen (A hundred years of Japan's modern city planning)*. Tokyo: Jichitai Kenkyūsha.

I was also very impressed to know that public hearings were held for nearly all planned developments and that many stakeholders attended them through my planning study in Canada, Australia and the UK. I also noticed that citizens, developers, politicians and planners fiercely disputed the meaning of the public interest in planned projects in leading democracies. It was fascinating for me since so many developments went on in Japan without even being discussed. Many Japanese citizens often only knew about planning projects in their own neighbourhood after developers had started proceeding with such developments. Were there any opportunities for ordinary Japanese people to discuss the public interest of planned projects? What could Japan's local residents do when the construction of such developments, of which many residents disapproved, had already started?

This thesis investigates reasons behind Japan's failures in planning policies within the framework of the modern state development. A central concept in understanding the progress of modern planning is the public interest. Despite the considerable recent criticism towards this concept (Jacobs 1972; Pennington 2000; Reade 1987; Sandercock 1998a), the idea of the public interest has been an inspiration as well as a catalyst to mobilise modern planning thoughts and practices in Western liberal states. In these states, there was a clear presumption that modern planning practices should be conducted in accordance with the public interest (Glass 1973; Taylor 1998; Ward 1994). Even after some academics in planning rejected the concept, it remained as a symbol or a catchword in the arenas of legislature, public consultation and judicial review to discuss policy concerns (Campbell and Marshall 2000; Davies, Keate, and English Heritage. 1995; Friedmann 1973; Howe 1992; Taylor 1994).

Japanese policy-makers and academics largely ignored the concept of the public interest in planning at least up until the 1990s, except for a brief period of burgeoning social movements in the early 1970s. I assume that the absence of democratic machinery to pursue the public interest in planning - debates of what constitutes the public interest, mechanisms allowing such contentious issues to be widely discussed in public, and statutory systems in which conflicts of interests are resolved fairly - is an obstacle for progress of planning in Japan.

This chapter first introduces the impacts of Japan's past planning policies on its built environment and citizens' welfare. Then I explain rationales for this research: why I investigate the relationship between Japan's planning policies and the public interest. Section 1.1 discusses the contradiction in modern Japan, that is, the poor quality of life in the affluent society. Section 1.2 addresses theories and debates of the public interest in modern planning development. Finally, section 1.3 presents research questions, underlying theories, and central research materials and then details the structure of the thesis.

1.1. Japan: Contradiction within the Economic Superpower

Within fifty years after the devastation of the Second World War, Japan rebuilt a robust economy from ashes and became the envy of many developed and developing countries. Its low crime rates, high education standards and stable domestic political relations enabled the nation to continuously increase its productivity and develop significant technological innovations. In 2004, in terms of Gross Domestic Product (GDP), Japan ranked as the second largest economy in the world (OECD 2005a). Furthermore, at least up until the early 1980s, Japan was one of the most egalitarian societies in terms of income distribution among the OECD countries (Tachibanaki

1998). Japan also succeeded in instituting relatively efficient state welfare systems such as unemployment benefits, child allowance, pensions, free medical care to the old, and a well-functioning National Health Service⁴ (Takahashi 1997).

On the other hand, it is also well-known that the level of quality of life, measured by the quality and size of housing, the provision of sewerage, parks, cultural facilities, urban design and other amenity-related infrastructures, is still lower than those reported by other OECD countries (*Keizai Kōhō Center* 2003: Ch.10). In particular, housing in Japanese metropolitan areas such as Tokyo is far below international standards. The 1979 EC report even described Japanese housing (for the middle-class) as a 'rabbit hutch'⁵. Despite its low quality, the average cost of a residence in Tokyo in 1994 amounted to almost 13 times the average annual income in the country. This was in a marked contrast to New York (about 3 times), Paris (3.5 times) and London (just below 7 times) (Kawai 1996).

Although postmodernists or cultural relativists may say that Asian people prefer small houses (Lim 1998; Townsend 1979), this is not necessarily the case in Japan. While the average size of owner occupied housing in the country was 122.7 square metres in 1998 (Japan. Research Institute of Urban Development Corporation and

⁴ Although Japan's level of welfare provisions is far behind other leading economies, the majority of Japanese were relatively content with its social security services up to the early 1990s. Goodman, Roger. 1998. The 'Japanese-style welfare state' and the delivery of personal social services. In *The East Asian welfare model*, edited by R. Goodman, G. White and H.-J. Kwon. London: Routledge. Tsukada, Hiroto. 2002. *Economic globalization and the citizens' welfare state: Sweden, UK, Japan, US*. Aldershot: Ashgate.

However, this would not be the case anymore as the safety net of the Japanese economy represented by lifetime employment system and stable family relations are disappearing and the relative poverty ratio in Japan has increased during the last fifteen years. OECD. 2005. *Selection of OECD social indicators: how does Japan compare?* (2005) Organisation for Economic Co-operation and Development, 2005b [cited 18 April 2005]. Available from http://www.oecd.org/document/24/0,2340,en_33873108_33873539_2671576_1_1_1_1,00.html.

⁵ This issue was widely covered by the Japanese media in the 1980s along with the word of 'economic animal'. Although this turned out to be 'misunderstanding' by Japanese reporters in later years, 'rabbit hutch' became a catchword to stand for the poor quality of living in Japan mismatched with the nation's affluence in the next two decades.

The Building Center of Japan 2003), the 2004 government's opinion poll showed that 74.3 percent of the sample responded that the ideal size for a detached suburban house was larger than 150 square metres (Japan. Public Relations Office. Minister's Secretariat. Cabinet Office 2004).

The problems of Japanese housing are related not only to its size and costs but also to the physical condition of the housing stock. More than 30 percent of the housing stock in Tokyo and other urban areas was identified as decrepit, requiring reconstruction or at least proper maintenance (Tokyo. Metropolitan Government 1998.). The dangers associated with the poor housing manifested themselves in the disaster caused by the 1995 Great Hanshin-Awaji Earthquake in the Kobe area, which claimed 6,425 lives. The deteriorated housing was reported to be one of the major causes for the high number of casualties (Foreign Press Center Japan 1997).

Another fact related to the poor quality of life in Japan is a lack of open space in its cities. International comparisons of park space per capita in metropolitan areas indicate an acute shortage of open space in Tokyo (3.0 square meters) in contrast to New York (29.3 square meters), London (26.9 square meters) and Paris (11.8 square meters (Japan. Research Institute of Urban Development Corporation and The Building Center of Japan 2003). Similarly, the ratio of road area to total urban area is 7.5 percent in Tokyo, compared to 30 percent in New York and 20 percent in Seoul (Tokyo. Metropolitan Government 1998). The lack of urban open space in Japanese metropolises is likely to exacerbate the damage by future earthquakes as proven by the Great Kanto Earthquake which killed 142,807 in Tokyo in 1923.

In a country which is prone to earthquakes, these situations can be devastating. Indeed, it is predicted that Tokyo, which has been continuously growing, will

experience another major earthquake in the future. In order to mitigate the impacts of future large-scale disasters, appropriate planning policies such as an increase in urban open space, the redevelopment of derelict inner city areas and the removal of unsafe housing are required.

Furthermore, the profiles of the casualties of the 1995 Great Hanshin-Awaji Earthquake illuminated another problem of planning in Japan: increasing social inequality and geographical segregation under the global economy. The majority of the casualties were the most vulnerable populations in Japanese society. They were disproportionately the poor, elderly, women and minorities living in low-quality housing in the inner cities of Kobe, which are contrasted to the city's newly built affluent suburbs (Habitat International Coalition 1996; Hirayama 2000; Osaki and Minowa 2001). The disaster eventually exposed the myth of the egalitarian and affluent society in post-war Japan.

The rapid economic growth in post-war Japan created a two-faced nation state. One is an affluent society with a relatively fair distribution of incomes and consumption, a well-established education system and an efficient social security system. Another shows its injustice and poor quality of life lacking affordable good quality housing, a disaster prevention system, comfortable transport networks with manageable congestion, noise and pollution prevention, ample open spaces, amenities and aesthetic urban design. It is the coexistence of these two faces within Japanese society that has constantly puzzled foreign observers.

Judging from current conditions in Japanese cities, however, there is little evidence that the state conducted planning policies responding to social needs in the public interest. To assess why the Japanese government was so ineffective in many areas of

planning policies, it is useful to analyse the origins and development of these policies in relation to the public interest. The historical analysis of planning institutions will show how the public interest in planning has been constructed in Japan and how the discourse on the public interest can be contested in its democracy. The outcome will aid the understanding of the paradox of modern Japan: the poor quality of life in an economic superpower. Furthermore, a comparison of Japan's planning with those in other advanced democracies also illuminates the relationship between Japanese planning and its modern state development.

1.2. Debate on Planning and the Public Interest

The modern planning system is a product of the modern state. Although exact definitions of the modern state are problematic, there are several central features (Anderson 1986; Hall and Gieben 1992; Pierson 1996 See more detailed arguments in 2.2). In the process towards the modern state, four major ingredients are identified: 'the emergence of modern democracy, the spread of industrialisation, and the evolution of nationalism and the growth of socialism'⁶ (Anderson 1986). In eighteenth-century Europe, after the establishment of the territoriality and sovereignty of nation-states under absolutist regimes, the unconditional power of monarchies wore off with the rise of the bourgeoisie democracy and capitalism. In particular, the emergence of capitalism, which was accompanied by industrialisation and urbanisation, formed an important foundation of the modern state, and subsequently led to the birth of modern planning systems in Western states (Benevolo 1967; Engels 2001; Hall 1996a; Sutcliffe 1981).

⁶ In my opinion, *socialism* should be replaced with social citizenship.

In order to understand the growth of the modern planning system, the analysis of the concept of the public interest is important. In nineteenth century West, faced with the public health crisis in industrial cities, the sustainability of the laissez-faire economy was questioned (Ashworth 1954; Benevolo 1967; Fraser 1984). Simultaneously, the urban working classes also challenged bourgeois liberal democracies in Western Europe (Geary 1981; Hinton 1983; Jones 1976). The public interest was a key concept for the state in intervening into the free market principles on land-use to counter public health problems as well as counteract the discontents of the working classes in European industrial cities (Ashworth 1954; Benevolo 1967; Fraser 1984: 67; Hall 1996a: Ch.2). The re-definitions of the public interest in planning gave rise to social citizenship in Western liberal democracies (Cullingworth 1999; Friedmann 1973; Ward 1994). While the diverse concepts of the public interest are fully explored in Chapter 2, the next section introduces arguments about the public interest in planning, and then explains its role in planning development in the West.

Arguments about the public interest

The following quote illustrates the view held by many planners up until the early 1970s about the role of the public interest:

First and foremost, there is comparatively little scepticism or even curiosity about the [British planning] system because it has been established by common consent, in recognition of the public interest (Glass 1973: 49).

Although the concept of the public interest played an important role in Western planning histories (Cherry 1996: 223-224; Hague and McCourt 1974; Ward 1994), it should be noted that the public interest has been understood in two different ways

(McLean 1996). First, the public interest can be interpreted as the aggregation of interests of those affected by a policy or an action under consideration. This interpretation was adopted by Jeremy Bentham (1748-1832, English philosopher), who argued that: 'the interest of the community then, is what?...the sum of the interests of the several members who compose it' (quoted by Flathman 1966: 15). This position, however, has an obvious problem: how can the heterogeneous individual interests of members of a community or the public be reconciled?

The second meaning of the public interest is the common interest of members of the public. This interpretation, however, also faces a challenge: how can a common interest of the public be identified? This pragmatic problem has triggered criticisms towards the perception of the public interest as shared concerns. In *The Conceptual Muddle* (1962), Frank Sorauf strongly disagrees with this view as follows:

[Decisions in the public interest] apply to few concepts in political science as aptly as they do to 'the public interest'..... Clearly, no scholarly consensus exists on the public interest, nor does agreement appear to be in the offing. Not only do scholars disagree on the defining of the public interest, they disagree as well as about what they are trying to define: a goal, a process, or a myth (quoted in Held 1970: 1).

The difficulty in identifying the public interest is caused by the need to make value judgments. Whose interests count the most? Ironically, the growth of public administration, in combination with the development of science and public management skills derived from recent war experiences, provided a solution to this problem (Marshall and Choudhury 1997; Taylor 1998). Rationality, based on results from scientific social research, apparently eliminated difficulties of value judgments in defining the public interest. Planners were inevitably drawn to this solution as explained here:

Such an approach compels administrators to rely uncritically on instrumental techniques rather than seek clarification of what the public interest is in an open dialogue. For the rationalist, the meaning of the public interest thus ends in becoming what the experts have determined (Marshall and Choudhury 1997: 123).

However, with the belief in the superiority of mathematical science and technology in planning decisions, the public interest lost ground as a keyword for an open discussion for forming collective interests (Marshall and Choudhury 1997; Reade 1987; Thomas and Healey 1991). Replacing the public interest with technocratic rationality contributed to the declining of the public faith in the modern planning system in Western liberal democracies (Marshall and Choudhury 1997; Taylor 1998).

Whither the public interest?

Relying strongly on the rational planning model, planners up to the 1960s promoted development projects such as slum clearance and motorway construction in the name of the public interest (Hall 1980; Jacobs 1972). These projects provoked large protests in many Western countries. Inner-city residents fiercely claimed that they preferred to live in improved old Victorian houses to living in new high-rise buildings (Taylor 1998). Urban motorways built in the middle of residential areas were severely opposed by affected communities (Hall 1996b; Taylor 1998). In *The Death and Life of Great American Cities* (Jacobs 1972), Jane Jacobs offered a savage criticism towards existing planning practices about how planners identified the public interest. She argued that the strong belief and reliance on rationality in planning killed cities as social and common spaces for the public.

Furthermore, social scientists who have advocated a conflict model of society claimed that capitalist societies are composed of different groups with different (and often conflicting) interests; therefore, no common public interest exists (Reade 1987;

Sandercock 1998a:196-9; Simmie 1974). This view is typically represented by pluralist theory in political scientists in the USA (Dahl 1961; Lindblom 1959) and to a certain extent, accords with rising postmodernist/ feminist critiques in social science disciplines (Bauman 1999; Giddens 1990; Sandercock 1998b). As a result, the idea of the public interest, which used to be identified as a rationale for planning technocrats, was seriously attacked from the 1960s in the West (Meyerson and Banfield 1964; Pennington 2000; Reade 1987; Sandercock 1998b: 196-9).

In addition, the public interest in planning was also attacked by both left wing and right wing political ideologies. Marxists argue that the role of planning in a capitalist democracy is in fact to enhance the accumulation of wealth of the capitalist class (Castells 1977; Cockburn 1977; Harvey 1973; Simmie 1981). By providing necessary urban infrastructures, efficient production of capital is reinforced for the sake of the industry in the long run despite the economic loss of the businesses in the short term (Harvey 1973). From this point of view, public goods such as social housing and parks serve to contain the social strife, that might otherwise undermine the capitalist order as experienced in nineteenth century industrial cities (Benevolo 1967; Hall 1996a).

From the other side of the political spectrum, neo-liberals not only disagree with the existing planning system but also denounce the entire welfare state model and the efficiency of a big government (Hoover and Plant 1988; Pennington 2000). The neo-liberal attacks on the modern planning system are partly based on a suspicion, shared with Marxist arguments, '...that government from time to time uses the planning system as a means of promoting different interests' (Reade 1987: 185). As only a limited number of groups in a society can influence political decision-making, the

enlargement of the bureaucracy and its closeness to politically resourceful groups may distort the equal allocation of resources in a society, thus distorting democracy (Klosterman 1996; Pennington 2000). Hence, neo-liberals argue that reducing the state's role in planning will promote a more equal distribution of gains from planning among the population by means of an effective market mechanism (Klosterman 1996). This argument is enhanced by public choice theory which claims that the existing planning system is in favour of powerful interest groups instead of the general public (Pennington 2000). With all these antagonistic views towards the modern planning system, 'the concept of the public interest has come under severe attack in planning practices, in academia and in the world of politics' (Klosterman 1980: 323).

The public interest: a catalyst for changes in planning

Despite the difficulties in constructing the definition of the public interest, the contribution of the concept in Western liberal democracies cannot be denied. The public interest as a common interest is the central concern of everyday politics. As such, it is related to the role of the modern state. The importance of this issue was pointed out as follows:

The problems associated with 'the public interest' are among the crucial problems of politics. Determining justifiable governmental policy in the face of conflict and diversity is central to the political order; it is a problem which is never solved in any final sense but which we are constantly trying to solve. The much-discussed difficulties with the concept are difficulties with morals and politics. We are free to abandon the concept, but if we do so we will simply have to wrestle with the problems under some other heading (Flathman 1966: 13)

Furthermore, John Rawls proposed a revolutionary idea about human intelligence in understanding the relationship between planning policy and the public interest in a

modern society. In his *Political Liberalism*, Rawls suggests that human intelligence is twofold – firstly, reasonable and secondly, rationale (Rawls 1993: 47-88). ‘Reasonable’, he reckons, is that persons, institutions, or doctrines can act being fair and cooperate with others not only for their own interests but for the whole of society. Therefore, being reasonable is important for people to identify common interest and ends. Rawls considers that being ‘rational’ is the ability ‘to adopt the most effective means to ends, or to select the more probable alternative, other things equal’ (Rawls 1993: 50).

In fact, the implementation of policy is divided into two processes as its Japanese translation, *seisaku*, consists of *two* words: *politics (sei)* and *strategies (saku)*. Rawls’ theory fits this insight that planning (or public) policy is twofold: the public interest and strategies. The public interest is a key word for all people to reach a ‘reasonable’ end in politics of planning. The strategies of planning can be achieved by ‘rational’ thinking. Rawls claims that reasonable and rational agents should be the units of tasks necessary in political and social life (Rawls 1993). Therefore, it is impossible to implement planning policy without identifying the public interest. Essentially, the concept of the public interest has acted as an important catalysing force in stimulating the ongoing discussion on what planning is for.

The contributions of the public interest to Western planning development can be seen as being four-fold. First, the public interest contributed to the development of government interventions in the *laissez-faire* economy (Ashworth 1954; Fraser 1984; Hall 1996a). Public health problems that resulted from ill-suited land-use required the government to regulate the free market principle (Ashworth 1954; Fraser 1984; Hall 1996a). Also, governments became responsible for the supply of urban

infrastructures to residents, regardless of their social status. The resulting government interventions in the market transformed the *laissez-faire* economy into an economy of more mixed nature. Excess profits from landowners were curbed *in the public interest* and subsequently redistributed through newly empowered government functions. This contributed to the formation of the welfare state, based on the new political and economic principles of the redistribution of resources within a capitalist society.

Second, the consideration of the public interest in housing reforms for the working classes meant that the government started to include the interests of the masses, which had previously been ignored in the bourgeois democracy (Ashworth 1954; Cherry 1996; Jones 1976). While universal suffrage in cities enabled the working classes to participate in politics, the public interest discourse in the working class housing reform facilitated an expansion of 'positive' human rights, which were not just limited to 'negative' human rights such as liberty and the freedom of choices (Dyrberg and University of Essex. Department of Government 1992). Although the provision of affordable housing and the improvement of the urban environment was concession from the urban elite class to the masses in the name of the public interest (Ashworth 1954; Hall 1996a), this led to the further enhancement of citizenship of the working classes in urban life. Besides, these public goods in urban life, which had been provided by philanthropists in the nineteenth century (Addams 1893; Hill 1883), came to be recognised as a part of citizenship rights for all classes. Subsequently, the provision of these goods came to be the responsibility of the state in a capitalist democracy. As such, the public interest in planning promoted the development of social citizenship in the West.

Third, although the concept of the public interest in policy-making has often been criticised for its ambiguity, the introduction of the concept provided people with social and legal latitude to contest policy-making decisions (Dyrberg and University of Essex. Department of Government 1992). The concept allows people to challenge the legitimacy of both public and private sectors' behaviours by disputing whether they are in line with the public interest. Not only can people form pressure groups to promote certain planning policy in a legislature stage but also voice their concerns at public inquiries in plan-making processes. If people are still discontent with planning decisions, they may have opportunities to contest the legitimacy of government judgements, when they have sufficient ground to do so in judicial review. This is the dynamics of how the public interest has transformed the discourse of planning in liberal democracies in the West.

Finally, the right to challenge government policies created a situation where the general public now has the right to be informed about, and be involved in, formal planning decision-making procedures. Indeed, it is nowadays impossible for governments of advanced liberal democracies to decide planning policies without transparency and the use of public consultations. In most modern liberal states, citizens are legally entitled to access to public information about planning decision-makings and participation in plan-making processes.

In retrospect, the concept of the public interest has served as a vehicle to transform existing planning systems and to make planning policy more accountable to citizens in the West. It helped to overcome shortcomings of free market capitalism, stimulated political participation of the working classes, strengthened social citizenship and gave an opportunity for citizens to challenge the state and businesses

about what would help to achieve a better quality of life. Since the concept of the public interest played a multifaceted and central role in defining criteria of planning policy as well as policy processes in Western modern states, a study of the public interest in planning in other democracies could help to understand the dynamics of planning policy and improve policy processes in advancing citizenship rights in these states.

1.3. Research Design

The concept of modern planning

Town planning as physical design or layout of built environments has existed throughout human history. Ancient civilizations had capital buildings; medieval cities in Europe and Japan thrived. What makes modern planning different from these early versions is that it emerged along with rapid industrialisation, urbanisation and democratisation. Modern planning uses regulations and incentives to control land-use. Bureaucracy, which is accountable to taxpayers, carries out planning administration under the rule of democracy.

However, the complex history and practice of modern planning makes it difficult to construct a precise definition of its concept. Literally, planning can be taken to refer to the science of decision-making. Modern planning is related to making spatial physical plans for the future. Modern planning is also a matter of politics because ‘...town planning as a political project has involved greater state control over private activity, particularly in the use and exploitation of land.’(Ward 1994: 4). Combining its various features, planning in this thesis is defined as *a future-oriented policy decision-making concerning the built environment*. Important to note is that,

although housing policy tends to be treated as a part of social policy in the contemporary welfare state, this thesis includes housing policy in its analysis due to its importance for the creation and development of modern planning systems in the West.

Aims of the thesis

Whilst the concept of the public interest played an important role in the development of Western planning, the concept has been construed in a different way in Japan. In fact, there are different terms for the concept of the public interest in Japan in academic circles, the legal world and in the mass media, although all three terms have been used interchangeably as an equivalent to the public interest in English. The three common terms are *kōkyō no riei* (the public interest), *kōkyō sei* (the nature of publicness) and *kōkyō no fukushi* (the public welfare). The expression of the public interest is the least common in Japan, and this is mostly used in official documents. In the legal world, the term public welfare has a meaning equivalent to the public interest in the West. Academics and the media prefer the nature of publicness to the public interest. The disagreement in the use of the public interest also means that there were few discussions in the media and academic circles about this concept in the past.

However, the concept of 'public' in policy-making has recently attracted a lot of attention from academics, the media and citizens in Japan. This stems from the nascent idea of civil society which has become very popular due to the achievement of the voluntary sector in providing social services following the Hanshin Awaji Earthquake (Kuroda 2003; Osborne and Nissan Institute of Japanese Studies. 2002; Shaw and Goda 2004; Yamamoto 1999b). Simultaneously from the 1990s, Japanese

intellectuals also introduced writings about civil society and the public sphere from the West to Japan (Katsuragi 2005; Saitō 2000; Sasaki and Kim 2002; Yamamoto 1999a; Yamawaki 2004). Planning has become a discipline in which the idea of civil society and *kōkyō sei* (the nature of publicness) is passionately debated (Evans 2002; Hayashi and Itō 2000; Koizumi 2003; Nakazawa 2003) because the concept of *machi-zukuri* (literally town-making, close to the concept of community planning in English) through democratic citizen participation was once the issue in the 1960-70s (Avenell 2006; Krauss and Simcock 1980; Lewis 1980). Moreover many cities need a new model of planning after communities were torn apart from excessive developments during the bubble economy period.

Although the concept of 'public' and the public realm in planning has increasingly become the object of academic inquiries, there seem to be some missing elements in the current arguments in Japan. First, many Japanese academics discuss the concepts of 'public' by simply introducing seminal academic works on the public sphere such as the works of Jürgen Habermas (Habermas 1987; Habermas 1997) and Hannah Ardent (Arendt 1998) (e.g. Katsuragi 2005; Saitō 2000; Sasaki and Kim 2002; Yamawaki 2004). Others explain that Japan has a different concept of public (*kō*), which has been developed by the influences of Chinese Confucianism and the feudal times, in particular Tokugawa era, of Japan (Kurozumi 2002; Mizubayashi 2002). These arguments of 'public' seem to offer little in examining how the concepts have impacted on Japanese politics and society. Criticising the situation, Maruyama Masao once ridiculed the studies of political science in Japan saying that they uncritically collected new ideas from all over the world like a museum curator (Maruyama 1963b). Maruyama claimed that Japanese political scientists exhibited new theories from the West in their works until they became outdated; nonetheless,

these academics did not try to assess the nation's political reality using these imported theories (Maruyama 1963b).

Likewise, defying 'the authority-defined' public interest, Japan's left-wing academics and social movement campaigners have emphasised the establishment of the 'new' publicness (*atarashii kōkyōsei*) or the citizens' publicness (*shiminteki kōkyōsei*). This means that they encourage citizen participation in planning by developing 'citizen-initiated' public realm to make planning being accountable to citizens (Hayashi and Itō 2000; Koizumi 2003; Satoh 2004). Nevertheless, a question should be raised about why citizens' movements on planning issues in the earlier period, which also demanded that government accounted for the public interest based on local needs (Avenell 2006; McKean 1981; Steiner, Krauss, and Flanagan 1980), faltered in the mid-1970s (Mason 1999). Furthermore, Japan's pre-war history, in which the nation's grassroots civil organisations actively supported the oppressive ultra-nationalism (Garon 2003; Maruyama 1963c), suggests that the existence of civil society and citizen participation is not sufficient enough to achieve just planning goals.

Some academics illuminated why the 'public' concept in Japan has differed from the West and how it has affected politics (Matsumoto 1978; Oguma 2002) and some perspectives of social reality (Boling 1990; Iokibe 1999; Terao 2000; Yamawaki and Osawa 1998). Sorensen recently wrote about the characteristics of the public realm in Japan and their impacts on Japanese planning development (Sorensen 2005). He concluded that the narrowness of the public realm in Japan produced the nation's distinctive planning culture, which had emphasis on economic development (*ibid*). However, scholarship has not yet been successful in examining to what extent the

multiple discourses on 'public' discussed in the West (see Chapter 2) have shaped the public interest in Japanese planning (e.g. Edo 1980; Iwami 1985; Terao 1999). There is no comprehensive investigation on how the public interest in Japanese planning has been historically formed and deployed in planning practices.

On the studies of Japanese planning histories, there are some excellent works which detail the historical development of Japan's planning policy since its inception (Ishida 1987a; Ishida 1987b; Sorensen 2002). Others focus on the analysis of planning policies in specific periods such as the era of post-war reconstruction in 1945-52 (Ishida 2003; Tiratsoo 2002), social movements in the 1960-70s (Avenell 2006; McKean 1981; Steiner, Krauss, and Flanagan 1980) and neo-liberal urban developments in the 1980s (Hayakawa and Hirayama 1991; Iio 1993; Otake 1993). Moreover, a number of academics have written about Japan's modern architecture development and its relationship with culture and society (Coaldrake 1996; Jinnai 1994; Nute 2004; Shelton 1998; Stewart 1987; Suzuki 2001). However, these works do not offer strong theoretical accounts of why some important concerns in Western planning such as quality of life and liveability have never been high on the agenda for Japan's planning and why it has been difficult to change the status quo. This thesis intends to fill this gap and offer new insights on Japan's planning development in the course of modernisation.

Theories and approaches

A modernisation process, in particular, industrialisation and its negative impact on a society instigated the development of planning and the public interest in the West (Ashworth 1954; Hall 1996a). Therefore, to investigate the relationship between Japanese planning and the public interest, it is necessary to analyse Japan's path

towards a modern state. The modern Japanese state and its planning system emerged after the 1868 Meiji restoration. Important to note is that the development of the Japan's modern state progressed in a distinctive way (Gordon 2003; Norman and Woods 2000; Tipton 2001) from Western liberal states, where the modern state developed gradually and continuously into the current form along with industrialisation and democratisation. Instead, radical revolution transformed Japan from a feudal community to a modern nation-state, and the new government initiated industrialisation and planning policy (Beasley 1995; Sorensen 2002; Tipton 2001). This inception of Japan's modernisation and planning can be contrasted to the origins of planning in the West.

While Japan's public administration emerged by imitating Western state administrations (Beasley 1995), modern state institutions in Japan, in particular for planning development, contain origins and principles that were very different from those in nineteenth century Western liberal democracies. As mentioned above, the Japanese government solely focused on industrialisation and the establishment of sovereignty. These modern state institutions have had influences on the role of the state and public policy outcomes.

Japan's inception of the modern state, in particular the relationship between capitalism, civil society and the state, strongly affected its planning development. My research presents the modern state of Japan as being representative of the developmental state model (see Chapter 2 in more detail), which differs from the welfare state model adopted by countries such as the UK in relation to the development of planning policy. While Japan did import modern state administration and planning instruments from Western states (Ishida 1987a;

Sorensen 2002), its built environment is very different from those in Western states. My hypothesis is that the construction and interpretation of the public interest in the course of its modernisation resulted in another type of planning policy development in Japan.

Combining historical and institutional analysis, the approach adopted in this research is in the tradition of historical institutionalism. Ashford (1992) summarises the advantages of this approach as follows:

A particular policy study is not simply a building block for one or more lawlike generalizations as conceived in normal science but is simultaneously a historical narrative, a portrayal of particular motives and intentions at work in a particular setting, an account of prevailing ethical and moral standards at work in political and social life at some moment in history, and an exercise in defining political and social reality for policy makers and the public (Ashford 1992: 4-5).

Moreover, historical institutionalists emphasise how institutions affect policy outcomes in the following manner:

[Historical institutionalism] emphasize the role of institutional choices made early in the development of policy areas, or even of political systems. The argument is that these initial choices (structural as well as normative) will have a pervasive effect on subsequent policy choices (Goodin and Klingemann 1998 : 210).

Extending on this, I will argue how ideas determined the role of institutions and policy choices in the process of planning policy-making. Here, ideas are interpreted as *shared beliefs* (Goldstein 1993a: 11) among politicians, members of public administration and policy advisors, who had significant impacts on policy choices (Goldstein and Keohane 1993b; Thornley 1991). The meaning and discourse of the public interest reflects these shared beliefs that have been present in Japan's planning institutions. In order to identify how the concept of the public interest has been

constructed in the contemporary planning regime, I rely in my research on textual analysis of policy statements, interviews and judicial review cases.

Furthermore, I will review Japanese planning development based on feminist critiques to find out why certain discourses, such as the quality of life, have failed to materialise in its policy-making. Feminist critiques in this thesis do not simply mean analysing power imbalance between genders, but examining planning reality in Japan from the viewpoints of people being oppressed and factors not being noticed (Bacchi 1999; Rendell, Penner, and Borden 1999; Sandercock 1998a). Marxist analysis based on class and economic inequality cannot fulfil this objective very well. First, post-war Japan once succeeded in minimising class differences in terms of income distribution (Tachibanaki 1998). Second, as fully analysed in Chapter 7, even Japan's middle-class population could not escape from negative impacts caused by its policy failures in planning. 'An interest in class, race and gender' will help to explore hidden agenda in policy-making and illuminate inequalities of power distribution in society (Scott 1986: 1054).

Besides ideological and institutional factors shaping the public interest in planning, the legal framework in Japan has also operated in a distinctive manner from Western liberal democracies. In a modern democracy, a constitution is a foundation to protect citizenship and the public interest. Planning laws and regulations should be in compliance with the constitutional rule. Robert A Dahl explains in *Polyarchy: Participation and Opposition* (Dahl 1971) that there are two requirements to realise a truly democratic state: political participation represented in suffrage and the right of

public contestation⁷. He considers that there is no true democracy in communist countries, as there are few opportunities where people can challenge the legitimacy of the authority (Dahl 1971). Indeed, the discourse on the public interest in planning has been redefined through legal challenges in liberal democracies about whether both public and private actions are in the public interest as stipulated by the constitution. In this context, the 1946 Constitution of Japan is also special because the US Occupation Force drafted it. Partly because of this origin, the Constitution of Japan, which ultimately rules the public interest, has tended not to be referred to often by the judiciary for legal disputes in planning (see Chapter 7). While the Constitution of Japan strongly supports the ideal of citizenship, the divorce of the constitutional rule from planning justice has also affected the public interest discourse in Japan.

Therefore, I used three research methods to analyse the concept of the public interest in planning in Japan: first, studying its historical construction derived from its distinctive path to modernisation; second, analysing its institutional constraints; and third, how the government understood the concept of the public interest in planning implementation. Three approaches can be justified because this research is to analyse a subtle use of power and control of the planning agenda as well as the right to challenge government decisions when people articulate the public interest. This cannot be done using a power struggle model among interest groups in planning policy-making as realist political scientists suggest (Dahl 1961; Dunleavy 1980; Lindblom 1959; Lowi 1979; Pennington 2000). The main objective of the research

⁷ The term polyarchy is an artificial term introduced by Dahl to describe the perfect condition of democracy, as Dahl believed that there is no fully democratised state in the real world (see Dahl, 1971).

is first, to find out why particular policy choices have never been set on the agenda (Bachrach and Baratz 1962) or even entirely overlooked (Lukes 1974) in Japan's planning development, and second, why such policy choices have not changed.

Research questions

The central research question is:

What have been the roles of the public interest in the development of Japanese planning?

Sub-research questions:

- What forces have determined the way that the public interest in Japanese planning has been historically constructed, especially in relation to the market, the public sphere, social life and domestic life (see Chapter 2)?
- Why has Japanese planning failed to produce good quality of life although the government has continued to import planning tools from the West and the national income has been one of the highest in the world?
- Why has the idea of the public interest in Japanese planning rarely been contested? Why has it been difficult to change the status-quo?

Identification of the information requirements

In order to investigate the origins and development of the public interest in planning policies, this research requires an extensive review and analysis of the modern history and institutions of Japanese politics and society. For this analysis, I will review literatures of Japan's modern and planning history, planning policy

statements, government reports and documents of administrative guidance on planning policy in order to understand the goals of Japanese planning. This analysis draws heavily on materials issued by the central government, as Japanese planning is largely under the control of the central bureaucracy. In addition, I look at biographies and interviews with key people who were in the position to influence Japan's planning policies. In Japan, it is often long after leaving the office that these people reveal what the real goals and intentions of particular set of policies were. As such, these sources may constitute important aids to understand the reasons behind planning decisions.

The court rulings of planning disputes are a very important source for this research, as there are no formal opportunities for Japanese citizens to interrogate and challenge the legitimacy of proposed plans before implementation. Due to this very limited extent of participation in the planning process, the court is a final resort for Japanese citizens to resolve planning conflicts. The cases analysed in this thesis are the most cited court rulings in leading legal journals in Japan⁸ about the public interest and planning. While a number of lower court rulings were selected from the Japan's Supreme Court Database by matching the wording of the public interest and city planning⁹, the majority of the cases reviewed are the Supreme Court rulings. I selected the cases based on the classification of the public interest discourses introduced in Chapter 2. The selected rulings represent ongoing discussion of the role of the public interest shaping a relationship between the state and the market, the nature of the public sphere, the ideas of sociability, and feminist critiques towards

⁸ *Jurist, Hanrei Times and Hanrei Jihō*

⁹ From Gyōsei Jiken Saiban Reishū (judicial review cases) database, 167 cases were hit under those wordings on 10 July 2006. See <http://www.courts.go.jp/>

modern planning such as safety concerns. The reviewed rulings demonstrate how citizens challenged the official discourse on the public interest in planning which the state deployed to attain its goals, and reveal how the state countered the citizens' claims.

In the Japanese litigation system, there is little chance for citizens to win cases against public administrators and developers on the ground of the public interest. As a result, there have not been many court rulings about planning issues. The legal suits related to planning were most often found in environmental planning disputes about concerns such as air and noise pollution caused by the development of new infrastructures in residential areas. Therefore, I also use this type of lawsuit in my thesis to better understand the role of the public interest in planning.

The structure of the thesis

This thesis explores the discourse on the public interest in Japanese regional and urban planning in a historical context. The history of Japanese planning policy is analysed along with its modernisation, in comparison with similar development in Western states. This thesis consists of three parts. Part One consists of this chapter and chapter Two. Chapter Two discusses the development of the modern state and analyses the process towards the birth of the modern planning system. It is argued that the modernisation process has affected the distinction between public and private spheres and suggests that the public interest in planning is construed in line with this distinction in modern states.

Chapters Three to Five contains the historical construction of the public interest and planning culture of Japan, forming Part Two. Chapter Three describes the

emergence and development of the Japanese modern state from 1868 to 1945. The emergence of the planning system is analysed alongside the growth of Japanese state-led capitalism and military expansion. Chapter Four looks at the shift from the Japanese pre-war authoritarian regime to democracy under the US occupation. Despite the positive impact of the US-led democratic reforms on post-war Japan, this chapter shows that the planning system was not significantly changed by the reforms. While the reforms during the occupation encouraged Japanese society to become more democratic and egalitarian, the shift in the US's policy towards an emphasis on economic development in Japan reduced the chance for the Japanese to dismantle its pre-war authoritarian bureaucracy. Chapter Five explains how Japanese planning policy became a tool for industrial development and was subject to the rules of its strong bureaucracy. While Japan's spatial economic strategy contributed to the creation of its national wealth, it was also accompanied by negative externalities. In fact, the developmentalism of Japan's planning policy adversely affected citizens' quality of life and even the economy itself after Japan became an economic superpower. The chapter explores the emergence and limitations of the citizen's 'public' interest as an alternative to the state's 'public' interest.

Part Three contains Chapters Six, Seven and Eight. Chapter Six examines the roles of post-war institutions and systems in Japan which prevented the formation of the 'alternative' public interest within planning policy-making. It is worth mentioning that Japan's public institutions, as well as other social institutions, carry the legacy of the Meiji Restoration. In analysing these matters, this chapter focuses on institutions that influence planning policy choices in the legislative, executive and judicial branches of Japan's modern state. Chapter Seven analyses the discourse of Japanese planning system by investigating the concept of the public interest in planning and

environmental litigation. I examine legal cases that represent the major opinions of the Japanese courts, focusing on the Supreme Court rulings. The cases correspond to key planning disputes in contemporary Japan, involving human/environmental rights, local autonomy and third party interests.

Finally, Chapter Eight summarises and highlights the main findings of the thesis related to the role of the public interest in Japanese planning. The concept is deeply influenced by the origins of Japan's modern state, in particular the relationship between the state, market and society. The conclusion will illuminate how the concept of 'public' represented by the public interest affects planning policy development in modern Japan. The conclusion also summarises major obstacles to change Japan's planning administration in relation to its cultural, institutional and legal framework.

Chapter Two: The Public Interest and the Modern State

Created during the process of modernisation, modern planning systems and their ideologies were inevitably shaped by the paths towards the modern state. The concept of the public interest also emerged under modernisation, beginning to play a central role in the formulation of planning and other public policies. It is important to note here that the concept of the public interest is not straight forward, as Chapter 1 showed that there is a lot of contention about the perception. The meaning of 'public' in the concept of the public interest in fact has four aspects in the West, based on its boundaries with the private sphere (Weintraub 1997). I believe that this boundary has constantly shifted through public debates and politics so that it has also changed the concept of the public interest. Therefore, the definition of the public interest differs over time and across modern states, depending on the stage of modernisation in a nation. In order to fully understand and appreciate competing arguments about the public interest in contemporary planning systems, we need to analyse the political history of the modern state.

This chapter explores the conceptual development of the public interest in relation to the modern state. Section 2.1 explains the common characteristics of the modern state and its process of evolution. This is followed by an analysis of how experiences of latecomers to modernisation differ from leading modern states in Western Europe. Section 2.2 gives the details of the developmental state of Japan, where modernisation was in principle conditioned by an international order. This section also discusses the impact of the developmental state on early Japanese planning development. Section 2.3 examines the complex arguments about the public interest, derived from the four major distinctions between public and private

spheres that are used in Western liberal democracies. Section 2.4 investigates the interpretation and use of the public interest in modern Japan, using the classification introduced in section 2.3. This section shows the unique characteristics of the public interest that originate from Japan's relation with the outside world. Section 2.5 summarises the findings from the previous sections, and consider why the public interest in Japan has a different logic compared to Western liberal democracies.

2.1 The Development of the Modern State

Development in Europe

The current form of the nation-state is a rather new entity in political history (Hall and Gieben 1992; McLean 1996). Despite the rise of empires in the wake of civilisation and flourishing city-states in the Middle Ages, anthropologists established that people have for a long time lived in stateless societies, which were based on communities that were not necessarily ruled by state authorities (Hall and Gieben 1992; McLean 1996). Nonetheless, after a long feudalistic era, the absolute state transcended into the nation-state with sovereign power, which then gradually developed into the modern state (Eccleston 1986; Hall and Gieben 1992; Pierson 1996).

Although there is no agreed view of the modern state, Max Weber offered the most influential definition in his works (Pierson 1996). According to Weber, the following characteristics of the modern state are particularly important (See also Giddens 1985; Mann 1993; Tilly and Ardant 1975): (1) monopoly of the means of violence; (2) territoriality; (3) sovereignty; (4) constitutionality; (5) impersonalised power; (6) public bureaucracy; (7) authority / legitimacy; (8) citizenship; (9) taxation

(Pierson 1996 : 8). It is generally accepted that the modern state with these characteristics emerged in Western Europe between the eighteenth and nineteenth century (Hall and Gieben 1992).

Western states contained two precursors that were particularly important to the modern state development. First, the Enlightenment and the birth of social science challenged traditional ideas and beliefs, in particular of religion (Hall and Gieben 1992). Breaking the chains of unreasonable suppression from churches and rulers, people were able to progress by following reason and rationality of science based on empirically tested knowledge with new technologies (Porter 1990). The Enlightenment and the progress of social sciences in seventeenth- and eighteenth-century Europe was crucial to the progress of liberal democracy, in which people were free from 'cruelty, injustice and despotism' of feudal and absolute rulers (Hall and Gieben 1992: 37). The radicalism of the Enlightenment enabled the progress of both industrialisation and liberal political thoughts.

Second, the absolutist regime established the nation-state prior to the development of the modern state (Giddens 1985). In fact, some take view that the foundations for the modern state – 'monopoly of violence, territoriality, sovereignty, bureaucracy and taxation' – were established during the era of absolutism (Pierson 1996: 52). Numerous wars between absolutist states over territories enhanced institutional development towards the modern state (Giddens 1985; Mann 1993; Tilly and Ardant 1975). Growing military expenditure pressed absolute monarchies to centralise legal power and establish systematic mechanisms for tax collection, as well as to create a bureaucracy that carried out those administrations (Giddens 1985; Mann 1993).

However, surveillance under law and order in absolutist states was not sufficient to achieve the state goals. After all, absolute monarchies needed cooperation from their subjects, and they obtained it in exchange of political participation in the form of parliament (Giddens 1985). Furthermore, to mobilise the subjects for state goals, it was necessary to set up a collective identity as a nation. This led to the creation of official nationalism (Anderson 1991; Broers 1996). Therefore, it can be said that the territorial expansion of nation-states necessitated diffusion of political power, which in turn weakened the power of absolute monarchies.

While the rise of military power ironically led to the decline of the absolute monarchy, the development of absolute states facilitated the process towards the modern state. The absolute monarchy supported industrialisation and technological development for modern wars (Mann 1993). However, industrialisation also resulted in the empowerment of a capitalist class, thus eroding the power of the traditional ruling class: landowning aristocracy (Giddens 1985: 158). Concurrently, both the Enlightenment and industrialisation advanced the idea of liberal democracy. In the following stage, the bourgeois class (citizens) mobilised people of similar ethnicity, culture and language to take away political power from monarchies and delegate this power to popular congresses under the banner of '(popular) nationalism' (Anderson 1991; Broers 1996; Day and Thompson 2004). Consequently, political participation of the bourgeois class expanded in the nineteenth-century modern state.

After the bourgeois class had successfully secured civil rights (the freedom of choice) and political rights (political participation) in the modern state (Hall and Gieben 1992; Pierson 1996), the working classes started to challenge the legitimacy of privileges enjoyed by the bourgeois class (Engels 2001; Geary 1981; Hinton 1983).

The pursuit of civil and political citizenship by the working classes later led to the formation of social citizenship¹⁰ in the twentieth century (Laybourn 1995; Marshall 1964; Thane 1996). In addition to the representation in national and local assemblies, many civil society organisations such as labour unions and women's rights groups campaigned for citizenship, using the media, mass demonstrations and lobby activities. Through this process, the ideal of an egalitarian society was crystallised in the construction of the welfare state in post-war Western Europe. The development of modern planning in the West cannot be separated from the class struggle of the urban working classes in the development towards the welfare state (See more detail in 2.3).

Non-Western state development

The route to the modern state varies considerably across nations, especially for latecomers to modernisation such as former colonial states in Asia, Africa and Latin America as well as non-colonised states such as Japan. These countries (except white immigrant countries such as the USA and Australia) lacked the two important forerunner stages of modernisation seen in the West: the Enlightenment and the establishment of the nation-state. This absence seems to have affected their development towards the modern state. For building a nation-state, these former colonies and Japan, which was facing threats to be colonised, had a strong need to unite their populations and mobilise them for national sovereignty against an imperialist order. For this struggle, nationalism, especially connected to the nations'

¹⁰ The concept of social citizenship was originally introduced by T.H. Marshall in his *Class Citizenship and Social Class* (1963).

cultural past and traditions, was emphasised in their modernisation processes (Chatterjee 1993; Iida 2002; McVeigh 2004).

In the West, nationalism was used to unify the middle classes and gain support for parliamentary democracy, while weakening or dismantling the powers of absolute monarchies and the traditional ruling class (Anderson 1991; Day and Thompson 2004). The French Revolution is a good example of this *liberal nationalism* (Anderson 1991; Broers 1996; Özkirimli 2000). Although the newly emerged bourgeoisie class was a key actor for this nationalism and modernisation in Western Europe, traditional elites played leading roles in Japan and former colonies (Gluck 1985; Norman and Woods 2000; Omvedt 2003; Stronach 1995).

In contrast, nationalism in colonial nations and Japan was incorporated in the revival of the nations' old power and traditional values against Western imperial culture (Chatterjee 1993; Iida 2002; McVeigh 2004). In these countries, nation-state building, in which traditional elites organised the masses under ethnic, but often authoritarian sentiments, had significant impacts on the formation of formal democracy and the public sphere (Eccleston 1986; Norman and Woods 2000; Omvedt 2003). Accordingly, modernisation in these nations inevitably carried the notion of 'authoritarian nationalism', in which the state and its administration tended to possess strong power to mobilise their populations for 'the success of the nation' (Eccleston 1986; Eisenstadt, Schluchter, and Wittrock 2001; Gluck 1985; Norman and Woods 2000; Stronach 1995).

In this model, nationalism plays a peculiar and powerful function in the promotion of industrialisation under the state's guidance to strengthen the military and the national economy. This applies profoundly to Japan, which was facing serious threats of

falling victim to colonisation (Beasley 1995; Gordon 2003). This formula of state development was expressed in the slogan '*fukoku kyōhei* (enrich the country, strengthen the military)', which combined with Confucian ideology in East Asia¹¹, can be named as *the developmental state* (Castells 1992).

In addition to the powerful role of nationalism in modernisation, the absence of authentic enlightenment movements in these nations also determined their natures of 'modern states'. As explained earlier, the ultimate essence of the Enlightenment was the emancipation of human beings from the repression of religious values and feudal tradition (Porter 1990). However, while latecomers to modernisation desperately needed to import Western science and technology, they tended to ignore the core ideologies of the Enlightenment when they implemented industrialisation in their homelands (Bartholomew 1989; Nakayama 1984). Anti-colonial national resistance was deeply connected to the resurgence of old powers in these nations; the new regimes carefully removed anti-traditional radical elements from science in the process of modernisation (Bartholomew 1989; Nakayama 1984).

In Japan, for example, the state enthusiastically promoted science and technology under the catchword of '*bunmei kaika* (civilisation and enlightenment)'. However, the same authority simultaneously stressed '*wakon yōsai* (Japanese spirit, Western technology)', in order to preserve 'national' values when importing modern technologies and institutions from the West. In fact, the Japanese authority in the late nineteenth century was deeply concerned about the possible influences of British

¹¹ During the modern nation-state building in East Asia, the elite extensively deployed and manipulated the Confucian tradition, which emphasises the family value and respect for authority, in order to counter the illness of Western industrialisation – the rise of political liberalism and 'lack of discipline' of the working class. See Tu, Wei-ming, ed. 1996. *Confucian traditions in East Asian modernity: moral education and economic culture in Japan and the four mini-dragons*. Cambridge, Mass: Harvard University Press.

and French liberal thoughts, the basis of modern science, which would 'demoralise' the general population from the virtues of hard work and obedience to the ruling class (Gluck 1985:105; Iokibe 1999). Considering the importance of the Enlightenment in the establishment of fundamental human rights in Western liberal democracies such as liberty, the selected import of science, in particular social sciences such as politics, philosophy and sociology, obstructed the progress of citizenship in Japan in later years (Maruyama 1963d).

The absence of the Enlightenment in Japan seems particularly to have affected the advancement of social citizenship. Most modern states nowadays have features of *the welfare state* to ensure social citizenship. Contemporary Japan certainly has features of the welfare state. However, the Japanese government expenditure in this area has been much smaller in comparison to its European counterparts (Japan. National Institute of Population and Social Security Research 2004:29; Katsumata and Yamada 1998)¹². While the forms of the welfare state vary across modern states (Ashford 1988; Esping-Andersen and European University Institute 1988; Esping-Andersen and United Nations. Research Institute for Social Development 1996), its core role is to compensate for negative externalities of the free market economy and to protect social rights of citizens (Fraser 1984: xxi). What is significant in Japan is the government has spent a far larger share of the national budget in promoting the economy than supporting the socially deprived among developed economies.

¹² In 2001, Japan's social security expenditure amounted to 24 percent of its national income. The equivalent rates in other OECD member countries were 17 percent in the USA, 29 percent in the UK, 39 percent in Germany and 42 percent in Sweden. Due to the rapidly ageing population, Japan's social security expenditure has risen sharply in the recent past. Up to the beginning of the 1990s, only 10 percent of GDP was used to cover social security expenditures so that its ratio was much lower than other OECD countries including the USA.

Because of its emphasis on economic development in the public policy choices, Japan is often labelled as a *developmental state*. Despite Japan's small expenditure in social security, the government spending on fixed capital projects, so called *kōkyō jigyō* (public works) has been much higher than those of other liberal economies throughout post-war years (Atkinson and van den Noord 2001; Igarashi and Ogawa 1997; Miyamoto 1998). In 2000, spending on public works reached 8 percent of GDP, in comparison to the OECD average of 3.4 percent (Atkinson and van den Noord 2001: 49). While academic attention has tended to focus on the 'development' functions of Japanese society (Johnson 1982; Katz 1998; Okimoto 1989), the crucial characteristic of the developmental state is the authoritarian value that demanded sacrifices in social welfare. The following section discusses why the economic-centred value of the developmental state progressed and how it affected the early stages of planning policy-making in Japan.

2.2 The Birth of Japan's Developmental State

The origins of Japan's developmental state

Japan's path to the modern state was seriously conditioned by international relations. Unlike Western countries, Japanese modernisation did not take place as a result of internal pressures. Its relatively peaceful and secluded feudal period was threatened in the nineteenth century, when Russian, British, and American vessels approached Japan and urged the nation for trade (Aoki, 1994). Japan had to implement a program of radical modernisation to avoid being colonised by the West. Facing threats to its sovereignty, Japan's modernisation had to be realized promptly under the control of a small number of men of spirit (the *shishi*), who were mainly lower ranks of the samurai class in the Tokugawa feudalism era (Gordon 2003; Tipton

2001). They were loyalists, who reinstated the absolute monarchy through the 1868 Meiji Restoration. These loyalists constituted the executives of the new government and carried out the modernisation projects of Japan (Beasley 1995). Because Japan's transition to the modern state was implemented under such peculiar circumstances, other factors that played important roles in modernisation in Western countries – democracy, industrialisation and social democracy (Anderson 1986) – were significantly affected.

In general, the developmental state is understood as follows:

A state is developmental when it establishes as its principle of legitimacy its ability to promote and sustain development, understanding by development the combination of steady high rates of economic growth and structural change in the productive system, both domestically and in its relationship to the international economy (Castells 1992: 56).

The ultimate objective of the newly-established state of Japan was to obtain military and economic strength under nationalism. Other roles of the state were all subordinate to this goal. Nonetheless, the report by the Iwakura Mission (1871-3) whom sent to Europe and the USA suggests that the Japanese elite was also well aware of the possible impacts of industrialisation and urbanisation on society. The official account by the Mission of Berlin in Germany on 9th March 1873 read as follows:

As Berlin is an emerging capital, its citizens are simple in their ways and not as frivolous in manner as people in other great cities. However, as the city has prospered, they have become increasingly decadent, and particularly over the last few years they have degenerated noticeably (Kume, Healey, and Tsuzuki 2002: 296).

The reason for the coarser manners of the people of Berlin lies principally in the domineering bearing of soldiers and students. While this may be natural for the soldiers after all the recent wars, the students, too, are highly excitable by temperament and not even the police have much authority over them. This has come about perhaps because the spread of liberal ideas to Germany in the wake of the French Revolution

coinciding with the introduction of constitutional government in Prussia. Although this did not lead to unrest as in some other countries, the students and society in general exerted considerable pressure on the government, with the result that universities now hold tremendous influence (Kume, Healey, and Tsuzuki 2002: 298).

Accordingly, the Japanese authority had another objective for its nation building. It was suppressing mass democracy and socialist ideas to enable its modernisation from above.

Early planning in the developmental state

Modern planning in the West generally emerged to regulate and mediate environmental impacts caused by industrialisation. The ideas behind planning development in the West can be contrasted with the developmental state ideology: the aim of the former was to limit the free market power over land-use (Fraser 1984; Hall 1996a). Another rationale behind the development of the Western planning was to mitigate class conflicts in cities (Ashworth 1954; Benevolo 1967). Faced with the discontents of the urban working classes, the middle class tried to improve the 'morals' of the working classes by improving their housing (Ashworth 1954; Benevolo 1967; Hill 1883).

Japanese planning has followed a path that is completely different from the West. As a latecomer to modernisation, Japanese planning policies tended to focus on the efficient use of space to facilitate and accelerate capitalist development. Urban planning was regarded as a part of economic planning policies rather than means to control private interests on land-use. The Western planning model, in which the state acts as a regulator to reconcile conflicts on land-use in the market economy, does not fit to the origin of Japanese planning.

More often than not, the state in Japan has been closer to capitalist interests on planning issues in order to enhance the production capacity of the national economy. In fact, in the pre-war period, the state itself owned the important industries such as armament production. The strong state initiatives provided the necessary infrastructures for the development of key industries throughout the pre- and post-war period. Therefore, Japanese modern urban planning did not develop as a response to chaos and epidemics as it did in nineteenth-century Western cities, where the free market failed in land use during industrialisation and rapid urbanisation. Instead, planning in Japan was first recognised as a medium to provide essential infrastructures for industrialisation.

While another strand behind planning development in the West was its utility for a social reform, this intention was also absent in Imperial Japan. This was because the pre-war Japanese authority exercised other methods for controlling the social discontents (see the following chapters). Therefore, the idea of providing the quality life for all the population through planning is still underdeveloped in contemporary Japan.

Chalmers Johnson (1982) defines the developmental state as descending from the German Historical School - sometimes labelled 'economic nationalism, *Handelspolitik*, or neo-mercantilism'. He also points out an important difference between the developmental state and the Western liberal state in terms of the relation between the state and the market as follows:

In states that were late to industrialise, the state itself led the industrialisation drive, that is, it took on *developmental* functions. These two differing orientations toward private economic activities, the regulatory orientation and the developmental orientation, produced two different kinds of government-business relationships. The United States

is a good example of a state in which the regulatory orientation predominates, whereas Japan is a good example of a state in which the developmental orientation predominates (Johnson, 1982: 19).

This is an important observation, if we are to understand the relationship between the Japanese government and the market as well as the implication of Johnson's view for planning policy in Japan. The state was keen to assist capitalists to increase production, but it was rather indifferent to regulating how the private sector should use space. The priority being firmly set on economic development, land was seen as a necessary asset for production in Japan. Later land became regarded as a commodity which itself produces capital gain.

An introduction of modern architecture in city centres was also important in Japan's modernisation project. In addition to infrastructures like roads and bridges, the construction of Western-style grand architecture pieces in Japanese cities was considered to be necessary to impress foreigners. Accordingly, civil engineers and architects came to represent the core of planning professionals in Japan. The origin of Japanese planning was in a sharp contrast to the origins of modern Western planning, which involved the construction of sewage systems for public health and housing reforms for the urban poor to mitigate the impacts of the free market economy in cities. In Japan, the use of planning to improve the quality of life for citizens was only a secondary goal, and the control of land use was limited until the 1923 Great Kanto Earthquake. Within this context, planning merely involved building of infrastructures and pieces of architecture in Meiji Japan and it essentially lacked implications for social reforms.

2.3 The Public Interest in the Modern State in the West

The development of the modern state led to the growth of political institutions, which meant that the legitimacy of state governance became an increasingly important issue. The expansion of political institutions in the modern state posed a question: what constitutes the public interest? In other words, what is the distinction between public and private? In the age of absolutism, this was simple. A monarchy equalled the 'public', since the monarchy's legitimacy was justified on the claim of 'divine right' backed by churches (Hall and Gieben 1992: 84). However, it became much more difficult to answer this question against the backdrop of the expansion in the state's role and political participation under mass democracy.

In fact, the meaning of the public interest has been very much entangled with characteristics which constitute the modern state. The concept has constantly changed according to the distinctions between the public and private domains which have also shifted by public debate. As a result, the discussion about the public interest in planning is more complicated. To get a better understanding of these issues, the first part of this section classifies current debates about the concepts of 'public' and 'private'. The second part shows how the arguments have contributed to shaping the public interest in planning in the West.

The public/private distinction in politics

The distinction between public and private is a core issue in social and political analysis in the modern state. However, there seems to be considerable confusion about what constitutes public and private (Weintraub 1997: 1). The reason for this confusion is that there are multiple dimensions to the concepts of public and private,

and thus numerous ways to contrast the two concepts (Weintraub 1997: 3). Although what is 'private' always defines 'public', there appear to be four major themes which distinguish public from private domains. These are: 1) liberalism: the market and the state; 2) citizenship and the public sphere; 3) 'public' life as sociability; and 4) feminism: private/ public as family/ civil society (Weintraub 1997). By using Weintraub's classification, issues surrounding the public interest can be understood better.

In the first classification, the state as public is contrasted to the market as private in dichotomies such as public/private sector. In debates on privatisation of the public sector's services, 'public' means 'the administrative state' (Weintraub 1997: 8-11). This interpretation of the state and the market as public versus private appeared when market powers grew and caused social problems in the nineteenth-century modern state. The administrative functions of the state expanded to govern the relationship between the market and society to ease these problems (see Chapter 1).

According to the second classification, the public sphere or the public realm mainly stands for 'the realm of political community' or 'civil society' where citizens take part in political debates, discussions, collective decision-making and actions (Weintraub 1997: 10-16). The public sphere is not subordinate to either the market or the state; it is the sphere in which in principle citizens have open access and form public opinions freely (Habermas 1997: 105).

In the third classification, 'public life' as social life does not necessarily refer to political activities alone, but more generally to spontaneous and lively ongoing interactions among heterogeneous individuals and groups in a society (Weintraub 1997: 17). The activities of public life tend to occur in certain spaces, in particular in

cities in modern life (Jacobs 1972). Consequently, social life, which is distinguished from intimate and emotional private life (Weintraub 1997: 20), is often discussed in conjunction with the creation of such physical spaces.

Lastly, there is a distinction between private and public in discussions involving the domestic versus public split of life (Weintraub 1997: 27). According to this view, which originated in Aristotle's *Politics*, the private sphere was the women's sphere as women traditionally and disproportionately occupied domestic or family dimensions of life (Elshtain 1997; Weintraub 1997). Feminist critiques challenged this division of the private and public life based on fixed gender roles and the inferiority of the private domain to the public domain in the modern state (Elshtain 1997: 606; Landes 1998; Lister 2002; Phillips 1998).

The development of the public interest in planning

Modern planning in the West has developed to redefine existing boundaries between public and private domains. Citizens in a liberal democracy have continuously confronted the definitions of the public interest based on these public/private boundaries. Questions about existing notions of the public interest arise from political conflicts, economic problems, and changes in societal relations. Faced with ongoing challenges from citizens, the public interest, and therefore planning governance itself, has had to be revised accordingly. Therefore, rather than a static concept, the public interest is a vehicle for changes in planning practices about the desirable forms of the built environment, governance, democracy, collective values and human rights in the Western liberal democracy. Thus, the ultimate value of the public interest in modern politics and planning should be its contestability in all arenas of political processes: legislature, public administration and the judicial

system. Then, how have public/private dichotomies, which shape 'the public interest', affected the discourse of planning in the West?

First, the emergence of planning policy in the modern state was a turning point of the relationship between the market and the state. The principle of a *laissez-faire* economy, free from state interventions, was modified following the crises of the foundations of economic production – a loss of productivity indirectly or directly caused by deteriorating public health in cities (Ashworth 1954; Fraser 1984; Hall 1996a). Furthermore, the state also had to provide the necessary infrastructures to make urban life work smoothly for both capital and labour (production and consumption) (Harvey 1985; Klosterman 1996). The constraints on the environmental and physical capacity of early industrial cities in the West changed the boundaries between private (the market) and public (the state) in a capitalist society.

Second, industrial cities in the nineteenth-century Europe and the USA presented opportunities and spaces where the public sphere could thrive. The public sphere, which originated from the Greek or Roman polis, was first revived by the bourgeoisie in the capitalist society to counter the power of aristocracy (Habermas 1997). However, capitalist cities not only strengthened the 'bourgeois' public sphere, but also mobilised the urban working classes to achieve political citizenship (Engels 2001). While the 'free' wage-labour and the capital were merely transplanted from traditional feudal villages to urban factories and offices, life in industrial cities made the masses conscious of the deep class division and inequality in the capitalist society (Giddens 1995: Ch.6). This class consciousness led to social discontents, and intensified the growth of labour movements in late nineteenth century and early twentieth century European industrial cities (Geary 1981; Hinton 1983; Jones 1976).

Labour movements stimulated the realisation of mass democracy followed by the provision of social security and social housing in Western Europe.

Urbanisation and labour movements also altered the characteristics of the public sphere in Western industrial cities. The public sphere grew further by the expansion of political citizenship: this came to include all adult males and females in later years. Planners in local governments and civil society responded to urban social problems by improving the living conditions of working class people (Sutcliffe 1980). State initiatives in social reforms such as the improvement of working class housing, which was previously considered as private concerns, became to be an 'public' affair (Ashworth 1957; Benevolo 1967; Sutcliffe 1981). Since then, planning policies to ensure the quality of life in communities became a major issue debated in the public sphere in Western liberal democracies.

Third, the creation of spaces for 'public life' also became a main planning challenge in the modern state (Gehl and Gemzæe 1996b; Madanipour 2003; Worpole 1992; Worpole 2000). As seen in the development of the public sphere in the late nineteenth century, urban spaces such as streets, parks, and squares were important for the gathering of people, the exchange of information and opinions, and also for mass protests (Jones 1976; Mitchell 2003). Not only were these public spaces important for political activities, they were also crucial to social life (Van Rooijen 2000; Worpole 2000). However, planning was reduced to the idea of functionalism in the mid-twentieth century, based on Le Corbusier's proposal, *A City as the Machine for Living* (Gehl 1996a; Le and Etchells 1929). Suburbanisation, motorisation and the separation between work and living spaces in modern cities made it difficult to maintain public spaces as lively places (Taylor 1998; Ward 1994). Jane Jacob's criticism towards modern planning is mainly based on this decline of

social life in modern cities and the breakdown of established inner city communities in late twentieth-century American cities (Jacobs 1972). Since the late 1960s, the concept of the public realm as social life has again become the central issue of planning in Western liberal economies (Gehl and Gemzæe 1996b; Jacobs 1972; Madanipour 2003; Worpole 1992).

This reflects the emergence of new democracies calling for social justice in cities (Gehl 1996a; Mitchell 2003). Social justice in the built environment required increases in accessibility for all citizens, mixed land-use, pedestrian freedom and the preservation of cultural and natural heritage to revitalise the public life in modern Western civilisation (Partners for Livable Communities 2000; Tibbalds 1992). In Western planning development, public space increased its importance with the progress of democracy, in order to mitigate social and spatial divisions between the rich and the poor, and materialise social cohesion or rebuild social capital of communities in fragmented industrial cities (Madanipour 2003: 217-224; Mitchell 2003; Worpole 2000).

Social life in space often entails sharing common experiences in the same place. The place where events occur and many people meet has become an important symbol for people to bring back the memories of communities (Tibbalds 1992; Worpole 1992). In this context, public space often represents the national, local and social representation of the modern nation-state shared by its citizens (Larkham 1996). One direction for the development of public space is the preservation and revitalisation of heritages; another is the creation of new sociable space to display the ideal imagery of the public for the future. Many recent developments often combine these two types of public space.

Planners in the West always concerned themselves with the creation of public spaces, in particular amenities, where people could enjoy light, air and the green in *the public interest* (Gehl and Gemzæe 1996b; Hall 1996a; Van Rooijen 2000). There is a cynical view that the early planners had a hidden motivation of stimulating moral reform of the 'lazy' working class population by encouraging commoners to have healthy living using those open spaces in cities (Davis 1983; Laurian 2006). Even so, it is essential that public spaces and buildings as well as the façade of private properties became increasingly recognised as the representation of the public domain and were viewed as contributions to the aesthetical symbols of social democracy in the twentieth-century modern state (Worpole 2000).

Fourth, feminists' critiques towards the gender biased public-private distinction as public (male) vs. domesticity (female) is also relevant to modern Western planning development. Although the history of modern planning development was told in the male domain (Meller 2004), middle-class women in industrial cities initiated early planning efforts in the form of working class housing improvements in the U.K. and the U.S.A. (Ashworth 1954: 85-86 ; Hall 1996a: Ch.2). Octavia Hill (1838-1912) dedicated her life to improve the quality of life of the urban poor in the inner city of London (Hill 1883). An American woman, Jane Addams (1860-1935), who visited East London in 1888, was deeply impressed by the charities' works on slum improvements (Hall 1996a: 40). On her return to the U.S., she committed herself to improve the settlements of poor immigrants in Chicago (Addams 1893; Addams 1907). Dame Henrietta Barnett (1851-1936), a socialist campaigner, planned and developed Hampstead Garden Suburb, which incorporated well-designed housing and Hampstead Heath, and formed them into a new community (Barnett 1928). Her idea was to promote the integration of the poor and the rich by sharing beautiful open

spaces and other amenities in Hampstead development (Barnett 1928). Their initiatives also changed the existing boundary of public/private domains by improving personal matters such as housing and health.

These female pioneers in early planning development shared the common awareness and tactics to improve the conditions of the urban poor, in particular for women and children. They first realised that poor urban environments of Victorian slum settlements were a part of the causes of ill health, incest and other immoral behaviour of the urban working classes (Addams 1893; Hill 1876; Hill 1883; Meller 2004). Their approach was human-centred (Meller 2004), compared to the environment-centred attitude in planning that was characteristic of male professional planners (Hawtree 1981). However, because of this human right approach, women's role in modern planning became considerably marginalized in the West (Meller 2004) after planning came to be regarded as a science to manage built environments by '(white) male' engineering and architecture experts (Hawtree 1981).

Although the contribution of female philanthropists to the emergence of modern planning had been long ignored, Jane Jacob's sharp criticism about the de-humanised face of modern planning revived the forgotten tradition of people-centred planning (Jacobs 1972). Since the 1980s, feminist critiques have stimulated an important wave of new theory development in planning (Greed 1994; Ritzdorf 1996; Sandercock and Forsyth 2000). Prior to the development of feminist planning theory in advanced economies, many academics have acknowledged that the role of women is crucial in achieving fair objectives of economic and social planning in developing countries (Greed 1994; Sandercock and Forsyth 2000). Feminist critics consider that existing urban design in developed states is far removed from the needs of women

who often juggle work and domestic responsibilities (Milroy and Andrew 1988; Stimpson 1981; Whyte 2000). In their research, many women expressed discontents about the location of facilities, the design of public spaces, transport networks, motorisation, and the lack of security in modern cities, which were almost exclusively designed by male planners. Feminists started challenging the existing boundaries of the public-private domain as follows:

While abolishing all divisions between the private realm and the larger world would be undesirable, feminists indicate that in the arena of urban planning the line between public and private or domestic life has been drawn to men's advantage. Thus the public domain is a physical construct that by definition represents a whole set of contested political and economic issues within planning (Sandercock and Forsyth 2000: 453).

Feminist thoughts have helped to remind policy-makers that the goal of planners is to incorporate different voices in decision-making *in the public interest* (Fainstein 1996; Ritzdorf 1996).

As planning policy affects many aspects of human life, planning turned out to be an important policy arena where the public interest of liberal democracies was contested. Subsequently, the results of these challenges in turn altered the existing paradigms of the public interest. Although challenges by citizens did not eliminate all planning problems, the endless trials, arguments and conflicts about the public interest in planning served to improve the quality life in the West. On the contrary in Japan, there have not been many arguments to challenge the concept of the public interest in planning in the past. This seems to stem from the rigidity of its public/private boundaries, its historical construction and the absence of a statutory framework to allow such challenges. The next section examines distinctive features of Japan's public/private dichotomies in comparison with ones in the West.

2.4 The Public Interest in Japan's Modern State

From the analysis in the previous section, it is important to find out what role the public interest has played in shaping the objectives of Japan's planning policies. The process in which the public/private distinctions have been identified is also crucial to figure out its impact on Japan's planning development. This section examines the concept of 'public' in Japan in comparison with ones in the West.

There are significant differences between the West and Japan with respect to the distinction and the origins of 'public' and 'private' concept (Boling 1990; Iokibe 1999; Matsumoto 1978; Terao 2000). Whereas 'in English, the word "public" comes from the Latin word *populus* (meaning all adult males of a population)', the original meaning of the Japanese equivalent, *kō* or *ōyake*, is the "great house" of the emperor, implying the authority (Boling 1990:139). Many observers agree that 'private (*shi*)' still carries a negative or inferior connotation to 'public (*kō*)', and there is a vertical relation between public and private domains in Japan (Boling 1990; Iokibe 1999; Koschmann 1978; Matsumoto 1978; Mizubayashi 2002; Terao 2000). Having originated in Confucian China, *kō* as an authority and *shi* as an individual represents the relationship between a ruler and the ruled in feudal Japan (Kurozumi 2002; Mizubayashi 2002). In addition to the difference in roots, although *kō* nowadays holds nearly the same meaning as public in English, the Japanese *kō* does not include the English meaning of public as 'political process or decision-making, open to the scrutiny and participation of ordinary citizens' (Boling 1990: 140).

As the differences in the origins and connotations of 'public' and 'private' indicate, there is a disparity in the discourse on the public interest between Japan and the West. The meaning of *kō* comes from a monarchy, an authority and a state equivalent to the

ruler. On the other hand, although the meaning of *kō* in contemporary Japan includes the implications of commonness or openness such as *kōkyō kūkan* (public space) or *kōshū denwa* (a pay phone), *kō* does not entail the notion of people or more precisely citizenship. Furthermore, *kō* does not refer to 'social' either, despite its modern notion of being common or open to people. In addition to the meanings of '*kō*' itself, the distinction of '*kō*' and '*shi*' (public-private) has developed Japan's distinctive discourse on the public interest in the path towards the modern state. The differences in the discourse on public and private dichotomies between Japan and the West will be summarised based on Weintraub's classification in the following sections.

The state and the market

The difference between Japan and Western liberal democracies in public-private relationships exists in the boundary between the administrative state and the market. Japan's industrialisation started from the Meiji oligarchy's (the powerful and enlightened ex-samurai group) close ties to wealthy Tokugawa merchants who supported the 1868 Meiji Restoration (Norman and Woods 2000: 49-62). While the government gave advice, support and protection to the start-ups of banking industries, it also set up key strategic industries such as steel and mining in order to strengthen the military (Allinson 1999; Beasley 1995; Norman and Woods 2000: Ch.4).

In the 1880s, the government sold many state-owned firms to private enterprises, which had maintained close links to the Meiji oligarchy (Allinson 1999; Beasley 1995; Norman and Woods 2000; Tipton 2001). This sale created Japan's oldest *zaibatsu* (conglomerate) groups, led by banks such as Mitsubishi, Mitsui, Sumitomo and Yasuda. The political and business elites in the early Meiji era were also strongly connected by personal liaisons such as marriages. They also shared the

same goal which was to modernise Japan in order to support national sovereignty against the Great Power of the world. These historical origins of Japan's industrialisation have rendered the distinction between the administrative state and the market ambiguous.

As a result, contrary to vocal claims since the 1980s that Japan is a highly regulated state which needs '*kisei kanwa* (deregulation)' (Carlile and Tilton 1998; Jacobs and OECD. Regulatory Reform Programme 1999; Japan. Provisional Council for the Promotion of Administrative Reform 1989; OECD 2004), some view that Japanese industries are for the most part '*unregulated*' (e.g. Kerr 2001: 137). Although there are regulations to *control or guide* industries (Johnson 1982), they do not actually 'regulate firms' to promote fair competitions in the market and protect consumers (Johnson 1982; Kerr 2001; Lincoln 1998). The absence of strong regulatory measures towards market behaviour manifests itself in the lack of lender-liability law and the weakness of product-liability law (1994), environmental impact assessment law (1997) and laws against insider trading (1989) or against false financial statements (Kerr 2001: 137).

This observation is in line with John O. Haley's view that the Japanese authority governs the market and society not with laws but with consensus (Haley 1992). He argues that laws in Japan are weak as means for the governance of the society and thus the authority instead seeks for voluntary compliance from organisations and people (Haley 1992). This argument is quite persuasive, given the fact that the Japanese central bureaucracy often uses ministerial ordinances (*shōrei*) and communications (*tsūtaisū*) to give instructions to local governments and firms rather than relying on the effect of laws. The purpose of such non-statutory orders are to

control the behaviour of firms and to provide certain specification for local governments to comply with laws (Johnson 1982; Johnson 1995; Pempel 1974). Governmental controls without laws have advantages for the Japanese bureaucracy: they can bypass lengthy legislature processes in parliament and manage the society without political intervention and public awareness.

In the late Meiji era, the state's guidance for the economic growth was further developed in the form of education and moral suasion in private life to promote the value of 'hard work and frugality' among its people (Garon 1994; Garon 1997; Tipton 2001). The legacy of the state's moral campaigns in the pre-war era is still visible in modern Japan, as employees tend to regard their employers' interests as almost equivalent to 'the public good' (Boling 1990: 145). The loyalty and commitment of Japanese workers to the employer is often expressed as *messhi hōkō* (sacrifice of self in service to the public). The pre-war government's strategy of social mobilisation through influencing individual beliefs further blurred the distinction between the state as 'public' and the market as 'private' (Rohlen 1989).

The public sphere as a political community

In contrast to the ambiguous boundaries between the state and the market, there is a sharp divide between the public sphere and the private sphere in policy-making in Japan. Here, the public sphere means 'as a sphere mediating between state and society, a sphere in which the public as the vehicle of public opinion is formed' (Habermas 1997: 105). In this sense, Maruyama observed that Japan's pre-war state engulfed both public (civil society) and private spheres (Maruyama 1963a: 6-7). This division seems to originate from the inception of parliamentary democracy in Japan. Both Japan and Western countries established parliamentary democracy

systems in the nineteenth century. The discourse on the public interest cannot be separated from the development processes towards popular democracy. Since parliamentary democracy was established in the West, what the public interest stands for has been redefined through debates in the academia, the media and the parliament along with an increasing size of the electorate. Political conflicts among social groups in the industrial economy affected its definition.

In Japan, after the Meiji oligarchy finally removed the disgruntled *ex-samurai* clans from politics following the 1868 Restoration, those *ex-samurais* who were excluded from politics started demanding political participation through the Freedom and People's Right Movement (Gordon 2003; Tipton 2001). Compelled by both domestic and international (as a showcase of the modern state) pressure, the Meiji government finally opened the first parliament in 1890. Nonetheless, fearing that political participation and growing Westernisation would undermine Japan's economic achievement in the future, the Meiji authority endlessly campaigned for denying the accountability of parliamentary politics to the public and simultaneously 'edifying' the Japanese populace to serve the nation's goals (Beasley 1995; Garon 1997; Gluck 1985).

Therefore, it is not surprising that the beginning of Japan's modern democracy was accompanied by the introduction of *kyōiku chokugo* (the Imperial Rescript on Education) in the same year, which preached the virtues such as hard work, civil obedience and national sacrifice, centred on the emperor as the head of the (family) state and *Shintō* (Gluck 1985; Tipton 2001). After the promulgation of the Meiji Constitution on the 11th February 1889, which granted the emperor the executive, legislative, diplomatic and military power of the state (Allinson 1999: 15), the Meiji

oligarchy issued an ordinance to declare the immunity of high rank civil servants from politics, claiming the bureaucracy's importance in having 'specialised knowledge' and their ability to manage 'the now extremely detailed laws' in public administration (Gluck 1985: 55). Yamagata Aritomo (1838-1922), the leader of the Meiji oligarchy, explained this as follows:

[changing policy official with each cabinets would result in an administration losing its character of impartiality and independence and becoming a tool of favouritism and self-interest. Thus, if administrative officials are not made to stand – impartial and non-partisan [*fuhen futō*] – apart from politics, one cannot hope to have fair and impartial administration (Tokutomi 1933: 371-372, cited by Gluck 1985: 55).

With the ideology of *chōzen shugi* (the supreme principles of justice and the public interest), the Meiji oligarchy emphasized the superiority and impartiality of the state bureaucracy in policy-making to self-serving party politics and politicians who did not have 'expertise' in science and technologies (See also Chapter 3). Through this campaign, the Meiji government tried to reaffirm the ancient East Asian political concept of 'the division of the ruler and the ruled', which still accentuates Japanese politics in the dichotomy between the *kan* (official and government) and the *min* (people) (Barshay 1988; Gluck 1985; Matsumoto 1978). The hierarchy between the *kan* and the *min* was also translated into the deep division between *kō* (public) and *shi* (private) in Meiji Japan.

Furthermore, another notable aspect of the Meiji democracy was the definition of the *min* (people in Japanese) as contrasted with the *kan*. In the early years of democracy, only 1.1 percent of the Japanese population had the vote and the large majority of the Japanese populace was excluded from elections (Gluck 1985: 67). The *min* (both politicians and the electorate), therefore, was equal to the gentry class, who held large tracts of land in the countryside, or other elite members of the society (such as

journalists, intellectuals or notables). The views of these minorities were regarded as a representation of 'the public opinion (*yoron*)', whereas the masses were not politically defined nor represented (Gluck 1985; Huffman 1997). Once parliamentary politics started in Meiji Japan, the elite *min* gradually acquired more power to introduce their interests into party politics, so that policy outcomes became increasingly clientelistic (Gluck 1985; Silberman 1982).

In contrast, the masses, the majority of whom were poor urban dwellers and tenant farmers, were totally neglected in politics, which occasionally drove them to riots during periods of economic depression in the early twentieth century (Gordon 1991; Okamoto 1982; Tipton 2001). The demand for democracy as well as labour and tenancy disputes intensified after the 1917 Russian Revolution and with the global depression after the First World War (Gordon 1991; Maruyama 1963c: 27). It is in this period that the right wing and fascist movements started exerting influence on politics, supported by lower middle classes based in villages (Maruyama 1963c: 26-34). In addition, the elite also felt that serious social conflicts would weaken the nation's unity for its future development so that the bureaucracy, *zaibatsu* and military too started supporting the capture of overseas territories proposed by ultra nationalists (Maruyama 1963c; Storry 1957; Wilson 1969). A radical nationalist, Kita Ikki (1884-1937) argued in his *Nihon Kaizō Hōan Taikō* (Outline for the Reconstruction of Japan, 1924) as follows:

Justice [wrote Kita] is the proper demarcation of interests. As the class struggle within a nation is waged for the readjustment of unequal distinctions, so war between nations for an honourable cause will reform the present unjust distinctions [between nations]..... The socialists of the West contradict themselves when they admit the right of class struggle to the proletariat at home and at the same time condemn war, waged by a proletariat among the nations, as militarism and aggression.....If it is permissible for the working class to unite to

overthrow unjust authority by bloodshed, then unconditional approval should be given to Japan to perfect her army and navy and make war for the rectification of unjust international frontiers. In the name of rational social democracy Japan claims possession of Australia, and Eastern Siberia¹³.

As argued here, nationalists saw themselves as social democrats and their opinions gained strong support among the underprivileged. As a consequence, those who opposed to the nation or the opinions of the authority became increasingly being marginalised as *hikokumin* (unpatriotic Japanese) in pre-war Japan. Not only the Japanese establishment but also the majority of citizens actively promoted this view, since Japanese citizens assimilated their personal identity into the national identity which was constructed by powerful social groups during this period (Brown 1955; Iida 2002; Maruyama 1963a).

It is also significant that the promulgation of the 1889 Constitution and the Imperial Rescript on Education in 1890 had considerable impacts on the development of political philosophy and ideas among academics (Maruyama 1996). Japanese intellectuals, then synonymous with academics or journalists, had a substantial influence on the development of the public sphere in Meiji Japan (Barshay 1988; Huffman 1997; Marshall 1977). Up to the opening of the parliament, all types of Western academic thoughts were introduced into Japan, and in a way, there were more liberal arguments in the early Meiji society (Maruyama 1996; Pittau and Harvard University. East Asian Research Center 1967). However, after the introduction of the 1889 Constitution and the Imperial Rescript on Education, *kokutai* (national polity)¹⁴, which was embodied by the emperor, became the

¹³ As translated and cited by Storry (1957:38).

¹⁴ Maruyama argues that 'Since the nation includes in its 'national polity' all the internal values of truth, morality, and beauty, neither scholarship nor art could exist apart from these national values.' (Maruyama, 1963b: 6).

orthodoxy of political philosophy in Japan (Maruyama 1996). Since then, although many Meiji intellectuals were familiar with Western liberalism, their ideologies of politics seemed to be more or less bound by two beliefs: (1) the nation, with the emperor as the symbol, should be the centre of the public sphere; (2) political institutions themselves should be self-sufficient to run the government (Barshay 1988; Matsumoto 1978).

In reality, the idea of 'national polity' was ambiguous and the word itself did not represent specific ideas (Maruyama 1996; Pittau and Harvard University. East Asian Research Center 1967). However, once it became the official orthodoxy, 'national polity' set certain limitations on people's ideas and worked as an invisible constraint on liberal ideas in Japanese society (Pittau and Harvard University. East Asian Research Center 1967). At the same time, national polity became increasingly manipulated to legitimise the behaviour of those who were in power or in an attempt to gain power like ultra right-wing advocates. Furthermore, by the introduction of national polity, the Japanese people became 'the subjects' of the emperor, not autonomous 'citizens' (Maruyama 1996: 127-128).

Because 'national polity' had the effect of eliminating those who opposed to the nation, on the surface (*tatema*) politics in Japan emerged to be conflict-free, embracing Japan's ancient tradition of '*wa* (harmony)'. In fact, *wa*, as a quintessence of Japan's collectivism initiated by Prince *Shōtoku* (572-621), was the invention of Japan's modern elites (Ito 1998). In this context, any private interests were considered to be self-centred 'individualistic desires and emotions' and therefore vulgar, while the public interest (national polity) appeared to represent

‘virtuous actions in accord with universal principles, free from individual impulse’ (Matsumoto 1978: 21).

The Imperial Rescript on Education made it possible for the subjects to accept this crafty suppression without much doubt (Gluck 1985; Maruyama 1996). After the *Kōtoku* incident, where the authority executed twelve anarchists between 1910 and 1911 for planning to assassinate the emperor, Japan’s prominent intellectuals, such as Nagai Kafū (novelist, 1879-1959), Natsume Sōseki (novelist, 1867-1916) and Mori Ōgai (medical officer and novelist, 1862-1922), stopped discussing politics and increasingly concentrated on ‘private’ topics (Maruyama 1996: 126).

As a consequence, while Japanese intellectuals introduced new political thoughts into academic discussions and the media, these imported ideologies were always in accordance with ‘national polity’. Although Japan’s pre-war authority used repressive tools to control liberalism, despotism alone was insufficient to rule and mobilise the national population (Barshay 1988; Barshay 2004; Garon 1994; Garon 1997; Giddens 1985; Maruyama 1996). Japanese intellectuals also came to believe that the masses should be guided for *fukoku kyōhei* (enrich the nation, strengthen the military) to achieve sovereignty as the ultimate national goal (Barshay 1988; Barshay 2004; Matsumoto 1978).

In addition to the Imperial Rescript on Education, ‘the invented tradition’ in modern Japan also helped to cultivate the ‘nationalistic’ virtues of purity, modesty, frugality, hard work, consensus and obedience (Vlastos 1998). Whereas democracy in the modern Western states developed to govern people and to mediate different self-interests in a society, in Meiji Japan, the ideas about the political community lacked this focus (Barshay 1988; Barshay 2004; Matsumoto 1978; Pittau and Harvard

University. East Asian Research Center 1967). The denial of self-interests in democracy *in the public interest* not only led to the totalitarian regime in pre-war Japan but also significantly influenced on the political culture in post-war Japan (Barshay 1988; Matsumoto 1978; Vlastos 1998).

The opening of Japan's parliamentary democracy as well as the development of the public sphere was so undermined that politics largely became disconnected from ordinary Japanese citizens (Gluck 1985; Richardson 1974; Stronach 1995). This is why the Japanese word 'public' (*kō*) does not include the notion of political participation even today. Originated in the Meiji period, the discourse on public became so deeply entrenched in the Japanese mind that the public interest in policy-making came to be regarded as representing the authority's interest, or at most the interest of a limited group of notables rather than that of the general public even in post-war Japan.

The public realm as social life

In relation to political participation in Japan, the concept '*kō*' (public) does not include the meaning of 'social life'. Although Japanese words like *kōmin-kan* (community hall), *kōen* (park) or *kōkyō hōsō* (public broadcasting) represent common spaces or mediums open to the public, the '*kō*' here primarily means that the government manages these facilities for people and does not necessarily indicate spontaneous public participation. The phenomenon also arose from cultural policies implemented by the Meiji authority. Under the slogan of 'civilisation and enlightenment', the Meiji authority initiated the strict controls of cultural life which consists of the core of social life. This was illustrated by the government order to destroy temples, statues of Buddha and Sakyamuni immediately after the Meiji

Restoration (Beasley 1995: 81). This policy was also reflected in the notion of Tokyo as a new imperial capital (*teito*), rather than a city of culture (*miyako*) which characterised Edo, Kyoto and Osaka before the Meiji Restoration (Smith 1978: 55). Since then, the Japanese government has tended to support only 'authorised' culture so that it has stifled alternative cultural forms.

Nonetheless, it does not suggest that there has been no active social life in Japan. In fact, foreign observers witnessed that the streets of Japanese inner cities had rich social life throughout modern times (Cybriwsky 1998; Seidensticker 1983). The vitality of metropolitan areas was the virtue and fascination of non-Japanese visitors, because it resulted in lower crimes, thriving cultural life and urban economies compared to Western counterparts (Alden 1986; Cybriwsky 1998; Sorensen 2004). In fact, the low city of Edo, the commoners' district in the old Tokyo, was a centre of thriving Edo culture, as its theatre and entertainment districts were located there (Jinnai 1994; Seidensticker 1983). After the Meiji restoration, the state took over most of the sociable spaces in Japan's traditional cities and marginalised social life from public spaces (Coaldrake 1996; Kerr 2001; Waley 2002).

The concept of public as sociability was not clearly recognised as a policy agenda, and therefore not incorporated in its policy-making in contemporary Japan. In fact, the Japanese elite had to monopolise and restrict the autonomy and spontaneity of social life in fear of social disorders during the pre-war period. Furthermore, the Meiji authority needed to reconstruct Japan's 'tradition' and culture centred around the Imperial Family and Shintō to legitimise the new imperial state (Fujitani 1993; Gluck 1985; Tanaka 2001). In the end, culture and social life was also used by the elite to promote their ideal nationhood in modern Japan (Fujitani 1993; Gavin 2000;

Gluck 1985; Vlastos 1998). As the creation and preservation of public spaces in modern cities and countryside has been so important in Western planning, the absence of the sociability concept as the public interest in Japan has had considerable impact on its planning policy.

The domestic and public domain

As in the West, the Japanese authority considered the domestic sphere as woman's in contrast to political and economic life which men dominated. Political participation of Japanese women was rejected by the 1890 *Shūkai oyobi Kessha Hō* (Law on Associations and Meetings), as it was claimed to be against women's social value (Nolte and Hastings 1991: 154). On the other hand, the state promoted 'womanly virtues as those of modesty, frugality and purity' which modelled on an ideal of Victorian British women (Tipton 2001: 61). This moral campaign was very effective since *ryōsai kenbo* (good wife, wise mother) still captures the most idealistic figure of a Japanese woman in contemporary Japan (McVeigh 2004: Ch.12; Uno 1993).

Nonetheless, the Meiji authority regarded the home as the forefront of the public domain to increase economic productivity as well as reproduce 'nationalistic values' through child-rearing (Garon 1993a; Garon 1994; Garon 1997; Nolte and Hastings 1991). While child-rearing was supposed to be the most important role for women, household savings, collaboration during wars and charitable works were designated as central female roles by the state and state-sponsored organisations (Garon 1993a; Garon 1994; Mackie 2003; Takeda 2005). Although women did not have the opportunities for direct political participation, the domestic sphere increasingly became the vanguard to maintain and create 'traditional' as well as 'modern' virtues of the Japanese which the state considered to be desirable (Garon 1994).

Although there have been feminist movements in Japan trying to fight against these imposed gender roles, there seemed to be strong opposition from the state, businesses and certain types of civil society organisations (mainly religious and right wing organisations). In particular, the state's suppression and manipulation of women's role in Japanese society still appears to be pervasive. For example, the state still encouraged an ideal of 'good wife and wise mother' through tax incentives to housewives and a special curriculum designed for women in higher education. Most importantly, through segregation and guidelines for women by the state's administration, Japanese women do not have equal opportunities at the workplace (Japan. Ministry of Health Labour and Welfare 2005).

Despite the introduction of the 1986 Equal Employment Opportunity Act (*Danjo Koyō Kikai Kintō Hō*) women in the labour market have been in a way further marginalised since the enforcement of this act in Japan. Although the wage gap between male and female full-time workers narrowed from 59.6 percent in 1985 to 67.6 percent in 2004, the average earnings of female part-time workers dropped from 76 percent to 65 percent of the average female full-time worker's wage in the same years (Japan. Ministry of Health Labour and Welfare 2005: 7). Moreover, the ratio of female part-time workers in the female labour force increased from 22.0 to 39.9 percent in the period of 1985-2004 (ibid).

On the other hand, the ideal of the Japanese traditional family is disappearing. The marriage rate in Japan fell from 10.0 per 1,000 people in 1970 to 5.7 in 2004, and the divorce rate reached 2.15 per 1,000 people in 2004 (Japan. Statistical Research and Training Institute 2005: Ch.2). Considering these figures, the economic position of Japanese women has been worse off considerably in the recent past. Nonetheless,

Japanese women have hardly taken actions against their recent social and economic marginalisation. While the 1946 Constitution of Japan protects the citizenship of Japanese women, feminist movements in Japan are seemingly far behind their Western counterparts.

A famed feminist slogan ‘the personal is the political’ appeared to be paradoxical to the social history of Japanese women. The message is originally for the empowerment of Western women to articulate their constraints in the private life as issues in the public world. Feminist critiques argue that the suppression of women is set by the cultural norms of patriarchal-liberalism that originated in the Victorian era (Landes 1998; Lister 2002; Pateman 1983; Phillips 1998). In nineteenth century Western liberal society, it was mainly religions and civil society which worked to cultivate ‘female virtues’ rather than the state’s authority. In Japan, the authority took advantage of the role of women in the private domain to promote ‘the public’ (nationalistic) paradigm in their family life. The weak development of feminism in Japan seems to be a consequence of the state’s dominance of the private domain, which can be read reversely as ‘the personal is the political (the state’s domain)’.

2.5 Conclusion

In Western liberal democracies, defining what constitutes the public interest has been essential in politics and policy-making. Therefore, the meaning of the public interest changes depending on politics, and are subject to time frame and location. In contrast, the meaning of the public interest in Japan has remained rather fixed as if it were treated as ‘given’. This rigidity is partly due to the origins and subsequent development of the modern state of Japan. Urged by foreign threats, the leaders of modern Japan invented *kokutai* (national polity) to unite and mobilise their citizens

for sovereignty. The emperor was an embodiment of *kokutai* as the God of *Shintō*. In contrast to Western modern histories, the genesis of the modern state of Japan is the fusion of the monarchy and religion into politics based on this myth.

Under Japan's nationalism, the elite created an imaginary 'family state' and tried to make Japanese citizens believe the mirage as the reality (Gluck 1985; Iida 2002; Maruyama 1963c; McVeigh 2004; Stronach 1995). For the Meiji leaders, Japan was a beautiful and peaceful nation headed by the emperor. Japanese people were said to possess unusual qualities of being modest, disciplined and hardworking, and dedicated to the nation. Furthermore, there were supposed to be no conflicts in Japanese society, neither between employers and employees nor between family members and community members. All Japanese should know how to reach consensus without much arguments, since they should know what the best were for themselves and others.

Through this myth, the Japanese authority could mobilise its people for national goals such as economic development, a strong military, the cultivation of technology, while promoting frugality, an ideal family figure, and desirable roles for men, women and children and obedience to superior figures *in the public interest*. This strategy was in fact very effective in pre-war Japan. Because Japan's modernisation was inspired by the wealth and power of leading modern states, most Japanese were fascinated by the 'ideas of modernity – progress, science, and rationality' until recently (Garon 1994: 350). Moreover, modernisation was essential to the nation's survival. Therefore, an individual tended to feel guilty or shamed if he/she behaved or thought differently from the orthodoxy of Japan's national polity (the public interest).

Maintaining a nation (which is still implicitly symbolised by the emperor¹⁵) as a sole public concept, Japanese society still struggle to form the public interest as a collective interest. The quest for the nation's sovereignty has resulted in the state's dominance over all aspects of society: politics, the market, civil society and personal life. If individuals were considered to be pursuing their own private interests irrelevant to the state interest, they were often punished by the authority and scorned by members of the society in the past. This notion still survives in contemporary Japan.

However, no society is conflict-free. In particular, the principle of a liberal economy is to encourage everyone to act freely in pursuit of his/her own happiness. Modern Western planning progressed through struggles to build the public interest out of conflicts in liberal democracies. Therefore, the study of the public interest in planning will help the understanding of Japan's planning development toward a liberal democracy. The next chapter details the inception of Japan's nation-building and planning system which has had significant influence on the discourse of the public interest and the objectives of planning in modern Japan.

¹⁵ In 2000, former Prime Minister Mori Yoshirō told members of *Shintō Seiji Renmei*, a group of lawmakers promoting the Shinto religion, that he had been "active in getting people to understand clearly that Japan is a divine nation [land of the gods] with the Emperor at its centre". Asian Times Online. 2005. *God's country? You must be kidding, Mori-san* [Internet News]. Asia Times Online Co., Ltd, 2000 [cited 3 April 2005]. Available from <http://www.atimes.com/editor/BE19Ba01.html>.

Part Two

Chapter Three: Building a Nation–State: The Origins of Japanese Planning System, 1868-1945

While modern planning systems in Western liberal economies have evolved gradually as a response to the growth of capitalism, the Japanese planning system stemmed from the Meiji Restoration in the late nineteenth century. Therefore, it is crucial to understand what triggered the regime change in 1868 and why the new Japanese government had to force modernisation with such an impetus. This historical development determined the nature the public interest and planning in modern Japan.

This chapter explains the development of Japan as a modern state and its planning system in the period between 1868 and 1945. From Meiji Restoration to the end of the Second World War, this period is divided into three eras as Meiji (1868-1912), Taisho (1912-1926) and Showa (1926-1945), each of which represents the reigning emperor's name. Although the Showa era continued until the death of Emperor Hirohito in 1989, this chapter deals only with the pre-war years, as the post-war Showa era had a different political regime. Section 3.1 shows the unique origins of the Japanese modern state and its impacts on planning development by giving a detailed account of the motivation behind the Meiji Restoration and Japan's strategies for modernisation. Section 3.2 describes the inception of Japan's planning system and social problems arising from rapid urbanisation. Section 3.3 examines the characteristics of Japan's planning system in the pre-war period, and explores why these characteristics emerged. Section 3.4 investigates the impacts of the ideologies of the public interest in Japan's pre-war planning policy on spatial use. Section 3.5 summarises how the nature of Japan's modernisation affected the formation of the public interest in Japan's planning system and the society.

3.1 Early Nation-State Building

Meiji Restoration against the Imperialist Order

In 1853, four fleets from the United States appeared off the coast of Uraga, near Tokyo. The Japanese called them ‘the black ships’ with surprise and fear. Commodore Matthew Perry, on a mission from the US president, asked the Japanese government¹⁶ to comply with a request to sign a treaty with the US. For over 215 years, *Bakufu* (shogunal government) had no trade partnerships with foreign countries except for the Netherlands and China in Nagasaki¹⁷ to avoid influences of Christian liberalism, which might have endangered the legitimacy of the exploitative feudal administration in Japan. However, faced with the obvious superiority of the US’s military power, *Bakufu* did not have any choice but to accept the demands from the US and agreed on a peace treaty in the following year. Japan also settled the same treaties with the UK (1854) and Russia (1857). In 1858, *Bakufu* finally signed commercial trade treaties with the US, the Netherlands, the UK, Russia and France. In these commercial treaties, Japan was not treated as an equal partner to the Western nation-states but was forced to accept disadvantageous trade terms. This was legitimised by Japan’s lack of modern institutions which complied with international laws. Japan had again to agree to this disadvantageous position in the face of well-equipped modern armies of these Western countries.

¹⁶ The administration of Tokugawa Bakufu (1600-1868) at the time of Perry’s visit. It was led by Shogun (the emperor’s a military deputy, but a *de facto* ruler of Japan). Tokugawa Ieyasu’s descendants successively held Shogun’s positions.

¹⁷ Nagasaki is the prefecture of southern periphery of Japan. Foreign trade under the Tokugawa Bakufu was limited to a small island called Dejima in Nagasaki in order to control commoners’ contacts with foreigners.

At the time of Perry's visit, the power of *Bakufu* had been already weakened after 250 years of Shogun regime. Having suppressed progressive intellectuals who had information about foreign countries, *Bakufu* was entirely powerless against Western modernised armies. Moreover, *Bakufu* did not have a modern administration under the rule of law to establish equal diplomatic and economic relations with Western nations. Although the purported interest of these Western countries was trade with Japan, their real ambition was obvious given their activities in Asia in the nineteenth century. Indeed, then British ambassador to Japan, Sir Rutherford Alcock (1809-1897), clearly stated that the UK had an aim to designate Japan as an outpost against Russia (Alcock 1863). Alleging to protect foreign residents in their settlements in Japan from anti-foreign terrorism, the UK and France posted soldiers in Yokohama (a port near Tokyo) since 1863, which exceeded more than 1,200 troops at one stage (Inoue 1965). Furthermore, they demanded that *Bakufu* should finance and build the necessary accommodations and other facilities for their soldiers (Inoue 1965). With the establishment of the foreign settlements under the extraterritoriality, Japan was a 'quasi-colonised' country. In short, under threat of colonisation by Western nations, Japan's domestic governance came into further volatility.

This situation provoked fierce protests among the feudal establishment (*samurai* and aristocrats) in Japan, which was captured in the slogan '*sonnō jyōi* (Honour the emperor, expel the barbarians)' (Tipton 2001). At the beginning, the hostility was focused on foreign residents in Japan, but later the strong discontent was directed towards the incompetence of Tokugawa regime to manage national security. The anti-foreign movement was then transformed into a movement of political discontent, aiming to replace *Bakufu* with a new regime (Ikegami 1996).

However, unlike the bourgeois revolutions in Europe, the regime change in Japan was not initiated by suppressed peasants or strengthened merchants. Although continuous peasants' riots and the development of a quasi-capitalist economic system in the late Tokugawa period had severely shaken the political order of the feudal system in Japan, neither peasants nor rich merchants had sufficient power to organise their resources to initiate a popular revolution (Beasley 1995). Instead, the Tokugawa *Bakufu* was overthrown by the lower class *samurai* together with a coalition of the wealthiest city merchants in the form of a non-violent coup d'état in 1868 (Norman and Dower 1975). During this period, the UK predicted the inevitable downfall of the Japanese old order (Alcock 1863). Judging that a revolution from above would least threaten its imperial capitalist order in Asia, the UK chose to support these revolutionists and offered financial and military help in exchange for concessions in Japan (Inoue 1965). However, well informed about the puppet government in China under the British control, the Japanese revolutionists did not accept this offer (ibid.). Here, the new political regime started to build Japan as a modern nation-state against Western imperialism.

Creating the capitalist economy

The fate of modern Japan was significantly affected by the unique characteristics of the Meiji revolution. Thrown into the international arena at the height of Western imperialism, the primary objective of the new government was to preserve national security and economic independence. The first step for the new government was to create a modern public administration, in particular a modern army, and to establish a capitalist economy to finance it. The urgency of the task was keenly felt by the new political leaders in Japan, who had witnessed other Asian countries falling under the

control of Western imperialism. In order to create national wealth and establish a modern army in the shortest period of time, there were not many options available to new leaders other than importing Western technologies and incubating modern industries.

However, Japan faced serious impediments in reaching these objectives. First, it did not have any modern technologies due to the prolonged seclusion period. Second, it did not have rich natural resources to create industrial products. Third, it also lacked capital and skilled labour, which were essential to establish a capitalist production mode. Finally, Japan was seriously handicapped to accumulate national wealth due to the unequal trade treaties inherited from the Tokugawa rule (Beasley 1995). For instance, the lack of autonomous tariffs gave foreign firms handsome profits while preventing the Japanese export industry from gaining decent returns (ibid). Furthermore, the Western nations' extraterritorial rights in Japan shadowed the nation's sovereignty (Spaulding and University of Michigan. Center for Japanese Studies 1967). Therefore, the ultimate objectives of the new Japan converged into two slogans: '*fukoku kyōhei* (Enrich the country, strengthen the military)' to preserve national security, and '*bunmei kaika* (Civilisation and enlightenment)' to revise the unequal treaties. The Japanese leaders believed that by accomplishing these tasks, they would lead Japan to become a modern strong state.

In the project of modern nation-state building, the Meiji government implemented a series of reforms to enhance the process. Taxation was one of them. In order to initiate a modern capitalist economy, the Meiji government funded primary capital for entrepreneurs through heavy taxes on farmland, through the implementation of the 1873 Land Tax Revision (*Chiso Kaisei*). The land tax represented more than 80

percent of government revenues in 1875-1879 (Norman and Woods 2000: 77). While the Meiji Restoration freed peasants from feudal restrictions on mobility¹⁸, finding other jobs was not a real option for most peasants in the early Meiji era, as the industrial revolution had not yet started in Japan (Dore 1984). This in effect meant that the social condition of peasants was more or less the same as before the Restoration.

In fact, the tax levy on farmers was much heavier than in the pre-Restoration period. The Meiji government levied monetary taxes on land¹⁹ instead of crops as in the past, based on the price of land (Dore 1984). This was quite a burden on tenant farmers and small-scale farmers who did not have a ready access to the market to make decent profits (Yazaki 1968: 279). In contrast, the former feudal lords and the land gentry benefited from this revision by collecting high farm rents from their tenants (Dore 1984; Norman and Woods 2000; Smethurst 1986). Some of the gentry class used the surplus profits to set up small- to medium-sized businesses (Yazaki 1968: 279). Unlike in England, these landowners did not seek profits from large-scale farming but preferred to remain as land gentry because of the excessive profits from farm rents (Norman and Woods 2000). The exploitation of tenant farmers and their persistent poverty was considered to be a major cause for the social and economic crisis in later years (Brown 1955: Ch.9; Dore 1984: Ch.5; Smethurst and University of California. Center for Japanese and Korean Studies 1974).

¹⁸ Before the Restoration, peasants as a hereditary class were neither allowed to leave their farmland nor sell and subdivide their properties to others under the strict class system. The new government abolished the existing class system and gave property right to those who could claim land ownership.

¹⁹ The taxation rate was three percent of the land price.

As seen above, the way the initial producer capital was created was very different from that of Anglo-Saxon capitalism. Moreover, the manner in which capital was accumulated in the hands of producers was a key issue in interpreting the governance of contemporary Japan. This unusual beginning of capitalism in Japan has shadowed the development of the pre-war economy. Although the government supported conglomerates to enlarge the capacity of industrial production, genuine entrepreneurship did not develop much in pre-war Japan. Lucrative income was guaranteed by high farm rents, and the wealthy land gentry were not willing to take risks by setting up modern firms; instead, they kept relying on profits produced from farmland (Norman and Dower 1975). This system created the idea that land itself creates substantial profits in Japanese society.

In addition to the plight of farmers in the pre-war period, environmental pollution under the state's industrial policy was already an issue in the Meiji era. The Ashio Copper Mine contamination, for example, became a serious pollution problem in the 1890s (Notehelfer 1998). Nonetheless, the Ashio contamination along with the *Minamata Disease* (organic mercury poisoning) and the *Itai-Itai Disease* (cadmium poisoning), both originating in pre-war times, did not attract much attention until in the 1970s. In the case of the Ashio contamination, the company did not take the responsibility for the real damage caused by pollution until in 1974 when a settlement was reached outside the court (Ui and United Nations University 1992).

These cases tell that Japan's economic growth as a prime national interest was achieved at the sacrifice of its people. The rigid bureaucratism had long failed to admit these catastrophes caused by the negligence of the polluters as well as the responsibility of authorities that ignored the evidence of the serious pollution. The

history of the Japanese planning system has to be understood within this context of Japan's industrialisation process.

3.2 The Origins of the Japanese Planning System

Enlightenment for survival

Being as a developmental state, Meiji leaders eagerly promoted two things: political/economic reforms and cultural borrowing from the West. The Meiji oligarchy regarded those reforms, represented by the slogan 'Civilisation and enlightenment', as essential in order to repeal the unequal treaties and protect the nation (Beasley 1995; Tipton 2001). However, the phrase '*wakon yōsai* (Japanese spirit, Western technology)' represents the ambivalent attitude of the Meiji authorities towards modernisation (Nakayama 1984). While the Meiji government aggressively imported Western technologies, it did tailor these new imports to their needs. Thus, even if the styles and systems which Japanese authority created appeared to be Western, their purposes and objectives were often quite different from the original ones. This rhetoric was also seen in the import of modern planning system to Japan from the West.

In order to demonstrate 'modernity' to the Great Power, one of the prime purposes of Japanese planning became remodelling feudal cities, especially the capital city of Japan, into a 'modern' one. The members of the Iwakura Mission (1871-3) were impressed by the civilisation of the Western cities which they had visited, and were convinced that those cities were the vehicle of industrialisation as well as the materialisation of their national wealth. In England, they saw a forest of factory chimneys emitting smoke in big cities and regarded them as proof of England's

economic prosperity (Kume, Healey, and Tsuzuki 2002). In France, they were impressed by the beauty of Paris, which Georges-Eugène Haussmann²⁰ had remodelled from a crowded medieval city into a city with wide streets, broad vistas, parks, and avenues radiating from focal points (Kume, Healey, and Tsuzuki 2002). On the other hand, they were also aware that the prosperity of European nations had started after 1800 and that the current wealth was only realised in the last forty years or so (Kume, Healey, and Tsuzuki 2002). Therefore, the Japanese new leaders assumed that if they followed the right path, Japan could catch up with the Western level of civilisation in the not so long future.

In this context, the 'Civilisation and enlightenment' slogan was enormously influential in forming the values and objectives of planning. The visual image and technology of the Western enlightenment determined the path of Japanese planning development. The ultimate objectives of city planning in Japan became twofold: (1) building industrial infrastructures and (2) making well-designed city centres consisting of boulevards, parks, theatres and public and commercial facilities built by bricks and stone. The Japanese officials believed that they could materialise Western-style cities as well as its wealth if Japan learnt Western-style architecture and civil engineering.

The government first introduced this remodelling of cities towards modernisation in Tokyo, the new capital city of Japan. The first railway line opened between Tokyo (Shinbashi) and Yokohama in 1872. Then, *the Ginza Brick Quarter* (1872-1877), a commercial and residential area consisting of 1,400 two-story Western-style brick buildings, was constructed by the central government (Tokyo. Metropolitan

²⁰ French civic official and city planner, 1809-1891

Government: 24). There was also a grand plan for the centralization of *the Government Office District in Hibiya* (1885-1890) with a new National Diet Building under the initiative of the Foreign Minister, Inoue Kaoru (1835-1915) (Tokyo. Metropolitan Government: 8-9). However, the plan was abandoned in 1890 and only a couple of buildings were constructed based on this plan. Mitsubishi Company also planned *Mitsubishi Red-Brick Street*, known as *First Street, London* (today's Marunouchi business area) in 1890 (Tokyo. Metropolitan Government: 10-11). It was a new office district with British-style four-story red brick buildings and gas-lit streets in an area adjacent to what is now Tokyo Station (built in 1914) (Cybriwsky 1998). The plan was almost completed around 1915 and became one of the most thriving business districts in Japan. Through these experiences, constructing new blocks of town and infrastructures became synonymous to city planning in Japan.

While these development plans were the authority's vision for a modern capital city, there was an obstacle to materialise this plan. In addition to some technological problems, Meiji officials considered the presence of a large number of the urban poor in the immediate vicinity of the wealthy areas in Tokyo as undesirable; thus, they believed it necessary to remove the urban poor to the outskirts of the city (Ishida 1987a; McCormack 2002). The elite, as well as the commoners who saw themselves as 'decent citizens', supported this opinion in the early Meiji era (McCormack 2002). When a fire destroyed more than 2,000 buildings in a slum in the vicinity of *the Ginza Brick Quarter* in 1881, the then Tokyo governor, Matsuda Michiyuki (1839-1889), claimed that the destroyed area should be redeveloped to prevent the 'filthy and unsightly' people from re-inhabiting (McCormack 2002:259). McCormack expressed this as follows:

The aim [of the redevelopment], in the words of a Tokyo prefecture official named Ito Masanobu, was to rid the city of the 'doss –houses' (*kichinyado*) inhabited by 'little people' (*shomin*) and, by building 'regular houses' (*jinjyō no kaoku*) that 'good people' (*ryōmin*) would inhabit, to transform the area and render it a 'regular town' (*ippan no machinami*). As for the former low class residents, the future head of the Mainichi Shinbun [newspaper], Numa Morikazu (1843-1890), declared that laws were necessary to force them to move to the city outskirts, where it was normal for poor people to reside (McCormack 2002: 259).

Against this background, the remodelling of Tokyo's city centre was wholly dedicated to the upper class. Although the Japanese government was zealous to realise their vision of a modern Tokyo in the early Meiji era, its ambition was only partially materialised due to financial constraints as well as the physical limitations of the designated areas which were quickly built up.

On the other hand, compared with other latecomers of modernisation, Japan was successful in the construction of infrastructures, especially for industrial use. By 1877, the rail networks linking Tokyo, Osaka and Kyoto were connected with their nearest ports, Yokohama and Kobe (Beasley 1995: 104). The construction of the main trunk routes connecting these three important cities were also completed by 1889 (Beasley 1995: 104). There are two main factors which aided this swift transition from feudal society. First, the government formed a national infrastructure development plan according to the identified geographical strategy devised for economic development (core and periphery), now often called *kokudo keikaku* (national land planning) (Hanes 1997: 491-495). The origin of *kokudo keikaku* can be traced back to the period immediately after the Restoration, when the Meiji government conducted many geographical surveys to build railways and ports (Hanes 1997: 491).

Second, the state set aside special financial resources for building industrial infrastructures as a national priority. The Japanese postal savings system was set up in 1875, channelling household savings to governmental funds in order to finance large-scale infrastructure development projects (Cargill and Yoshino 2002). Later, resources from public pensions and life insurance reserves were also added to these funds. This special financial source from *zaisei tōyūshi* (The Fiscal Investment and Loan Programme, FLIP) worked advantageously to the state, as the government was able to pool large amounts of capital without much constraint from the national budget. This hidden national budget enabled Japan to construct many necessary infrastructures for industrial production without raising tax burdens.

Industrialisation and urban growth

Although modern planning in Japan started as the construction of Western-style monumental city centres, it became apparent that the nation needed a land-use control system along with its industrialisation, as was the case in Western countries. Japan's rapid industrialisation was accompanied with unprecedented urban growth. While state-led industrialisation was a pull-factor toward urban industrial jobs which flourished from the mid Meiji era, there was also a push-factor that made the working class population migrate from villages to cities. The 1873 Land Tax Revision had an impact on agricultural land-use similar to the impact of the enclosure movement in England. While the new government relied on tax revenues from farmland, agricultural products were not highly priced and the crops were unstable (Dore 1984). Furthermore, the new government denied the rights of farmers to communal land which had previously been used for fertilisers' fodder and fuels (Dore 1984; Yazaki 1968). As a consequence, some small farmland owners could

not keep up with tax payments in the form of cash. Thus, an increasing number of farmers sold their land, and then became tenant farmers for large landlords (Dore 1984; Norman and Dower 1975; Yazaki 1968). Then, rents for tenant farmers leapt to approximately 50 percent of crop yields (Yazaki 1968). This drove some members of the impoverished farmers' households to cities to supplement household incomes.

In fact, the urbanisation during this period in Japan was much faster than in Western countries (Norman and Dower 1975; Wilkinson 1965; Yazaki 1968). As a latecomer to industrialisation, it was easier for Japan to copy technologies such as transport which enhanced the formation of industries and enabled the migrant population to reside outside city centres (Wilkinson 1965). The population growth was concentrated in the Tōkai Pacific Belt (*Tōkaidō*) region, a coastal area between Tokyo and Osaka. Having been an established travel route even before the Meiji Restoration, this area had already possessed adequate infrastructures such as highways and post stations so that the region was suitable for the agglomerations of the urban population (Traganou 2003: 173). The Tōkai Pacific Belt extended to the south of Japan, Kyūshū, as the government created steel and mining firms in this region. Industrialisation brought factories, labour and houses to cities along the Tōkai Pacific Belt, in particular to the capital city of Tokyo. For example, while the population in Tokyo was estimated between 600,000 and 700,000 around 1868, it reached some seven millions in 1940 (Tokyo. Metropolitan Government 1994: 14).

Whilst the urban population was concentrated in relatively small areas of central cities during the first three decades of the Meiji era, the available land quickly disappeared as industrialisation proceeded. Between 1897 and 1920, the suburban

population increased by 183 percent, whereas the central and inner urban population grew by 94 percent (Yazaki 1968: 451). To accommodate the growing population, urban areas had to expand outwards. The introduction of electric trains and streetcars to Japan together with the swift expansion of their networks to suburbs enabled the rapid urbanisation. The development of the public transport network, which was implemented by both public and private sectors, became feasible by the Tokyo City-Ward Reform Ordinance (TCRO, *Tokyo Shiku Kaisei Jōrei*) in 1888, and similar ordinances enacted in other cities.

TCRO is the first formal planning initiative to provide public goods in Meiji Japan. A water work survey in 1876 preceded a port construction project in 1880 and the TCRO (Tokyo. Metropolitan Government 1993: 24) The major achievements of the TCRO were the construction of 32 parks, seven canals, waterworks and sewage systems as well as the improvement of 123 roadways up to 1919 (Tokyo. Metropolitan Government 1993: 24). The widening of roads was largely implemented by collecting development charges from railway companies (Koshizawa 1991). Although public authorities constructed some mass transit infrastructures, many private companies also built rail and tram routes in Japanese cities during this time.

However, during this period of fast urbanisation²¹, both housing construction and infrastructure developments were completely unregulated. This means that the quality of housing as well as the provision of physical and social infrastructures

²¹ The populations of the six large cities in Japan increased by more than 250 percent between 1897 and 1920 as the following figures show (Yazaki 1968: 391):

Year	Tokyo	Osaka	Kyoto	Kobe	Yokohama	Nagoya
1897	1,330,000	750,000	330,000	190,000	190,000	250,000
1920	3,350,000	1,760,000	700,000	640,000	570,000	610,000.

necessary for urban life was grossly neglected by the government. Housing shortage became especially acute around 1920 (Honma 1987). A newspaper in 1921 reported a survey by the Home Ministry, showing that the shortage of housing in large cities had reached to 122,821 units (Honma 1987: 35).

Most major railway companies took advantage of this situation, and initiated a large-scale housing development (Honma 1987; Ishida 1987a). When the companies planned a new railway line, they bought large plots of land nearby hub stations. Then, they built new suburb communities for mainly middle- and upper-class citizens with retail stores and even amusement parks (Hirano 1999; Sand 2003). Some of the suburb communities built during this period, which imitated the Garden Suburbs in England, were fairly well designed and are now regarded as high profile residential areas in Japan (Koshizawa 1991).

However, in most cases, small-sized developers built cheap, tiny and low-quality wooden detached houses and row houses in suburbs (Honma 1987; Mosk 2001; Yazaki 1968). The majority of these houses were not very different from the wooden row houses built in the Edo period (Feaver and Webb 1992; Yazaki 1968). Moreover, many of these developments were undertaken without any consideration of basic infrastructures, such as roads and sewage (Ishida 1987a). In the worst cases, houses were built in the middle of farmland without access to any proper roads, making the developed areas in this manner resemble labyrinths (Ishida 1987a: 110-111).

Not only was housing constructed without adequate infrastructures, but also house prices skyrocketed in big cities. For example, the neighbourhood of Hiratsuka/Ebara, located about six kilometres from the city centre of Tokyo, experienced an increase

in land value of 498.5 percent during the 1910s (Bestor 1989: 56-8). Between 1900 and 1940, the land value of this area increased by 2,673 percent (Bestor 1989: 56-8). In contrast, during the same period, the value of paddy fields dropped to 75 percent of their 1900 value in the same areas (Bestor 1989: 56-8). The ratio of residential land area in the same communities increased from 8.8 percent in 1900 to 40.9 percent in 1930, and reached 96.4 percent in 1940 (Bestor 1989: 56-8). Although the government tried to make this land conversion more streamlined by introducing the Cultivable Land Reorganisation Act (*Kōchi Seiri Hō*) in 1909, it soon became apparent that Japan needed more comprehensive planning laws to control urban growth.

Emergence of urban problems

In addition to these land-use defects that resulted from rapid urbanisation, there were also rising social problems that were common to industrial economies. In Tokyo, while a small number of newly emerged middle-class residents were able to move to relatively well-built houses in the hilly suburbs of the Western part of the city (Honma 1987; Sand 2003), the majority of the working class population was forced to live in the poor quality tenement houses in the inner city areas, which were close to factories built along a river in the Eastern Tokyo area (Yazaki 1968). In fact, the working classes ended up inhabiting shanties whose individual unit size was only 7.5 square metres, and 15 to 20 households had to share a toilet (Yokoyama 1949). The living condition like this was also observed in other major cities. In Osaka, about 34.9 percent of the housing stock in 1920-24 consisted of dark tenement houses (Mosk 2001: 226-228). According to Sydney and Beatrice Webb (English socialist activists and the founders of the London School of Economics, 1859-1947; 1858-

1943), who visited Osaka in 1911, the conditions of the slums in the city were as bad as in London (Feaver and Webb 1992: 72-4).

Nonetheless, an improvement of living condition for the urban poor in pre-war Japan was not as a pressing issue to the government as it was in the West. First, slums in Japan had relatively better hygiene levels compared to Western counterparts. For example, human waste in Japanese cities was systematically collected for the use of a fertiliser for farming since the Edo period (Hanley 1997). Bathing in hot tubs was a common practice for the Japanese, and neighbours shared the cleaning of streets (Hanley 1997). In addition, Japanese wooden houses had more ventilation than Western brick houses. The Webbs wrote about the less offensive smells in Osaka's slums, claiming the better hygienic practices of Japanese commoners (Feaver and Webb 1992: 72). While the government had to rebuild the water supply systems in the aftermath of the cholera epidemic brought by Westerners, which killed 105,000 people across Japan in 1879, and nearly 110,000 in 1886 (McCormack 2002: 260), apart from this, strong planning initiatives for public health improvement never materialised in pre-war Japanese cities.

Second, landlords and *zaibatsu* owners, who held the most powerful positions in pre-war Japan, did not easily give concessions to the government in planning initiatives (e.g. contributing their land and money to common facilities for new developments) in the absence of any immediate threats or benefits to them. In 1906, 0.5 percent of the residential landowners in Tokyo's 15 wards owned more than 23 percent of residential land in the area (Hatate 1992: 109). The largest plots were owned by Mitsubishi Company and its founder (the Iwasaki family), Mitsui Company and its owners (the Yasuda family), and some ex-feudal land lords (ibid). Those landowners

who possessed the land adjacent to urban fringes benefited most from rapid urban expansion. In this scenario, any planning regulation would have resulted in their losing vast sums of profit.

Third, there was relatively less social disorder among the Japanese urban poor in the early Meiji period than in Western industrial society. Prior to the prominence of urban violence, the British upper and middle classes tried to reform the working class for 'acceptable' behaviour through charity, poor relief and moral education (Addams 1893; Bosanquet 1984; Hill 1883). While these attempts failed in England, the moral education of the poor was very successful in Japan (Garon 1997; Gluck 1985; Goodman 1998).

Learning from the precedent in West, the Japanese government fully took advantage of the remaining feudal order and even reinvented tradition in order to control its commoners (Tu 1996; Vlastos 1998). Paternalism was transplanted into industrial relations. The ideas of self-help, hard work, thrift and saving were strongly taught at ethics courses in elementary schools (Garon 1997; Gluck 1985). As a consequence, people were very ashamed to apply for the state assistance. The Webbs were surprised to learn that the number of welfare applications was extremely small in Osaka; the expenditure was only 50 yen (£5) per day, which fed some 500 families (Feaver and Webb 1992: 73). In this situation, if someone failed economically, it was considered that the person did not act in accordance with the moral conduct of Japanese society (Garon 1997; Pyle 1973; Pyle 1974).

The most important task of the government regarding welfare was how officials or volunteers could persuade the lower class to give up their reliance on welfare assistance and to rehabilitate the morals of those who had failed (Garon 1997;

Goodman 1998). The value of family and mutual help in the community were emphasised in times of economic hardship (Garon 1997; Goodman 1998). The government acted strongly to coordinate efforts from the rich to help the poor in order to minimise state relief for the impoverished (Garon 1997). Submission to the authority and the perseverance of a vertical order in human relationships greatly hindered the development of social citizenship in pre-war Japan.

Fourth, industrial workers, who were potential political actors toward the improvement of their social conditions, were still a minority in Japan. In 1919, 58 percent of the households in Japan were engaged in agriculture only (Norman and Woods 2000: 158). Furthermore, in time of recession, industrial workers went back to the countryside as cheap labourers because agriculture was still labour intensive in Japan (Norman and Woods 2000; Totten 1966). Besides, more than half of the industrial workforce of pre-war Japan was young women, who worked for the textile industry and were locked up in the companies' dormitories (Hunter 1992; Tipton 2001: 96). Those female factory workers could hardly join labour movements, so that overall union membership never reached more than 8 percent of the industrial labour force (Tipton 2001: 101). Therefore, the government did not have to make significant concession to control recurrent social disorders which could have been caused by the unemployed urban masses, as was the case in Western industrial cities (Totten 1966).

Nevertheless, in the early twentieth century, the Japanese government could not resist the rising demands for political and social citizenship of the working classes, as skilled male workers of heavy industries joined urban protests (Tipton 2001: 101). These movements were also fuelled by the rise of socialism and communism ideas

against the backdrop of deepening worldwide depressions. The period between 1905 and 1940 has been termed as the age of 'imperial democracy' by Andrew Gordon (Gordon 1991), when Japanese commoners vigorously demanded the government for citizenship rights.

The 1905 Hibiya Riots started as a mass rally around Hibiya Park in Tokyo to express the public's discontent about the conditions of Russia's surrender in the Russo-Japanese War (1905). Despite the victory at the cost of mobilising a million men and 100,000 deaths in the war (Pyle 1973: 56), the economic gains were limited and the living conditions of commoners did not improve after the war. The political rally turned into a riot, and urban crowds violently attacked government institutions, street cars, offices and newspaper companies (Gordon 1991). 300 buildings were burnt down during this incident (Tokyo. Metropolitan Government 1994: 13). Another major disruption was the Rice Riots of 1918, which were provoked by a sharp increase in rice prices, spread all over Japan, involving thousands of commoners. During this period, tenant [farmers'] movements also intensified in the countryside (Dore 1984; Hane 2003; Smethurst 1986).

However, suppressive regulations and brutal police power curbed the public discontent. First, Article 17 of the Public Peace Police Law (*Chian Keisatsu Hō*) of 1900 in effect banned labour organisations and strike activities (Totten 1966: 22). In 1901, the government dissolved the Social Democratic Party (*Shakai Minshutō*), which was calling for more egalitarian society by the abolition of classes, private capital and land ownership (Yazaki 1968: 406). When labour disputes still continued and the movements for universal suffrage grew, the state finally introduced universal male suffrage in 1925. However, there was a serious setback to this achievement. In

the same year, the parliament passed the Peace Preservation Act (*Chian Iji Hō*) to outlaw organising associations against *kokutai* (national polity) and the idea of private properties (Tipton 2001: 97). A 1928 revision of the Act even introduced capital punishment against those who dared to attack *kokutai* (Tipton 2001: 97). These thought controls escalated to the expansion of the Special Higher Police (*Tokkō*). From that time onwards, ultra nationalism in Japan became the backbone of its totalitarian regime as well as the drive to build Japan's Empire in Asia to overcome economic problems at home (Maruyama 1963a). The strong police power for controlling violence and social democracy in cities could be counted as the fifth reason for the underdevelopment of citizenship rights in Japan's planning policy.

Creating the statutory planning system

Facing physical and social problems caused by the rapid urban growth, the central government had to enact the City Planning Act and the Urban Building Standard Act in 1919. During this period, the government was concerned about how to provide necessary facilities along with the rapid suburbanisation. In the early Meiji era, the government could supply necessary public goods for remodelling Japan's feudal cities into modern ones using assets from the Edo period (Koshizawa 1991). For example, many large parks were the conversion of private gardens of former feudal lords (*ibid*). The existing roads were widened by the TCRO. However, suburbanisation required more roads, open spaces, water, sewage and other infrastructures. The Home Ministry, which was solely in charge of planning in pre-war Japan, also raised issues of building controls and affordable housing (Honma 1987; Ishida 1987a; Koshizawa 1991).

Japanese planners in the early twentieth century were as equally alarmed as British planners by the consequences of uncontrolled urban growth. Nonetheless, Japan lacked strong drive to solve these urban problems. Mori Ōgai, who had studied public health in Germany in the nineteenth century, attempted to incorporate health concerns into the building regulation code for the TCRO (Ishida 1987b). However, his recommendations to improve public health by regulating housing and urban environment were never incorporated into any planning regulations in the pre-war era while the reason why his proposal was rejected is not clear. While urban health problems were the impetus for the development of early town planning in England (Hawtree 1981), attempts to remedy these problems played a very minor part in Japan's planning history.

There was also no sense of urgency among Japanese planners to take rigorous policy measures for social housing concerns. The Home Ministry also planned to set up cooperative building societies and housing associations, modelled on European versions, in an effort to increase affordable housing through subsidies to these organisations (Honma 1987). The 1923 Great Kanto Earthquake in Tokyo provided an opportunity for such experiments. The earthquake directly destroyed 128,000 houses and damaged another 126,000 units (Tokyo. Metropolitan Government 1993: 32). Furthermore, the fire caused by the earthquake destroyed another 447,000 houses (ibid). The total number of casualties reached 3.4 million (ibid). *Dōjunkai* (1924-1941), the first housing association in Japan under the umbrella of the Home Ministry²², planned to build 8,545 model houses for the victims (Honma 1987: 77). In particular, learnt from emerging modern architecture styles in the West, it

²² The financial resource came from citizens' donation to earthquake victims (Ishida 1987a: 166).

constructed 2,501 housing units of concrete apartment blocks, which were the first of this type of modern housing developments in Japan (Ishida 1987a: 167). However, other social housing plans during this period failed due to a lack of finance (Honma 1987).

Despite the enactment of the City Planning Act and the Urban Building Standard Act, the regulations were far too weak to control undesirable land-use. The City Planning Act only designated three zoning areas: residential, industrial and commercial areas. While the zoning regulations listed types of buildings that could be built in a designated zoning area, any types of buildings could be built within an industrial zoning area while the Act designated this zoning area for large-scale, dangerous and sanitary problematic factories (Ishida 1987a). Another problem was that the City Planning Act and the Urban Building Standard Act did not regulate all land areas in terms of zoning controls (ibid). Non-regulated areas were called *shiraji chiiki* (blank zoning area). In 1925, As a result, the combined amount of industrial zoning areas and *shiraji chiiki* occupied 40.7 percent of Tokyo's city planning areas and 54.9 percent of Osaka's (Ishida 1987a: 135). In short, the large amount of land that remained unaffected by the zoning laws seriously limited the effectiveness of zoning controls in pre-war Japan.

Other land use control schemes were the regulation of building lines and land readjustment. The control of building lines, modelled on the German system, stipulated that any constructed building had to be within 2.7 meters distance from the building line (Ishida 1987a: 138). The government expected that by the designation of building lines, new housing would be automatically accompanied by road development (Ishida 1987a). However, roads were not spontaneously built and

vacant land that was expected to be transformed into roads simply remained untouched (Ishida 1987a: 142). Without a comprehensive planning scheme, it proved impossible to provide the necessary infrastructures for new developments.

In contrast, the land readjustment scheme, which originated from the reorganisation of arable land, became a major tool for land-use control in Japan. During the pre-war period, arable land reorganisation was more popular than land readjustment because of the government's low interest loans and subsidies to arable land readjustment projects (Ishida 1987a). The scheme was later transferred to residential developments. In contemporary Japan, approximately one-third of all the urban areas have been developed using this scheme (Sorensen 1999: 2335). Under this method, while landowners had to contribute parts of their land holdings to provide roads, parks, other public spaces and reserve land, the sale of the reserve land was used to cover the administration and construction of public facilities (Sorensen 1999: 2354). Because the area developed by this scheme was equipped with the necessary urban infrastructures, the value of land within the area increased, and the landowners could benefit from rising values of their land holdings, even though their property sizes became reduced due to their contribution to public space (Sorensen 1999: 2334). The Japanese government considered this system as a reasonable and cost-effective way to prevent uncontrolled urban sprawl and promote efficiency in land-use.

Nonetheless, this planning method has its flaws. First of all, it was not mandatory for landowners at urban fringes to use this scheme to convert their farmland for urban use. Second, land readjustment could be an extremely time-consuming and complicated process, requiring coordination and negotiations among landowners (Koshizawa 1991; Sorensen 1999). Its difficulty was shown in the reconstruction

processes of the 1923 Great Kanto Earthquake as well as the 1995 Great Hanshin Earthquake lately, which proceeded very slowly without strong leadership (Koshizawa 1991). Third, because of practical reasons, land readjustment areas were relatively small, so that the areas remained as if they were 'islands' in large sea of urban sprawl (Sorensen 1999: 2355). Finally, the core problem was related to the different attitude of Japanese planners to urban sprawls from their Western counterparts (Sorensen 1999: 2356). Even today, Japanese planners tend to accept urban growth, as far as basic infrastructures are provided (Sorensen 1999: 2356-2357).

Japanese planners did not succeed in constructing the idea of planning as comprehensive development controls; instead, they ended up promoting individual infrastructure constructions. Furthermore, it failed to secure financial resources by levying betterment tax or development costs on the beneficiaries of developments (Ishida 1987a). This failure left negative assets for the large-scale urbanisation in post-war Japan. Since Japan's construction of transport networks and industrialisation proceeded at a fast rate, the failure to charge development gains became an incentive to land owners for further outwards development. Landlords greatly benefited by letting houses on their land at higher rents if they lived near the fringes of urban centres. Uncontrolled developments took a heavy toll on the quality of urban life in Japan. The construction of the infrastructures became extremely costly to the public bodies because of spiralling land prices. The deteriorated aesthetic standard of landscape and the environmental destruction also became serious issues.

Nevertheless, the government's unenthusiastic attitude towards development controls and social housing was changed markedly once Japan started 'The Fifteen Year War' (1930-1945) in Asia. In the 1930s, the Japanese government conducted planning policies that were similar to the British ones. With the progression of the Second World War, the Japanese government promoted the production of war supplies by increasing the number of factories and expanding existing production capacity (Honma 1987: 88-121). Accordingly, demand for housing for the working class increased and the government responded to this call with a series of new housing policies (ibid). These new regulations and policies included the Poor Housing Improvement Act (1927), the Rent Control Act (1939), a three-year Housing Provision Plan for the Working Class (1939), the Housing Corporation Act (1941) and the revision of both the Housing Tenancy Act and the Land Tenancy Act (1941) (Honma 1987: 88-90). Above all, the Housing Tenancy Act was revised to protect the families of soldiers who went to fight for the war.

Furthermore, a number of regional plans for Tokyo Metropolitan Region were drafted during this period. The plans included the Kanto National Land Plan (1936) and the Tokyo Green Space Plan (1939), which incorporated a greenbelt zone to prevent uncontrolled urban growth (Tokyo. Metropolitan Government 1994: 36). The plans were originally inspired by the 1924 city planning conference held in Amsterdam. However, they slowly developed into the Imperial City Plan to prepare for bomb attacks after the outbreak of the war (Tokyo. Metropolitan Government 1994: 36-39).

These regional plans for Tokyo are significant in the history of Japanese planning for a number of reasons (Koshizawa 1991: Ch.4). First, they were the first act of

metropolitan or regional planning with comprehensive master plans in Japan (ibid). Second, for the first time, parks and open spaces became the major objective of urban planning, as the plans materialised large open spaces in the hill side of Tokyo (ibid). The peculiar condition of the war made it possible for the Japanese government to take control over strong private land interests for 'a collective interest'. However, this first initiative of comprehensive planning under Japan's totalitarian regime did not last for a long time. Later on, these plans were all abandoned, and planning in Japan again ended up serving small groups of politically powerful people after Japan's surrender (see Chapter 4 and 5).

3.3 Characteristics of the Pre-war Planning System

The peculiar conditions of Japan's modernisation shaped three distinctive characteristics of Japanese planning. This section will explain each of them in detail.

Planning as technology

The most salient feature of Japanese planning since modernisation was the dominance of technology. On their visit to Europe and the USA, Meiji leaders were struck by grand urban design and solid structures of brick and stone buildings in nineteenth century Western cities (Kume, Healey, and Tsuzuki 2002). They were also overwhelmed by these nations' industrial infrastructures, especially by transport and communication such as railways, roads, bridges and ports (ibid). A detailed description of these infrastructures can be found in the diary of the ambassadors of the Iwakura Mission (ibid). The Japanese leaders readily understood the importance of industrial infrastructures as a major vehicle for industrialisation so that they were determined to implant necessary technologies to Japan. While urban planning, as a

tool of comprehensive control of land use, was slow to emerge in pre-war Japan, the construction of industrial infrastructures was immediately implemented by the state without hesitation.

In the process of building modern cities, civil engineers and architects, who created powerful symbols of Japan's modernisation, took a crucial position among Japanese planning professionals (Special Editorial Committee for 50th Anniversary Special Issue of City Planning Review 2001b). They established professional bodies and passed on their skills to the next generations through education at universities (ibid). Thus they shaped Japan's planning culture and safeguarded their influence on planning decision-making. Furthermore, these two types of professionals, many of whom have been hired by the Japanese government and large firms (Special Editorial Committee for 50th Anniversary Special Issue of City Planning Review 2001a), have acted as a strong interest group to promote the construction of new buildings and infrastructures. This is an important reason why technologies and architecture designs have had a central position in Japanese planning policy.

Although Japan is now known as an economy in which the development of science and technology plays a central role, the Japanese concept of modern science and technology is not similar to that of the West. This conceptual discrepancy between Japan and the West can partly explain the unique nature of Japanese planning. In Meiji Japan, there was no distinction between science and technology (Bartholomew 1989; Maruyama 1996; Nakayama 1984). In nineteenth century Europe, science and technology was distinguished as ideas and practice (Maruyama 1996; Nakayama 1984). In contrast, at the initial stage of modernisation in Japan, both science and technology was imported from the West and was regarded equally as a tool for

economic growth (Nakayama 1984). However, the most striking aspect of the way in which Japan learnt modern Western science was that it did not experience the paradigm shift from the old to the new (Barshay 1988; Maruyama 1996; Nakayama 1984). The emergence of new science in the West in the modern age was usually accompanied by the notion of 'creative destruction'. The Enlightenment broke up the feudal and often Christian dominated tradition in science (Hall and Gieben 1992). Subsequently, science transformed Western society into one wherein an individual could make free decisions based on *his* (but generally not *her*) own rationality. Japan completely lacked this process.

In Japan, new science was built following the tradition of *wakon yōsai* (Japanese spirit, Western technology) watchword. Modern science and technology was brought to Japan without its original ideologies and philosophies (Nakayama 1984). Furthermore, not only did the government exclusively own and control modern science and technology, but also its advocates were the traditional ruling class, *samurai*, who had lost their occupations after the Meiji Restoration, but not their political power (Burks 1985; Nakayama 1984; Spaulding and University of Michigan. Center for Japanese Studies 1967). Whereas individuals or private enterprises in the West largely developed modern science and technology (Nakayama 1984), the selected borrowing by which modern science and technology was transplanted to Japan determined the path of modern science in this country.

By cutting off philosophy from science, the development of science in Japan was seriously conditioned. The Japanese government concentrated on the development of technologies and practical sciences, which were not related to values, morals and ideas (Maruyama 1996). The government's monopoly in new science and

technology resulted in the tendency of a lack of democracy and even suppression of freedom in research and development in science in Japan (Bartholomew 1989). This feudalistic tradition has still continued in the contemporary Japanese academia, wherein the strong seniority system, pervading factionalism and persisting apprenticeship has obstructed new research and development (Bartholomew 1989; Castells 1998). Moreover, as technicians or scientists were supervised by bureaucracy, which was predominantly consisted of graduates from the Department of Law of the Imperial University (now the University of Tokyo), the status of scientists and technicians was subordinated within the hierarchy of Japanese government (Bartholomew 1989). Therefore, science as a tool to bring fairness based on reasons was significantly ignored in policy decision-making in Japan.

On the whole, while technology was an integral part of the Japanese planning system, the status of engineers was low in the Meiji social hierarchy. The inferior position of planners as engineers in the Japanese government can explain why the Home Ministry failed to make substantial achievements in pre-war planning policy-making, despite their extensive knowledge about the development of Western planning systems. Most proposals from the Home Ministry were rejected by the Ministry of Finance (Fujimori 1990; Ishida 1987a; Koshizawa 1991).

Strong preference for hardware technology in planning is still prevalent in contemporary Japan. Research of the institutional context of Japanese planning reveals that planning education at Japanese universities still has strong orientation towards architecture and engineering and only a few social science-based courses exist (Masser and Yorisaki 1994; Special Editorial Committee for 50th Anniversary Special Issue of City Planning Review 2001b). Moreover, there is a tendency among

social science courses on planning to put an emphasis on mathematical rational models in planning decision-making. The lack of planning courses that deal with the political and administrative context reflects the tradition of Japanese planning, where politics and ideologies are separated from its planning policy-making. Accordingly, planning in Japan came to be considered as mere strategies that a small number of professionals have solely decided.

The monopoly of 'rational' science and technology, owned by the Japanese authority and firms, also meant the exclusion of the general public from planning decision-making processes. Not only were citizens prevented from participating in planning processes, but also they lacked any practical knowledge about what was going on and how their localities would be affected by planning policies, because there were few planning professionals outside the central government or firms. Therefore, planning outcomes were inevitably authoritative and capitalistic in the pre-war period.

Planning for capitalist development

While the Japanese authority made efforts to create Western-like urban design in city centres in order to demonstrate its modernity, the objectives of planning were absolutely focused on creating industrial infrastructures (Mosk 2001: 231-41). The city planning documents prepared by Osaka City Council show that the financial resources of Osaka's city planning were thoroughly dedicated to construction projects, in particular that of road building in the pre-war time (Mosk 2001:240). The plan was divided into piecemeal projects and was spectacularly lacking in 'grand design, overriding vision and rationale, articulation of a set of ethical or aesthetic concerns' (Mosk 2001: 239).

This same aspect could be found in the introduction of the TCRO (Ishida 1987a). Although slum clearance and the regulation of fireproof buildings were discussed in the committee of the TCRO, the main issues were the construction of roads and the Tokyo port. The TCRO did not include any development controls (Fujimori 1990; Tokyo Metropolitan Government 1994). The origin of Japanese city planning exists in how the government can introduce modern infrastructures such as motorways into former castle towns like Tokyo and Osaka (Ishida 1987a; Koshizawa 1991; Mosk 2001).

The manner in which land-ownership was identified under the new regime is another important legacy of Meiji planning policy to post-war Japan. Landlords had an incentive to increase land value by converting their land-use to more profitable ones as there were virtually no restrictions on land-use conversions from farm to residential use and residential to factory/office use in pre-war Japan. When the urgent task of the government was to promote capitalism, there seemed to be no encouragement for the government to tighten land-use controls. Furthermore, these landlords, who often turned to be small business owners, came to acquire greater political power as major supporters of the newly formed Liberal Party (Norman and Dower 1975). Therefore, the Japanese Liberal Party, while calling for democracy, had agrarian and feudal tradition in its inception (Norman and Dower 1975). While these landowners made up the mainstream of Japan's politics in the pre-war time in the still largely agrarian society, the urban working class was marginalised in the political arena. Accordingly, policy measures stimulating redistribution of individual gains through planning remained very weak in pre-war Japan.

Planning under absolutism

The last unique feature of modern Japanese planning in the pre-war time was that planning was conducted under harsh absolutism. In the early nineteenth century, European cities experienced a number of urban protests, which were brutally suppressed by the use of police and military powers (Benevolo 1967; Jones 1976). When European establishments realised that they could no longer oppress the continuous uprisings of the urban masses by means of force, the elite started to take initiatives of improving urban slum conditions as a way of reconciliation with the urban poor (Ashworth 1954; Hall 1996a; Jones 1976). Thus, the development of planning policies in Western liberal economies has been strongly connected with the formation of social/urban policy. Because many top bureaucrats studied in Europe, the Japanese government was fully aware of the effects of industrialisation on society (Burks 1985; Kume, Healey, and Tsuzuki 2002; Pyle 1974). Accordingly, after the opening of the parliament, the Japanese government banned freedom of assembly and intervened in the freedom of speech by means of censorship (Mitchell 1998).

However, what the establishment was most concerned with was the development of the consciousness of deprivation among the working class (Pyle 1974). Kanai Noburu (Professor of Law at the Imperial University, 1865-1933) and Kuwata Kumazo (1868-1932) were the pioneers of Japanese social policy which was distinctive from the Western ones (Pyle 1974: 139). During his study in Europe, Kanai judged that British and German's social protests did not happen because of the severity of material deprivation of the working class, but instead resulted from the working class's political consciousness of being exploited by capitalists (Pyle 1974: 143)

Based on this understanding, although the Japanese government took some welfare measures to combat rising urban problems in later years, the nature of Japanese social policy was very different from its German equivalent. While the Japanese authority introduced the similar ideology of the 'paternalistic welfare state' to that in Germany, it practically conducted alternative social policy which emphasised *the prevention of social rebellion* (Garon 1997; Pyle 1973; Pyle 1974). In fact, the *Nihon Shakai Seisaku Gakkai* (Japanese Social Policy Association) was the first professional organisation for Japanese economists to promote economic development, and their research very much influenced the bureaucracy between the late 1890s and the 1930 (Marshall 1977: 82-85; Pyle 1974: 141).

Considering that Japanese industrialisation had just started, Kanai judged that Japan did not need a generous social policy like in Germany where social unrest was rooted in industrialisation and the rise of social democracy movements (Pyle 1973; Pyle 1974). Instead, Kanai initiated preventive actions towards social unrest and labour movements in Japan (Pyle 1974). He urged that the authority should make the working class focus on pursuing their own interests, introduce thought guidance and education not to let the urban poor being aware of class consciousness, and simultaneously promote nationalism to encourage the sense of unity among people (Garon 1997; Goodman 1998; Pyle 1973; Pyle 1974). Thus, it is not surprising that the first labour organisation in Japan, *Yūaikai* (Friendship Society) was formed in 1912 as a mutual aid society among workers (Totten 1966). Influenced by the government's social policy, it never had the character of a real labour union (ibid).

As the evolution of this social and urban policy significantly affected the nature of Japanese industrial and social relations, the path of modern urban planning was

inevitably influenced. Social and urban policy in pre-war Japan was not oriented towards the improvement of living standards for humanitarian and ethical reasons. It was solely dedicated to suppress the sense of deprivation among the poor (Garon 1997; Goodman 1998; Pyle 1974). Under the strong government control of ideologies, if there existed some welfare measures in planning and housing policy, they were treated as benevolence from the above (Garon 1997; Goodman 1998; Pyle 1974). This had important ramifications for the development of Japanese planning, as to why the poor housing standard and urban environment was neglected in the pre-war time.

Furthermore, planning decisions were exclusively in the hands of the central government of Japan under the 1919 City Planning Act (Ishida 1987a). Before the enforcement of this act, there were a number of local initiatives to improve environments, in particular in established cities like Osaka (Hanes 2002; Sorensen 2001). However, as the Meiji oligarchy worried that local autonomy under increasing social problems would result in obstructing 'the national interest', the state authority strictly controlled municipal affairs through finance, election system and the local administration (Hane 2003; Pyle 1973). For example, the state appointed a prefectural governor from the Home Ministry. Furthermore, the central bureaucracy strengthened the link with the local establishments (notably businesses and landlords) as executives of local assemblies and then controlled the local population through patron-client relationships (e.g. landlords and tenant farmers) in the pre-war Japanese society (Garon 1994; Garon 1997; Gluck 1985; Pyle 1973). The clientelism between the central government and the local elite resulted in weakening local democracy (Tokyo. Metropolitan Government 1993).

Related to this development, another significant characteristic of modern Japanese planning is the lack of recognition of social life in space. In Western liberal economies, public spaces as well as urban design increasingly came to be identified as the (democratic) public realm (Brain 1997; Madanipour 1996; Madanipour 2003; Worpole 2000). In the absolute state era, prominent architectures and public spaces had been considered to represent a monarch's power and wealth (Brain 1997). However, as democracy progressed, the political power was delegated to the bourgeois class, and then diffused to the working class population (Brain 1997; Worpole 2000). The reinterpretation of public spaces and urban designs in Western nation-states reflected this conceptual development of democracy and society (Gehl 1996a; Gehl and Gemzæe 1996b; Mitchell 2003; Worpole 2000). This transformation was typically illustrated by the development of open spaces in Europe (Van Rooijen 2000; Worpole 2000).

In Meiji Japan however, the imported Western-style architecture was seen as mere technology to demonstrate 'modern Japan' (Coaldrake 1996; Tokyo. Metropolitan Government 1993; Tokyo. Metropolitan Government 1994). This modernity was also to demonstrate the power of the absolute state with 'enlightened monarchy' (Coaldrake 1996). Furthermore, Meiji architects did not learn how individual architectures had to coexist with their surrounding environments. Japan's existing built environments were something which architects rejected as being pre-modern (Coaldrake 1996; Fujimori 1990).

Nonetheless, the idea of modernisation contradicted *national tradition* in modern Japan so that the Japanese elite relentlessly worked to create Japanese imagery that fitted their ideal. First, the Japanese authority gave a new status to a number of

historic sites to worship or commemorate 'the nation's ancient tradition' (Fujitani 1993). The representation of those sites was in fact often reinvented to enhance the myth of the Imperial Family and Shintō after the Meiji Restoration (ibid). Second, the Japanese authorities campaigned for the values of Japanese tradition and its 'unique' culture in everyday life. For example, Shiga Shigetaka, Japan's naturalist (1863-1927) boasted the Japanese 'distinctive' nature and geography as a part of Japan's nationalism in his *Nihon Fūkeiron* (Japanese Landscape, 1894) (Gavin 2000). Shiga's argument of Japanese people's 'love of nature', in particular of rural Japan later developed by Yanagita Kunio (1875-1962, the founder of Japanese Folklore Studies) which idealised the virtue of communitarian village life in Japan (Hashimoto 1998). The Japanese authorities took full advantage of these intellectuals' thoughts to promote nationalism and to preserve pre-modern values of agrarian life in the Japanese mind, against emerging liberalism in urban Japan (Gavin 2000; Hashimoto 1998; Robertson 1998; Scheiner 1998).

Although the meaning of 'public' as a nation was materialised in individual pieces of pre-war architecture (Coaldrake 1996; Fujimori 1990), the public realm as social life was not truly represented either by new public spaces or urban design (Fujimori 1990; Schulz 2003; Seidensticker 1983). On the other hand, Japan's rural landscape was increasingly used to advance the authority's vision of social life although the government in fact did not protect them through planning. Simultaneously in modern Japanese cities, vibrant social space quickly disappeared and became being marginalised as the new authority's spatial development took over those spaces (Cybriwsky 1998; Jinnai 1994; Seidensticker 1983; Waley 1991).

3.4 The Public Interest in Japan's Pre-war Planning Policy

The absence of the public sphere as political community

On closer examination of the characteristics of pre-war planning in Japan, there are no references to planning for 'people'. As a matter of fact, a Japanese word for 'the people' (*jinmin*) did not exist in early Meiji Japan until Nakae Chōmin (philosopher, 1847-1901) introduced Rousseau's ideas about the people and human rights from France (Iokibe 1999: 56). This also applied to the term 'society', for which the equivalent Japanese word *shakai* was also created in the same period (Yoshida 1999: 26). While Hanna Pitkin argues that the creation of collective identity plays an important role in claiming a stake in political discourses (Pitkin 1972), the lack of vocabulary like 'the people' indicates how hard it was to cultivate the idea of democracy and citizenship in Meiji Japan. Although Japanese advocates for democracy imported relevant words and ideas from the West, the authority made various efforts to suppress democratic ideas by using police power, censorship, thought controls and regulations forbidding the freedom of assembly (Gluck 1985; Gordon 1991; Najita, Koschmann, and Joint Committee on Japanese Studies 1982; Totten 1966). The oppression made it almost impossible for ordinary Japanese people to create a common identity to participate in politics.

Learned from the history of Western liberal economies, the Meiji authority deeply feared the emergence of 'the public' as autonomous citizens. In Japan's modernisation process, legitimacy was a key in building a modern nation-state (Silberman 1982). To abolish the Shōgun regime in a justifiable manner, the restoration of the Imperial household and Shintō were necessary to create the image of a sovereign state (Gluck 1985; Gordon 2003; Hane 2001). At the beginning of the

Meiji era, the oligarchy had no immediate plans to introduce a parliament to Japan. Although both internal and external pressures did lead to the creation of the parliament and the cabinet system, this newly formed democratic system did not produce democratic machinery: instead, it renewed the emperor's bureaucracy in Japan (Gordon 1991; Silberman 1982). In this system, civilian bureaucrats and the military administered on behalf of the emperor as the ruler of the sovereign state, holding no direct responsibility to the people who were ruled (Gordon 1991; Tsuji 1952).

A day after the Meiji Constitution was promulgated in 1889, the then prime minister, Kuroda Kiyotaka (1840-1900) made a speech to governors as follows:

While appearance of political parties is a requirement under the present condition, the government should always take a definite direction, stand aloof outside political parties and act as neutrally and fairly. (Kaneko 1999: 10)

What this meant was that as political parties were associations which simply followed their own benefits and interests, the government should not be concerned with those vested interests. Therefore, only the bureaucracy who was insulated from those private interests was able to act in the public interest (Kaneko 1999). This is exactly the same message that Yamagata Aritomo voiced concerning 'the supreme principles of justices and the public interest' (See Chapter 2).

The legitimacy of the Meiji administration, however, was far from being secure after the Restoration (Gluck 1985; Silberman 1982). The majority of the Meiji oligarchy came from a lower stratum of *samurai* and they simply held the executive office by replacing the *Shōgun* regime (Silberman 1982). The bureaucracy worked hard to gain political legitimacy by acquiring expertise and academic qualifications, creating

a hierarchy of those academic institutions and making laws and orders for the appropriate conducts of policy-making (Silberman 1982; Spaulding and University of Michigan. Center for Japanese Studies 1967). The irony is that by establishing the rule of legitimacy for governance, the Japanese bureaucracy could not prevent other interests such as political parties, business organisations, and social groups from participating in policy-making processes, provided that they fulfilled the requirements to be legitimate (Gluck 1985; Kaneko 1999; Norman and Woods 2000; Silberman 1982). As a result, although the public interest in Japan's policy-making appeared to be solely determined by the bureaucracy, it ended up serving exclusive private interests which had a 'legitimate' access to influence policy-making (ibid). This contradiction is a reason why there is an argument among academics whether Japan is a strong or weak state (Calder 1988; Johnson 1982; McKean 1993; Vogel 1979).

The role of the state in the market economy

What was the role of the state in planning in relation to the market in Japan? In 1916 thirty-seven farmers in Osaka filed a lawsuit against a nearby factory for causing air pollution by emission of sulphuric and sulphurous acid gas²³. In this *Osaka Alkali* case, the farmers demanded compensation from the polluter for damage to their crops. While the District Court judgement acknowledged negligence of the factory which did not implement sufficient measures to prevent the pollution, the Supreme Court dismissed the plaintiff's claim after the appeal. The court ruled that the factory was equipped with a facility to prevent air pollution in compliance with government

²³ 1994c. Judgement upon Osaka Alkali Case. In *Jurist: Daishinin* (the Former Supreme Court of Japan).

regulations. The air pollution occurred despite these preventive measures: therefore the court ruled that the defendant was not guilty and should be exempted from paying compensation to the farmers. This meant that as long as a person obeyed the law, the result of his/her behaviour, even though it was harmful to other people, he/she had no responsibility for the consequence. Accordingly, the pollution caused by the factory was not considered to be against *the public interest*.

In fact, until the introduction of the ‘no-fault liability (*mukashitsu sekinin*)’ rule in 1972 (see Chapter 7), which is to punish those who caused pollution, and to grant victims the right for compensation, this [liability for] negligence principle in Japan’s tort law had long been an obstacle for solving serious environmental hazards which endangered many people’s lives. The *Osaka Alkali* case can be compared with the established principle of ‘nuisance’ in Britain’s *Fletcher v. Rylands* case in 1866 (McAuslan 1975), in which the court gave an injunction for the planned development, reasoning its possible damage to the neighbourhood environment against the public interest despite the previous authorisation to the development. In the judgement of the *Osaka Alkali* case, the victims and their rights were thoroughly excluded from the decision of what was *in the public interest*, since only the state represented ‘public’.

The lack of social life in public space

The absence of ‘public’ as social life in the built environment in Meiji Japan was well described in the event of the opening of *Hibiya Park*, the first Western-style park in Tokyo (Yoshida 1999: 26-9). Since there had been no Japanese word equivalent to ‘park’, it was first called *yūen* (pleasure grounds or amusement parks), then renamed as *kōen* (public/official gardens) (ibid). At the opening day of *Hibiya Park* in 1903, because the police banned eating and drinking as well as street

performance inside the park, the general public bought foods and refreshments at the hundreds of open-air stalls and celebrated its opening with street performers 'outside the park'(Yoshida 1999: 27). In this context, that 'Hibiya Park was not a public garden but literally an official garden' (ibid).

The supremacy of the state as 'public' in the built environment was also well illustrated by the construction of *the Ginza Brick Quarter* and the Government Office Concentration Plan. As previously explained, these government plans did not consider the existing residents' rights to continue living in the same area. Instead, the development plans justified removing the urban poor from the city centre of Tokyo. Regarding the design of the new Government Office District in Hibiya, Inoue Kaoru, the Foreign Minister, asked foreign architects 'to see the city of Tokyo as if it were the frontier (*Tokyo shigai o mirukoto kaitakuchi o mirugagotoku*)' for making a plan (Fujimori 1990: 255). This meant that the architects responsible for this plan did not have to pay any attention to the surrounding environment of the development, as the plan should only satisfy the need of the state authority.

The domestic and public domain

The spatially most deprived group during Japan's early industrialisation was women. Although the authority and elite defined that the role of Japanese women should be a homemaker, female factory workers occupied more than 70 percent of its workforce in 1910-14 (Norman and Woods 2000: 152). Young girls from poor farming villages were also sold to cities or even abroad as prostitutes to support their families in pre-war Japan (Hane 2003: 207-225). A common experience for these women was that their employers locked them up in housing of notoriously poor conditions (Hane 2003; Hunter 1992). Even respected women of the upper classes did not have the

freedom of movements as they were barred from public spaces like streets and cafes, in particular political venues such as the parliament building (Mackie 2002). Women's bodies were considered to be in the public (state) domain to serve the nation's economic and ideological development (Tipton 2001: 61).

The subordination of women's needs to the objectives of the state was seen in pre-war Japanese planning policy. Housing and urban environment was never designed to reflect women's views, in particular of low social status. Instead, while commercial developments, in particular department stores in metropolitan areas, catered for the consumption of upper-and middle-class housewives (Hirano 1999; Young 1999), many working class women had to live either in shanties or employers' accommodation (Hane 2003; Hunter 1992). Furthermore, the authority's campaigns for thrift living and household management targeting women further suppressed the needs of poor women for better quality of life (Garon 1997; Pyle 1973). The state's domination of the private life prevented Japanese women from being conscious about their citizenship rights which could be improved through planning and social policy in *the public interest*.

3.5 Conclusion

It can be said that the origins of Japan's developmental state were firmly formed from experiences in the Meiji era. Despite Japan's image as a family state in harmony, its pre-war history was shadowed by continuous oppression of peasant uprisings, labour movements, freedom of speech, freely cooperating organisations and any other challenges to the authority (Hane 2003; Najita, Koschmann, and Joint Committee on Japanese Studies 1982; Norman and Woods 2000). Moreover, the state consciously used education, the media and even civil society organisations to

guide, convince and influence the behaviour of its citizens for achieving economic development and armament as a national goal (Garon 1997; Garon 2003; Marshall 1977; Pyle 1973; Pyle 1974). In this sense, pre-war Japan can be regarded as a continuation of quasi-feudal political regime with modern institutions.

In pre-war Japan, despite the materialisation of male universal suffrage in 1925, there were no opportunities for citizens to contest the definition of 'public', since the emperor who embodied 'public' was a living God and its bureaucrats were the emperor's servants under its political regime. Japanese people had neither the right to know and participate in planning policy-making nor were they allowed to challenge the decisions of the authority unless the land in dispute was their own property. Therefore, according to Dahl's '*polyarchy* theory' (Dahl 1971), there was no democracy in pre-war planning system.

However, at the same time, people were given nearly complete freedom when it came to the use of their own land. In this regard, whereas the planning of individual land was an absolute 'private' matter, hence not in the 'public' domain, overall planning existed exclusively in the domain of 'public' institutions, which effectively meant the authority in Japan. This demarcation between public and private in the ideology of Japanese planning made the system incompetent and unfair, because the success of planning is determined by recognising the collective will and materialising it in the built environment. The failure to identify the public interest other than the national interest in Japan's pre-war planning system resulted in the absence of 'sociable' and 'common' notions in the built environment that ordinary Japanese citizens experience even today.

Chapter Four: Japanese Planning in the Reconstruction Era, 1945-1955

The defeat in the Pacific War in 1945 brought drastic changes to Japanese society. As a consequence of the unconditional surrender, Japan was forced to accept sweeping institutional reforms under the direction of the Supreme Command[er] for the Allied Powers (SCAP). SCAP believed that flaws in Japan's political institutions, as well as its economic and social inequality led the nation to invade overseas territories. Thus, these reforms first aimed to overhaul Japan's totalitarian regime, and then introduced a liberal democracy to Japan without military powers. SCAP also intended to eradicate the class inequality in Japan, which was believed to be at the root of Japan's social problems. Accordingly, the 1946 Constitution of Japan declared a strong commitment to pacifism, the creation of an egalitarian society and promised new opportunities for its citizens.

SCAP's reforms had far-reaching impacts on post-war Japan. The 1946 Constitution of Japan, which was drafted by SCAP members, has not been revised at all up to present. The reforms built the foundation of democracy, liberal economy and citizenship development in post-war Japan. The concept of 'public' and the public interest in politics and policy-making should have been considerably affected by all-encompassing restructuring of the nation's political regime. Nonetheless, despite the positive effects of the reforms, they did not affect the existing planning framework in Japan. This chapter will analyse the impacts of SCAP reforms, which were led by the US government, on the ideologies of the public interest in post-war Japan and examine their influences on Japan's planning culture.

Section 4.1 discusses the unprecedented social reforms in Japan initiated by the US reformers. Section 4.2 examines the features of Japan's reconstruction plan and the reasons why the plan failed to a considerable extent. Section 4.3 further investigates politics behind the reconstruction and its implications for the development of post-war planning culture. Section 4.4 looks at the origin of the Japanese post-war planning model, which was strongly linked with the state-led economic planning. This section also analyses the role of planners and institutions, which determined the objectives of planning policy. Section 4.5 assesses the extent to which Japan's capitulation and the subsequent SCAP's reforms have impacted on the discourse on the public interest and the concept of planning today.

4.1 The Democratisation of Japan

15th August 1945 is a historical day for modern Japan. The radio broadcast by Emperor Hirohito (1901-89) announced Japan's capitulation in the war against China and the Allied Powers. Subsequently, the USA-led SCAP occupied Japan for its post-war reforms, and after the lift of the occupation, the USA became an ally of Japan for its national security²⁴. Because of this alliance, the USA has strongly influenced Japan's international as well as domestic policies since 1945.

According to the Basic Initial Post-Surrender Directive to the Supreme Commander for the Allied Powers for the Occupation and Control of Japan (8 November 1945), the objectives for the reforms were as follows:

the abolition of militarism and ultra-nationalism in all their forms; the disarmament and demilitarisation of Japan, with continuing control over Japan's capacity to make war; the strengthening of democratic tendencies

²⁴ The arrangement was confirmed under the U.S.-Japan Security Treaty in 1951 and is still in operation today.

and processes in governmental, economic and social institutions; and the encouragement and support of liberal political tendencies in Japan. (Martin and Institute of Pacific Relations. International Secretariat. 1948: 123).

After removing whole military capacity of Japan, SCAP initiated extensive reforms of political, economic, cultural and welfare institutions. As a result, multi-party politics, including the reinstatement of the formerly banned Japanese Communist Party (JCP) and the newly formed Japanese Socialist Party (JSP), became the rule for democracy in post-war Japan. To fulfil these objectives, all Japanese citizens aged 20 and over were given suffrage and all members of the Lower House and the Upper House became representatives chosen by voters.

These political reforms together with other reforms created the foundation of post-war Japan. Administrative and economic reforms were considered to be important to enhance liberty, equality and social justice. For this agenda, E. H. Norman's *Japan's Emergence as a Modern State (1941)*, which described the plight of peasants as the price paid for Japan's pre-war industrialization, had a significant influence over the US-led reforms which aimed to build democracy and an egalitarian society in post-war Japan²⁵. SCAP considered that the ideologies and practices of the key institutions in Japan were the vehicles of the authoritarian state and thus needed the overhaul of the whole pre-war institutions in order to achieve their goals. The reforms included those in local government systems, industrial relations, civil

²⁵ A Canadian diplomat and historian, Norman's life and death has considerable implications for the development of post-war democracy in Japan. His works were particularly influential to the agrarian land reforms and other liberal SCAP-led reforms. However, because of his humanitarian approach and sympathy toward pre-war communist members, he was later under suspicion as a communist spy under the US's McCarthyism. Eventually, he committed suicide in 1957 in protest of the allegations that he was a communist. See Bowen, Roger W. 1986. *Innocence is not enough: the life and death of Herbert Norman*. Vancouver: Douglas & McIntyre.

services, tax mechanism, the dissolution of business conglomerates and agrarian land reform.

The cultural reforms were another important element in the efforts to eliminate militarism and promote democracy in post-war Japan. Ever since the Meiji Restoration in 1868, the Japanese authority had created the myth of the divinity of the emperor in order to unite Japanese citizens against the Western-dominated imperialist order (Brown 1955; Gluck 1985; Iida 2002; Passin 1982). The education system, the media and Shintō had also played important roles in the enhancement of ultra-nationalism (Brown 1955; Gluck 1985; Iida 2002; Kasza 1988; Passin 1982). Especially, the educational reforms required structural and drastic changes, which necessitated the rewriting of the existing textbooks and curriculum. Because the censorship of the media and propaganda orchestrated by the state in pre-war Japan in the end allowed its military to invade Asia (Huffman 1997; Kasza 1988), SCAP also intervened in this area. Shintō lost its status of the state religion, as well as official and financial sponsorship from the state (Takemae, Ricketts, and Swann 2002). The Imperial Rescript was made void (Takemae, Ricketts, and Swann 2002: 372).

The highest achievement of SCAP was the creation of the 1946 Constitution of Japan. The new Constitution renounces the pre-war imperial state, replacing the emperor as the sacred ruler with the democratic machinery, which is solely based on the will of voters. The Constitution transformed the emperor's status to that of a symbol of Japanese citizens without any political power. It also declares eternal pacifism by rejecting any form of military institutions or powers. Furthermore, the Constitution ensures political and civil freedoms, equality among people, and basic human rights to a minimum standard of cultured life. Therefore, it does not only promise civil

liberty for the Japanese but also, for the first time in its history, the Constitution secures social citizenship. The 1946 Constitution of Japan and SCAP reforms can be seen as the manifestation of the idealism in American democracy, promoted by the New Deal generation (Cohen and Passin 1987; Dower 1999; Ward et al. 1987).

However, the legacies left by SCAP reforms were not all beneficial to the development of Japanese post-war democracy. Some claim that the incomplete modernisation of Japan was rooted in the shortcomings of SCAP's post-war reforms (Dower 1999; Takemae 1987; Takemae, Ricketts, and Swann 2002). First of all, the dual governance during the US occupation period diluted the essence of the post-war reforms. Due to the language barrier, the Allied Powers were only able to govern Japan indirectly through the Japanese government. As a result, they were unable to undermine the pre-war authoritarian institutions completely (Dower 1999; Takemae, Ricketts, and Swann 2002). This is in marked contrast with Germany, which did not have a civilian government between May 1945 and 1949 until the Constitution of the Federal Republic of Germany was created (FRG) in 1949 (Merkl 1963). In the absence of a civilian government, and also because of the East-West tension within its territory, the FRG was able to wipe out effectively 'above-parties ideology of the authoritarian state' (ibid), and subsequently established itself as a successful liberal democracy among Western capitalist regimes (Pulzer 1995). This did not happen in Japan, as the Japanese bureaucracy weakened the impacts of important reforms by changing the wordings of the original English concepts of the Constitution into the Japanese translations (Dower 1999: Ch.13). This was especially the case with human rights issues, power distribution among government organisations and issues involving the central-local government relationship (Stockwin 1982: Ch.10; Takemae, Ricketts, and Swann 2002).

Second, the perseverance of the Imperial Family and the continuous reign of Emperor Hirohito from the pre-war years onwards had significant effects in post-war Japan. Although the Emperor was stripped of his political powers by the new Constitution, it allowed the sense of the continuity from the past among Japanese population. In fact, to promote patriarchy and nationalism, the conservatives often used the name and the existence of the emperor (Gluck 1993; Yoshino 1992). This still causes outcries from former Japanese colonies in Asia and overshadows the newborn Japan.

Finally, the most crucial failure was the unsuccessful attempt to rehabilitate political parties immediately after the war. Overwhelmed by the popularity of the left (Oppler 1976: Ch.16), SCAP changed its original policy of promoting liberal politics, and instead started to suppress the socialist-inspired labour movements. Especially after the outbreak of the Korean War (1950-1953), the USA reversed its occupation policy in Japan against the rising power of the communist block in Asia (Oppler 1976: Ch.16).

The allied forces suppressed Japan's left in several ways which will be explained at the end of this chapter. But the most detrimental factor to the development of Japanese democracy was the control of the freedom of speech by SCAP. Censorship, which first had been intended to remove ultra-nationalism, became an important tool to eliminate communist/socialist ideologies in the media in the late occupation period (Dower 1999: Ch. 14; Krauss 2000: 88-97; Pharr 1996a). This also encouraged the Japanese media to conduct self-censorship, which hindered the fair development of civil society to activate the public sphere in post-war Japan (Feldman 1993; Krauss 2000; Pharr and Krauss 1996b). SCAP also purged individuals who advocated

particular ideologies from organisations. Initially, they targeted persons who had promoted wars and anti-democratic political/economic regime. Later on, SCAP shifted its focus on the leaders of labour movements and proponents of left wing ideas in the media. As a result of this purge, nearly 20,000 people lost their jobs for supporting communism, which considerably weakened the power of communist/socialist parties, labour movements and the left wing media campaigns in post-war Japan (Allinson 2004: 55).

As discussed in the later sections, the legacies of the US occupation highly influenced the post-war planning development in Japan. With regard to Japan's international relations, the alliance with the USA established the 'San Francisco System', in which Japan signed the peace treaty in San Francisco in 1951 with forty-eight nations, but not with the USSR and China. San Francisco System cemented Japan's position as a member of the capitalist block against the communist block in the new international order of the Cold War. In this order, Japan's role became strengthening its capitalist economy in Asia where the US wanted to eliminate communist influences in the region. Simultaneously, the US occupation helped to ascertain so-called 'the 1955 System' for the next sixty years, which secured the hegemony of Japan's conservative and business elites led by the Liberal Democratic Party (LDP) and the bureaucracy around 1955 (Hane 2001). The two established structures framing Japan's international and domestic politics had a significant effect on both its discourse on the public interest and planning development thereafter in Japan.

4.2 The Failure of Japan's Post-war Reconstruction

The war damage in Japan was extensive and far-reaching. Almost nine million people were without a home before the end of the war (Dower 1999: 47-48). According to the Construction Ministry, the shortage of housing immediately after the war was 4.2 million units (Ishida 1987a: 210). The destruction of Japanese cities was particularly grim:

Sixty-six major cities, including Hiroshima and Nagasaki, had been heavily bombed, destroying 40 percent of these urban areas overall and rendering around 30 percent of their populations homeless. In Tokyo, the largest metropolis, 65 percent of all residences were destroyed. In Osaka and Nagoya, the country's second and third largest cities, the figures were 57 and 89 percent (Dower 1999: 45-46).

Despite the severity of the war destruction, SCAP was very indifferent to Japan's reconstruction (Ohmoto 1991: 158). There was an instruction by the US government that the Supreme Commander did not have obligation to maintain any particular standard of living for the Japanese ²⁶(United States. Department of State 1969). As a result, even several years after the war, millions of Japanese suffered from hunger and thousands of them died of starvation²⁷ (Dower 1993: 228; Tipton 2001: 144). No financial support or professional advice was available from SCAP for the reconstruction plan²⁸. The entire responsibility for the post-war reconstruction was left to the Japanese government.

²⁶ Report by the State-War-Navy Coordinating Subcommittee for the Far East. Policy With Respect to Relief in Japan, SWNCC 107/1, Washington, 1 October 1945, p731

²⁷ In contrast, Germany received substantial financial assistance under the Marshall Plan. This plan was implemented to counter communist challenges in Europe.

Stern, Susan. 2006. *Marshall Plan 1947-1997: a German view* German Embassy's Department for Press, Information and Public Affairs, 2006 [cited 16 February 2006]. Available from <http://www.germany-info.org/relaunch/culture/history/marshall.html>.

²⁸ In Germany, German, French and American planners offered advice for the German reconstruction plans (Diefendorf, 2003: 220-222).

Uncompleted reconstruction plans

Japanese planners, particularly in Tokyo led by Ishikawa Hideaki (1893-1955), had already prepared a post-war reconstruction plan for cities prior to Japan's surrender, as they believed that cities would play a key role for Japan's development in future (Koshizawa 1991). The War Damage Rehabilitation Agency of Japan (WDRA, *sensai fukkōin*) was set up in December 1945 and Kobayashi Ichizō (1873-1957), who had been the president of Hankyū Railway Company and had successfully developed some of the first garden suburbs in Japan, was appointed as its director. The Basic Policies of War Damage Rehabilitation Plan, approved in the parliament on 30th December 1945, was comprehensive, including measures to geographically redistribute the population and industries over the big conurbations areas, using detailed regional plans. (Koshizawa 1991; Tiratsoo 2002: 49).

The reconstruction plan also included guidelines on design, designating road width and provisions for open spaces (Tiratsoo 2002: 49). For example, the width of arterial roads was set to be no less than 50 meters in big cities (ibid). The Tokyo 1946 Reconstruction Plan also proposed seven 100 meters-width roads to make up a ring road system around the capital city (Koshizawa 1991). It even incorporated a green belt idea to prevent the further urban sprawl of unplanned development in Tokyo (Koshizawa 1991; Tokyo. Metropolitan Government 1994: 56). The Tokyo plan was influenced by the 1943 Abercrombie's Greater London Plan, remodelling Japan's capital city into a more desirable urban form (Tokyo. Metropolitan Government 1994: 56).

Notwithstanding the initiatives, those Japanese planners could not materialise their initial reconstruction ideas. Although a number of local cities like Nagoya, Sendai

and Hiroshima were partly successful in building boulevards under the leadership of their mayors, the majority of 115 war-damaged cities failed to follow the original reconstruction plans (Japan. Ministry of Construction 1954: 9). The Tokyo War Damage Rehabilitation Plan was never fully implemented, and its projects only resulted in small land adjustment programs, notably in front of railroad stations (Koshizawa 1991: 224). It is also noted that although the majority of blitzed cities outside Tokyo was able to build a number of arterial roads in the city centre, even these cities were not successful in building green belts and parks, ending up with only 10 percent provision of the original targets (Sorensen 2002: 162). The lack of orchestrated efforts for reconstruction took a heavy toll on planning development in post-war Japan.

The non-existence of a new statutory planning framework

Although the failure of the reconstruction plan was often explained by a lack of financial resources (Koshizawa 1991; Tokyo. Metropolitan Government 1994), an ultimate reason for its failure can be found in the absence of effective legal enforcement tools which are essential to materialise such an ambitious plan. Even though there were various land-use controls, no new planning laws were created until 1968. The Land Policy Section of the Land Bureau of the WDRA had a temporary nationalisation plan of land parcels which were designated for urban development, under the condition that the state would issue interest-bearing certificates to the landowners and sell the land parcels back to the original owners after the designated areas were to be redeveloped by the government through the land adjustment scheme (Ishida 2003; Ohmoto 1991). However, the Finance Ministry rejected this idea in

March of 1946, reasoning that there were no financial resources to carry out this plan (ibid).

In 1947, under the short-lived coalition government (May 1947-March 1948) led by a JSP leader, the staff of the Land Policy Section drafted a bill for urban land law, modelled on the 1947 British Town and Country Planning Act. This bill aimed to control the value of urban land according to land-use plans (Ishida 2003; Ohmoto 2000). The planners of the Land Bureau believed that this bill would pass in parliament when the radical agricultural land reforms would be implemented (Ohmoto 1991). However, the bill was not even discussed in parliament, because the officials of the Land Bureau expected disapproval of cabinet members, many of whom would see it as too radical for Japan²⁹ (Ohmoto 1991). Thus, two attempts to temporarily nationalize development rights failed to materialise.

There was another attempt to amend the 1919 City Planning Act in response to the recommendations of the Shoup Mission, which emphasised the importance of autonomy of the local tax system in order to promote local self-government in Japan (Steiner 1954). In pre-war Japan, the Home Ministry had controlled planning. In order to promote democracy in Japan, the Mission considered it necessary to hand over the jurisdiction of planning to local governments, by strengthening the financial power of municipalities (ibid). However, this suggestion was not implemented either. Although the Construction Standard Act (*Kenchiku Kijun Hō*) was amended in 1950 to act as a building code, the 1919 City Planning Act was not altered duly³⁰ (Ishida

²⁹ Ishida believed that the draft was never finalised so that it was not submitted to the parliament (Ishida, 2003: 37).

³⁰ According to Ishida, it is still not clear why the amendment of the 1919 City Planning Act failed.

1987a). Accordingly, post-war planning was conducted within the old statutory framework up to 1968.

To reconstruct severely damaged cities, a solid statutory foundation is essential, as reconstruction requires extensive restrictions of property rights (Diefendorf 2003: 220). Furthermore, the failure in creating a new planning framework also meant that the central bureaucracy, in particular civil engineering experts, continued to exercise strong control over planning at the municipality level (Ishimaru 2003: 93). Within this context, the continuation of the old planning framework in Japan put three structural constraints on its reconstruction. First, local governments had no statutory or financial power to implement effective development controls. Second, local needs tended to be ignored because of the centralisation of planning management. Finally, as planning expertise remained in central government, only a small number of planning professionals worked for local governments to lead reconstruction plans. In the next section, I examine how the absence of local planning power affected Japan's post-war reconstruction.

The lack of local autonomy in planning

The lack of local initiatives appears to be one of the major explanations for the failure of Japan's reconstruction plan. In pre-war Japan, the level of local autonomy was very limited³¹; the Home Ministry was responsible for planning and housing policy as a national matter. Because SCAP considered the Home Ministry as the central organ of Japan's authoritarian state, it stripped the Ministry of its power by means of the 1946 Constitution and the 1947 Local Autonomy Law. However, when

³¹ For example, prefectural governors, mayors and local public servants were appointed by central government.

Japanese bureaucrats translated the draft of the Constitution from English into Japanese, they diluted the original intention of SCAP by replacing words, by which the central bureaucracy still could exercise its power (Dower 1999: Ch.13; Takemae, Ricketts, and Swann 2002).

In pre-war years, a political scientist, Minobe Tatsukichi (1873-1948), argued that in theory the power of local authority was delegated from the nation-state, so that the role of the local government was merely as a national agent (Takemae, Ricketts, and Swann 2002: 302-303). This ideology had a strong influence on the development of local autonomy in Japan. The central bureaucracy firmly resisted delegating planning power to local government, as recommended by SCAP (Steiner 1954). The major reasons for the objection put forward by the central bureaucracy were the following: (1) a lack of human resources in local administrations; (2) the decentralisation of planning to municipalities would be insufficient unless regional plans are provided; (3) local politicians might obstruct the objectives of planning (Ishida 2003: 36). However, these deficiencies of local governments are the *impacts* of centralisation of planning power in pre-war Japan. Failing to establish local autonomy, planning affairs became increasingly integrated into national long-term economic development plans and separated from the other important planning issues that localities may be confronted with.

The absence of housing reconstruction initiatives

Another explanation for the uncompleted reconstruction is the attitude of Japanese planners towards the coordination of land-use and housing. This is also related to the ideologies of the Japanese establishment about the role of the state to its citizenry. While Japanese planners had already started to create the War Damage

Rehabilitation Plan prior to Japan's surrender, this plan failed to include a housing reconstruction plan (Ohmoto 1991: 149). In 1980, when Professor Ohmoto Keino interviewed Ōhashi Takeo, who was Director of Planning of the WDRA in 1945, and asked him why the WDRA did not have the bureau of housing, Ōhashi answered as follows:

Ohmoto: The war destructed cities; it means that people's home were destroyed. Although great many civilians suffered from the loss of housing, was there no state initiative for housing reconstruction at the time of formation of the War Damage Rehabilitation Agency?

Ōhashi: There was no plan for housing.

Ohmoto: When civilians lost homes by the bombing, did the government see it as individuals' responsibility to rebuild their own homes?

Ōhashi: During the period, everybody managed to do so. When people were able to build homes on their own, they picked up burnt galvanised iron boards, which were available everywhere, and used them for building houses. Some converted trench buildings into homes. National politics did not cover to that extent; (because) the situations were different on localities. It should be the matter of local administrations.

(Ohmoto 1991: 149-150)

This dialogue well illustrates the ideology of self-help, which permeated pre-war education and welfare policies in Japan. Although Ōhashi claimed that the Welfare Ministry should have been responsible for providing housing for the homeless, there were no sufficient welfare benefits to cover such a large number of the homeless in Japan during this period. Instead, the Japanese government urged thrift and hard work to make people thrive and care for themselves³².

³² This ideology is reflected in Emperor Hirohito's statement during the food crisis on 24th May 1946: 'I hope that everyone will carry out the beautiful tradition of our country, namely the family state, in coping with the situation, forgetting individual selfish desires and striving ahead on the path of reconstructing the country.' (Dower 1999: 264). The LDP's policy chief, Kamei Shizuka used the same phrase 'beautiful tradition of our country' regarding children taking care of their parents when

In addition to this, Kawashima Hiroshi, who was in charge of drafting the Public-Operated Housing Law (*Kōei Jūtaku Hō*) in 1951 at the Construction Ministry³³, explained the role of public housing as follows, when he was questioned why it did not target at the most needed:

Ignoring the poor... It was the choice to be made. There was a big shortage of housing; we had to tackle it anyway. If we had ignored the people who were able to contribute to Japan's reconstruction and given the priority to people who would just be baggage [a burden for the state], that reconstruction would not go anywhere. Public housing should exist to support households which could contribute to Japan's reconstruction in the future, shouldn't it? (Ohmoto 1991: 275-276; translated by Waswo 2002: 53)

The role of Japan's public housing was very different from that in Western Europe and the USA. Its main aim was to provide housing for 'wage earners of the middle and lower classes who need their homes' (Japan. Ministry of Construction. Housing Bureau 1953: 20). Although the Housing Bureau set rents lower than the market price³⁴ (Japan. Ministry of Construction. Housing Bureau 1953), the rents were still too high for citizens in low income groups during the reconstruction period. After a struggle between the Construction Ministry and the Welfare Ministry about who was responsible for public housing, the Construction Ministry was given responsibility to consolidate housing policy administration (Ohmoto 1991). As a result, the housing issue became separated from social policy in Japan, and the goal of housing policy

he opposed to the introduction of the Long Term Care Insurance Law (2000) in 1999. Ōsawa, Mari. 2005. Comparative social policy systems from a gender perspective. *Social Science Japan Journal* 31:9-13., p.12.

³³ The War Damage Rehabilitation Board merged with the Public Works Bureau of the Home Ministry as the Construction Board (became the Construction Ministry in the same year) after the Home Ministry was dismantled in 1948.

³⁴ The central government usually subsidises half the construction cost of public-operated housing built by local governments. The rent was calculated in such a way that the part of the expenses borne by the local government could be repaid over a long period (Japan. Ministry of Construction. 1953: 22).

shifted to the production of a sufficient number of housing units through the market mechanism (Honma 1987; Waswo 2002).

Furthermore, as the Public-Operated Housing Law was only introduced in 1951, the reconstruction of individual homes immediately after the war was virtually left to the market. The government report, *Seven Years' Housing in Japan 1945-52* shows that more than three million dwelling units had been constructed in 1945-1951 (Japan. Ministry of Construction. Housing Bureau 1953). Of these units, 77 percent was privately financed and only 23 percent was publicly financed (Japan. Ministry of Construction. Housing Bureau 1953: 8). The first White Paper on Construction in Japan published in 1949 accepts that approximately 70 percent of 1,120,000 housing units built in urban areas in the period between August 1945 and March 1949 were estimated to have been built by individuals that either possessed substantial wealth or had benefited from hyper inflation following Japan's surrender³⁵ (Honma 1987: 132).

Nonetheless, it should be noted that even state-financed housing constructed during 1945-51 was not in reality affordable. Sixteen and a half percent of publicly financed dwellings were funded by means of long-term loans to individuals from the Housing Loan Corporation (HLC; *Jūtaku Kinyū Kōko*), which was established in 1950 (Japan. Ministry of Construction. Housing Bureau 1953: 7). A further 10.5 percent of the government-aided housing was built for workers in coalmine and other industries (Japan. Ministry of Construction. Housing Bureau 1953: 7). In fact, the HLC was formed to stimulate housing construction in the private sector, when the housing market stagnated because of the hyper-inflation (Honma 1987: 137-138;

³⁵ This implies that people who benefited from post-war inflations were often black market profiteers (Waswo 2002: 50).

Waswo 2002). The HLC's main objective was to 'finance the middle class in need of housing' (Japan. Ministry of Construction. Housing Bureau 1953: 24), targeting at the people in the above average income range (Waswo 2002).

The above statistics on housing contrast starkly with the experiences of British post-war housing construction, where only 18 percent of housing units was built by the private sector in the same period of 1945-51 (Ashworth 1957: 41). Even so, Japan's housing statistics for April 1952 indicated that the nation still had a shortage of 3.2 million dwellings (Japan. Ministry of Construction. Housing Bureau 1953: 10). This led the Japanese government to take further steps towards the supply of housing, establishing the Japan Housing Corporation (JHC, *Nihon Jūtaku Kōdan*) in 1955. However, the target of the JHC was again 'the middle class' (Waswo 2002). Furthermore, the effect of its housing supply remained insignificant compared to the provision by the private sector (Honma 1987). As a result, the majority of the post-war housing supply, in particular for the growing urban population and the poor, ended up falling under the responsibility of private developers.

Neglected citizens

Facing an unprecedented challenge, what was absent from Japan's reconstruction process was the voice of ordinary people. As described earlier, Japan's reconstruction plan looked magnificent on paper. However, although the plan had boulevards and plazas, no attention was paid to mushrooming black (illegal) markets in front of railway stations, shanties in open spaces (Hasegawa 2003: 76-79; Tiratsoo 2002: 54), nor was there consideration for the need for actual housing to accommodate the huge number of homeless people. In the situation of sheer destitution and starvation in the period immediately after the war, it was shelters

what citizens needed most. However, Japanese planners were so out of touch with the reality of reconstruction.

Although both the Japanese media and planners had acknowledged the importance of a comprehensive reconstruction plan (Tiratsoo 2002: 49-51), planners did not gain enough support, neither from the administration nor from the general public (Ishida 1987a: 227-233; Tiratsoo 2002: 52-56, 94-95). There is a view, however, that planners failed to acknowledge the merits of educating people about the necessity of planning (Sorensen 2002: 338; Tiratsoo 2002: 54-56, 94-95). Councillors could have acted on the behalf of local residents during this period; however, they did not take initiatives, given that the Home Ministry and Local Town Planning Committee (LTPC) still controlled planning policies since pre-war times³⁶ (Tiratsoo 2002). The central bureaucracy doubted not only the ability of local governments in formulating plans, but also questioned the capacity of citizens to participate in planning, as they believed that ordinary Japanese citizens had 'extremely low cultural standards' to accommodate democracy (Tiratsoo 2002: 54). As a result, there were no extensive open debates with the public on how Japanese cities should be rebuilt.

Despite SCAP's ambitious post-war reforms in Japan, the reconstruction plan did not produce any considerable improvements in the war-torn Japanese cities. There was no system to take account of what citizens wanted for reconstruction. Instead, dramatic shifts in Japan's politics in the wake of the war shaped the concepts of the public interest and planning culture, which has had pervasive influence on post-war planning policies in Japan. The next section looks at politics immediately after the

³⁶ The structure and role of the pre-war LTPC is very similar to the contemporary City Planning Council in Japan. Each LTPC consisted of officials and councillors from municipal and prefectural governments, academics and business elites in the area (Tiratsoo, 2002: 54). It served directly under a prefectural governor and thus bypassed the local assembly when authorising planning decisions.

war to explore why the public interest was never discussed in the process of the reconstruction plan in Japan.

4.3 Politics of Post-war Reconstruction

While there were financial and institutional difficulties about Japan's reconstruction plans, the important issue was why citizens did not dispute the public interest in its reconstruction planning. As discussed so far, Japanese people had to endure immeasurable hardship in the wake of the war although they were given civil, political and social citizenship to challenge unjust planning policies. The major reason lies in Japan's domestic politics which was significantly affected by the US's international relations during the occupation period. Because of this change, despite positive effects of SCAP reforms on Japanese society, not all of them worked to transform the public interest discourse and planning policy in Japan into more democratic one. This section discusses Japan's political economy during the reconstruction era, which structured subsequent planning development and the public interest discourse.

The elite and reconstruction

Instead of focusing on the reconstruction of destructed cities and housing, the government reconstruction efforts were exclusively concentrated on the rehabilitation of industries. The priority was clearly stated in *Seven Years' Housing in Japan 1945-52* by the Construction Ministry as follows:

With 2,650,000 units damaged and burnt down, the urban dwelling standard became wretchedly low. In the cities, construction of housing on a large scale was an immediate need.

For Japan's reconstruction and economic recovery, it was necessary, first of all, to consider the rehabilitation of the demolished key industries.

In order to attain this objective with insufficient funds and materials, a strict rationing system was necessary. Construction of non-essential and non-urgent building was restricted in 1947, with a view to securing the rehabilitation of factories and, secondarily, the construction of dwellings. As a matter of fact, however, the number of houses built was limited because of the small quantity of materials allocated for housing construction, and the floor area per unit was restricted to 40 square meters (Japan. Ministry of Construction. Housing Bureau 1953: 7).

In fact, as much as 20 percent of the national budget was allocated to industry-related expenditures in 1946 (Tabb 1995: 175).

While the state concentrated on the recovery of industries, Kobayashi Ichizō of the WDRA firmly believed that the private sector should be responsible for the efficient supply of required housing (Kobayashi 1946). Even so, Kobayashi considered the need to temporarily nationalise urban land for reconstruction, as he learnt difficulties of planning without land-use controls from his previous experiences with railway construction (Kobayashi 1946).

Kobayashi also insisted that the local government should take an initiative for the reconstruction of war-damaged areas, because conditions and needs for reconstruction differed between localities (Asahi Shimbun 1945). He claimed that planning should not be conducted by the central government bureaucracy as was the case in pre-war Japan, but through the initiatives of citizens and local leadership (Kobayashi 1946). However, with little planning expertise within local governments (Ohmoto 1991) and the dissolution of the Home Ministry, no government bodies could organise appropriate planning projects in this crucial period for reconstruction.

Moreover, the then Prime Minister, Yoshida Shigeru (1878-1967), was unsympathetic to the homeless, commenting on housing reconstruction as follows:

Even a badger makes a hole to sleep there. So, citizens should manage to find their own homes. The state has no responsibility for housing (Ohama 1994a: 238).

Kobayashi's strong commitment to the private sector and Yoshida's arrogance as a conservative leader reveals the underlying attitudes and beliefs that explain the lack of state initiatives for Japan's reconstruction planning. However, it was political economy which prevented planning from being more accountable to its citizenry as explained in the next section.

The rise and fall of civil society

What made it possible for the pre-war Japanese planning system to survive without any amendments until 1968? This can be partly explained by the lack of counter forces, which would have challenged the objective of Japanese planning. In fact, Japan's civil society had already been ripe for social democracy in the 1920s (Dore 1984; Gordon 1991; Smethurst 1986). Social movements, which demanded full citizenship of industrial workers, tenant farmers, women and minorities, forced the government and firms to pledge social reforms (Hane 2001: 224-234). Although the active social movements were suppressed by the subsequent rise of militarism (Dore 1984; Hane 2001; Smethurst and University of California. Center for Japanese and Korean Studies 1974), their spirit was revived again immediately after the war, facing harsh living conditions brought upon the population by the surrender. Food shortage was still severe in May 1946. Agricultural production was disrupted during the war, because the food rationing machinery did not work properly. As a result, there were rumours that 10 million Japanese would starve to death that year (Iokibe 1997). Hyper inflation continuously decreased the value of Yen, having a grim

impact on real wages and savings of people. The consequences of the prolonged war were particularly savage for Japanese commoners.

Against this background, mass demonstrations grew immediately after the surrender (Oppler 1976: Ch.16). On 1st May 1946, the first May Day after World War II, half million Japanese gathered at the Imperial Plaza in Tokyo; the number of participants amounted to at least 1.25 million in other major cities (Dower 1999: 261). The then Prime Minister Yoshida recalled that 'Japan was submerged under a sea of red flags' (Yoshida 1961: 75). On 19th May 1946, quarter million gathered again and demanded food, calling it 'Food May Day'. Yoshida referred to the demonstrators as a 'mob' (Yoshida 1961: 226). In the same year, labour disputes intensified and there were 622 labour strikes (Ishikawa 1995: 37). Yoshida named the leaders of the labour movements as 'mob' again in a radio broadcast on New Year Day of 1947, caused public outrage (Ishikawa 1995: 37).

The idea of a revolution from below spread among the Japanese working class during this period. On 21st January 1947, six million workers prepared for a general strike (Cohen and Passin 1987: 285). However, the revival of Japanese civil society, the vigour of freedom of speech in the early occupation period, was seriously curtailed after the series of mass demonstrations in Japanese cities. What surprised Japanese people was that General MacArthur, who led SCAP reforms and therefore was very popular among Japanese commoners (Dower 1999), warned about the mass protests as follows:

the growing tendency towards mass violence and physical processes of intimidation, under organized leadership, present a grave menace to the future development of Japan (Dower 1999: 265).

This lessened the pressures for the Japanese government to take vigorous actions for strengthening social citizenship which could have been materialised by reconstruction planning. This in particular applied to the provision of public housing, which was primary concerns for European states immediately after the war (Ashworth 1957; Harloe 1995). Limiting labour rights and the discouragement of left-wing ideas in Japan as imposed by SCAP, significantly hampered the subsequent development of Japanese civil society (Dower 1999; Oppler 1976: Ch.16).

Agricultural land reforms

The agrarian land reforms are considered to be 'one of the most ambitious and successful programmes' in the promotion of economic democracy in post-war Japan (Takemae, Ricketts, and Swann 2002: 339). The agrarian landlord class was seen as 'parasites', benefiting from the hard work of tenant farmers by charging extremely high tenancy rates in pre-war Japan (Dore 1984; Kawagoe 1992). Because SCAP believed that economic inequality made Japan being a totalitarian regime (Dore 1984), the reform of the tenancy system was SCAP's prime strategy to wipe out the root of Japan's 'vice'. The reforms successfully transferred nearly 70 to 80 percent of village landlords' farmland to its former cultivators (Kawagoe 1992: 195). Farmland under tenancy decreased from roughly 46 percent in 1941 to only 9 percent by 1955 (Kawagoe 1992: 195-196). The land reforms and the revision of the tax system³⁷, which introduced high progressive income tax rates, increased the purchasing power of commoners and thus created a large domestic market in Japan.

³⁷ A new tax system was in force as of 1 August 1953, based on the Recommendation of the Shoup Mission. The highest national income tax bracket became 65 percent. This progressive tax system was a major reason for Japan's egalitarian income distribution up to the 1970s. Afterwards, Japan's tax rate became less progressive by gradually lowering tax rate for high-income earners.

Thus the reforms significantly lifted the majority of the Japanese out of poverty and formed the foundation of egalitarian society in post-war Japan.

However, the success of the agrarian land reforms inadvertently contributed to taming the previously radical tenant farmers who had demanding full citizenship to the state (Dore 1984; Hane 2003; Smethurst 1986). Whereas the urban population played a leading role in establishing social democracy and advancing citizenship in twentieth century Europe (Geary 1981; Hinton 1983), it would have been the previously exploited tenant farmers who could have been at the forefront of such social movements in Japan. In 1945, the rural population still represented 72.4 percent of the population in Japan (Japan. Ministry of Construction 1954: 2). Nonetheless, when the discontent of the rural population was pacified by the success of the agrarian land reforms, Japan's relatively small urban population was unable to gather sufficient strength to challenge the absence of effective reconstruction planning, especially given the constraints onto labour rights, SCAP's censorship of left-wing media and the persecution of left wing individuals (Allinson 2004; Dower 1999; Takemae, Ricketts, and Swann 2002). Thus the land reforms hardly contributed to improve the living condition of city dwellers.

Prime Minister Yoshida's words accurately explain the trade-off between the land reforms and social democracy in the reconstruction period as follows:

The population in the rural districts had in the meantime remained relatively calm in the face of the mounting unrest in the cities, and gave the impression on eyeing the burgeoning agitation in the urban areas with distrust and disapproval. One does not care to think what would have happened had events taken another course and if the farmers had made common cause with the city crowds. Again if at that time the Government had failed to carry out a thorough agricultural land reform, and aroused discontent in the rural areas, the result would have been incalculable (Yoshida 1961: 200).

Indeed, the farming population turned to be the major supporters of the conservative LDP in later years.

Renewed conservative regime

Despite SCAP's original intent, politics in contemporary Japan seem to be far removed from and not in the interest of ordinary people. For example, a 1978 poll conducted by Asahi newspaper poll showed that 63 percent of Japanese citizens eligible to vote regarded politics as irrelevant, not close to them (Chapman 1991: 148). A 1996 International Social Survey Programme about the role of the government revealed that almost 67 percent of the Japanese respondents disagreed with the statement that politicians tried to keep promises which they had made during the elections; in fact, 47 percent of the Japanese respondent answered 'strongly disagree' (Zentralarchiv fuer Empirische Sozialforschung 2000: 86). Furthermore, in the same survey, 73 percent of the Japanese respondents indicated that they believed that even the best politician was unable to have much impact on society because of the way government operated and 44 percent 'strongly agreed' with this statement (Zentralarchiv fuer Empirische Sozialforschung 2000: 78). While political apathy is a growing phenomenon, common in many mature democracies (Palma 1970), the level of indifference, disappointment and even aversion to politicians and the political system in Japan is highly significant, compared to situations in other states (Richardson 1997: 22-26). As such, Japanese people's view on politics is very much at odds with the objective of SCAP reforms to cultivate democracy in post-war Japan.

However, party politics in Japan was in fact remarkably revitalised by SCAP reforms immediately after the war, following a long period of ideological suppression during

the pre-war and inter-war period (Dower 1999; Stockwin 1982; Takemae, Ricketts, and Swann 2002). As a result of growing political activities, the first national election after the surrender in April 1946 was a remarkable success: a total of 257 parties participated in the elections, in which 39 women gained seats for the first time in parliament (Takemae, Ricketts, and Swann 2002: 263-265). Furthermore, the Socialists won 92 seats, the Cooperatives obtained 14 seats, and a further 83 independent candidates became the member of the parliament (MP) in this election (Takemae, Ricketts, and Swann 2002: 265). In addition, grassroots political activities – civil society - also revitalised after the war (Dower 1999: 240-244; Yamamoto 2004). Ordinary people such as students, housewives, nurses and teachers spontaneously formed associations to claim their demands for building ‘a democratic society’ (ibid). People actively engaged in discussions of politics in newspapers and on the radio (Dower 1999: 242-244). Japan’s democracy entered into a completely new era.

However, as the Cold War tension rose, the growing popularity of left-wing ideologies, in particular those of the socialist and communist parties in the wake of the war, were seen as a threat by the US and the conservative elite (Allinson 2004; Dower 1999; Takemae, Ricketts, and Swann 2002). This concern resulted in banning ‘door-to-door campaigning, signature drives, polling, providing food or drink, mass meetings, parades, unscheduled speeches, multiple campaign vehicles, and candidate produced literatures’ for election campaigns (Hrebenar 1992: 47). Furthermore, the period for election campaigns was shortened to only 15 days (Chapman 1991: 153). Such tight controls over election campaigns originated from a law enacted in 1924 when the Japanese authorities were alarmed by small radical socialist parties (Hrebenar 1992). As a consequence of these controls, election

campaigns became one of the most tightly regulated areas in post-war Japan (Park 2000: 122) as well as the most restrictive in the democratic world (Hrebenar 1992: 47-49).

Furthermore, after the Korean War, the USA became responsible for Japan's national security, and started supporting the LDP by providing financial assistance, running media campaigns and offering intelligence in order to weaken challenges from the left (Schaller 1997; Takemae, Ricketts, and Swann 2002)³⁸. The USA also strengthened the power of the bureaucracy and the *zaibatsu*. For example, the MITI was created in 1949 to ease Japan's re-entry to the world market, and the US recommended Japan to weaken the government's control of *zaibatsu* (Takemae, Ricketts, and Swann 2002: 469). These policy changes not only brought back the power of bureaucracy and *zaibatsu*, but strengthen the old power's influence in policy-making in the absence of military institutions (Johnson 1982; Takemae, Ricketts, and Swann 2002).

Besides, deeply divided within the parties over ideological positioning, both the socialist and the communist party failed to convince Japanese voters of their ability to formulate effective policies in the process of Japan's reconstruction (Berton 1992: 118-123; Stockwin 1992: 88-93). This also gradually alienated ordinary Japanese citizens, in particular urban voters, from politics. On the other hand, the farming population came to exert a significant influence on policy-making in post-war Japan (McCormack 2001: Ch.3; Richardson 1997: 155-162). The LDP won over this majority group adopting populist policies in Japan's national politics (Calder 1988;

³⁸ For example, the Central Intelligence Agency offered 2 to 10 million US Dollars a year to LDP funds in the 1950 and 60s (Schaller 1997: 136).

Pempel 1982). As a result, with the support of business interests (both large firms and small businesses), the LDP can maintain the hegemony in post-war Japan for next sixty years (ibid).

The conservative rule supported by the rural population had significant implication on Japan's post-war planning policies. The MPs from rural constituencies were able to 'buy' their electorates, by promising public works (infrastructure development projects) to economically lagging peripheries (Igarashi and Ogawa 1997; Woodall 1996). Such planning decisions were often made and coordinated between MPs, businesses (mainly construction firms) and some fairly well organised interest groups, such as farmers' co-operatives, all within the framework of national economic development (Calder 1988: Ch.6; McCormack 2001: Ch.1; Mulgan 2002; Woodall 1996). Farmers in urban fringes also successfully defended their interests against land-use controls and higher landholding tax by using their political bargaining power (Calder 1988: 406-410; Hebbert and Nakai 1988). Their successful lobbying in the end made many planning control tools become virtually ineffective (Hebbert 1994; Hebbert and Nakai 1988).

Although SCAP reforms created the basis of a new 'pluralist' regime in post-war Japan by empowering commoners, the electorates who failed forming a strong interest group became increasingly marginalised in policy-making. While the working classes were able to participate policy-making debates through labour unions (Garon and Mochizuki 1993b), minorities and women did not succeed in promoting their interests effectively in parliament debate (Upham 1993b). The condition also applied to urban voters, whose interests would often require sophisticated policy coordination such as regulating land-use and mitigating social

changes along with urbanisation. Therefore, urban voters could not influence planning policy-making to a satisfactory degree. This resulted in confining the debate about the public interest in planning to specific concerns of powerful interest groups.

4.4 The Development of Japan's Post-War Planning Model

The Idea of Comprehensive Development (*Sōgō Kaihatsu no Kōsō*, 1954), published by the predecessor of the Economic Planning Agency (*Keizai Shingi-chō Keikakubu*), for the first time combined national spatial plans with its long-term economic development plans, which became the framework of Japan's post-war planning model (Shimokōbe 1994; *Sōgō Kenkyū Kaihatsu Kikō* 1996). Although the Comprehensive National Land Development Law came into effect in 1950 for post-war reconstruction, the original reconstruction plans based on this law were only partially materialised. However, the central government vigorously implemented long term economic development plans during this period. *The Idea of Comprehensive Development* set the target of GNP for 1965 aiming the full employment of all Japanese working population, then detailed necessary infrastructures such as industrial production facilities, ports, railways, roads, communication networks to reach this goal (Shimokōbe 1994). This economic growth centred infrastructure planning re-defined the role of planners and land-use planning in Japan.

Re-emergence of the post-war developmental state

Although the Idea of Comprehensive Development did not detail spatial planning, two economic plans, the New Long-Run Economic Plan (*Shin Chōki Keizai Keikaku*,

1958-62) and the Plan to Double Individual Income (*Shotoku Baizō Keikaku*, 1960-70) underpinned Japan's growth-pole economic development plans which aimed to concentrate strategic (heavy and chemical) industries and necessary infrastructures in the Pacific Belt region (*Sōgō Kenkyū Kaihatsu Kikō* 1996). Based on these plans, the Ministries of Construction, Transport, Industry and Trade, and Agriculture all implemented some form of planning policy to enhance economic development. While the Home Ministry had coordinated planning policy to a certain extent in pre-war times, during the post-war period, there was little exchange or cooperation between the ministries (Shindō 1995: 110-112; Woodall 1996: 63-67). In reality, these ministries were in competition for budgets in order to increase their own power in the administration (Haley 1995: 94-96; Muramatsu 1994) so that they independently planned numerous infrastructure developments, which were often overlapping projects (Igarashi and Ogawa 1997).

Local governments also fiercely competed with each other for national funds throughout post-war years, in an attempt to seek economic prosperity for their territories (Ohno, Sasaki, and Nakayama 1991; Samuels 1983). Here again, there was little cooperation for infrastructure development projects except for the central government-led regional development plans (Samuels 1983). In these project-led planning procedures, a vertical relationship between central and local government was maintained (Igarashi and Ogawa 1997; Ohno, Sasaki, and Nakayama 1991). The ministries in the central government commanded a strong control over local governments regarding the contents of planning projects, using both legal and financial means (Samuels 1983; Steiner 1965). With such strong central government controls, not only did local governments possess little autonomy or discretion about planning policy decisions, but also local residents had little information or

participation of planning policy-making. Instead, a limited number of politicians and interest groups had exclusive access to planning information, through their dense informal networks and connections with government officials (Calder 1988: Ch.6 & 9; McCormack 2001; Woodall 1996). Those who had privileged access to policy decisions intervened, guided and even dominated the planning policy-making process and strongly influenced on the goals of planning policies in post-war Japan (Calder 1988: Ch.6 & 9; McCormack 2001; Woodall 1996).

More often than not, those planning projects or policy changes involved large construction projects which offered huge profits to constructions industries, developers, building material suppliers, architects, civil engineers, planning consultants and banks (Babb 2000; Igarashi and Ogawa 1993; McCormack 2001: Ch.1 & 2; Woodall 1996). For those who benefited from this developmental state machinery, planning policy based on land-use controls, the disclosure of planning information, and citizen participation spoiled their monetary gains. Because of this interest group politics, post-war Japanese planning ended up a plethora of unrelated development projects initiated by ministries, local governments and government agencies.

The dominance of the central government in planning policy-making was also seen essential to the elite bureaucrats of ministries, as they firmly believed that national economic development was Japan's ultimate goal as a nation with no military and natural resources (Castells 1992; Johnson 1982). Moreover, these central bureaucrats were in favour of more business involvement in planning out of concern for their personal careers in later years (Woodall 1996: Ch.2). As the number of top positions in central bureaucracy is limited, they needed to consider moving to

government agencies or private firms as their alternative career development options (the behaviour is called *amakudari*, literally means the descendant from the heaven) (Colignon and Usui 2003; Inoki 1995). Firms and governmental agencies which benefited from spatial development projects often welcomed those former elite bureaucrats as executives since this liaison strengthened their link with the government (Woodall 1996: 67-78).

Contributions to local economies generated from development projects were also important to members of parliament and councillors (Babb 2000; Schlesinger 1997; Woodall 1996: Ch.3). Construction projects brought profit to local businesses and created employment, which put politicians in a powerful position to obtain votes, in particular in the regions where the economy lagged (Babb 2000; Calder 1988: Ch.6; Johnson 1986; McCormack 2001: Ch.1 & 2; Schlesinger 1997). As a result, a strong growth coalition regime was formed centred around planning policy in the early post-war period, which has resisted changes up until now (Johnson 1986).

The birth of post-war planning institutions

The foundation of Japan's post-war spatial planning dates back to the reconstruction era when its planning institutions, goals and relevant laws were established. First, whereas local governments play a minor role in planning policy-making, central ministries and special purpose public companies play key roles. These public companies are either public corporations or mixed public-private enterprises. *Kōdan* (public companies), which had been set up 'for rationing materials and products' during wartime (Johnson 1982: 179), built industrial infrastructures modelling on a communist-type command economy in post-war years. The Fiscal Investment and

the Loan Programme (FLIP)³⁹ supplied funds to the *kōdan* through government finance institutions.

Japan created numerous public companies to facilitate infrastructure development to enhance industrialisation (Johnson 1978). Prominent among those were the *Nihon Dōro Kōdan* (the Japan Highway Public Corporation) and the *Nihon Toshi Seibi Kōdan* (the Housing and Urban Development Corporation), which implemented land developments under the supervision of the former Construction Ministry. Other ministries also founded a significant number of public companies to support development. Many public or quasi-public financial institutions such as *Nihon Kaihatsu Ginkō* (the Japan Development Bank), *Nōrin Chūkin* (the central financial institution for agricultural, forestry and fishing co-operatives), *Shōkō Chūkin* (a special corporation for helping small businesses) and *Yūbinkyoku* (the post office) also offered finance to developers. The public sector played a leading role in changing the nature of Japan's built environment through these public companies.

In the process of creating public companies for the construction of infrastructures, the government strengthened the power of public companies in land acquisitions (Watanabe 1988). In the same manner, public companies implemented planning development projects such as urban regeneration, new town developments and the creation of New Industrial Cities (NIC) (Alden 1984; Ishida 1987a), and they sometimes bypassed local governments' planning controls.

³⁹ The FLIP manages public funds which are collected through government credit programmes such as postal savings and public pensions. Its origins date back to the Meiji era, when it served to supplement the poor tax base in pre-war Japan. The FLIP's impact on public finance is substantial; its size amounting to 8 percent of GDP in 1999 (Ishi 2000: 282).

Second, the objectives of national land use plans, in particular in early post-war years, served exclusively technocrat-led economic development plans. As Shimokōbe admitted in later years, it was difficult to make national land use plans in Japan without the framework of ten-years economic development plans such as *the Plan to Double Individual Income* (Shimokōbe 1994). Within the national spatial development plan, the government also facilitated three megalopolis regional development plans (i.e. the 1958 National Capital Region Development Plan). These plans designated industrial development areas in the Pacific Belt region, and connected these growth poles by motorways and high-speed train networks (Shimokōbe 1994; *Sōgō Kenkyū Kaihatsu Kikō* 1996). The idea was incorporated into the first Comprehensive National Development Plans (CNDP, *Zenkoku Sōgō Kaihatsu Keikaku*) in 1962, followed by a second and a third one in 1969 and 1977 (*Sōgō Kenkyū Kaihatsu Kikō* 1996). The CNDPs also produced economic demand for construction-related industries by implementing infrastructure building programmes. Until today, five CNDPs were formulated to support Japan's long-term industrial development after the war.

Finally, the distinctive origins and features of post-war planning development resulted in the complexity of Japanese planning legal framework. While the 1919 City Planning Act remained unchanged until 1968, more than two hundreds planning related laws were added and attached to the core City Planning Act⁴⁰ (Igarashi and Ogawa 1993). All these planning-related laws were enacted when development projects were designed, or specific purpose public companies were established.

⁴⁰ These included such as the 1950 Comprehensive National Land Development Law and the 1956 National Capital Region Development Law (*Shutoken Seibi Hō*) as upper tiers laws and the 1954 Land Readjustment Act (*Tochi Kukaku Seiri Hō*), the 1969 Urban Regeneration Act (*Toshi Saikaihatsu Hō*), and 1952 Road Act (*Dōro Hō*) as lower tiers laws (Igarashi 1993: 14 -17).

The role of planners in the developmental state

Despite the utmost importance of national spatial planning in Japan's developmental state, the status of planners in the government was very low or not clearly identified in the administration in early post-war years. In *the 50th Anniversary Special Issue of City Planning Review: Fifty Years of the City Planning Institute of Japan 1951-2002*, the Chief Editor, Niitani Yōji described his experience of working as a planner in the Construction Ministry in the 1950s as follows:

When I told an executive official in the Planning Bureau that I would like to work in the Bureau, he asked me, 'Why do you want to work for the Planning Bureau? You could apply for a position of the Road Bureau or the River Bureau. Then you could be promoted to Vice Minister or Bureau Chief of the Ministry. If you work for the Planning Bureau, the highest position you could achieve would be just a chief of sections and thus are more likely to forego a successful career within the Ministry. Is it all right for you? You should consider it well.' Nevertheless, I answered, 'I would like to work as a planner even if this means that I have to give up a successful career.' Certainly, this was the condition of planners in Japan in the 1950s whose status was not only lower than other administrative officers but even lower than technical officers who specialised in road construction and river maintenance⁴¹ (Niitani 2001a: 29).

In fact, students who were trained as planners had a hard time getting jobs not only in the public administration, but also in the private sector, because developers preferred hiring graduates who were either trained as civil engineers or architects, but not 'generalists' like planners (Niitani 2001b). Above all, until very recently the professional status of planners was not firmly identified in Japan.

⁴¹ Among Japanese bureaucrats, 'administrative officials' or 'generalists' (*jimukan*) are better off than 'technical officials' or 'specialists' (*gikan*) when it comes to career path prospects. (Johnson 1982: 58-62). As explained in Chapter 3, technological knowledge was not highly valued in the career development of bureaucracy, in spite of its importance to Japanese economic development. See also Nakayama (1984).

According to Niitani, there were three reasons for the low status of Japanese planners. First of all, there were very few city planning courses available at Japanese universities until up to the 1960s⁴² (Niitani 2001a). Second, only the public administration was able to offer jobs to professional planners, but the posts were limited to national and prefectural or relatively large city governments (Niitani 2001a). However, another important reason for planners' low status in Japan was due to the redirection of Japan's planning policy around the 1950s. As Niitani described that the War Damage Rehabilitation Plan projects had been curtailed by 1950; then the budget for of the public works became increasingly spent on river administration and road construction, in particular after the start of Five-Year Road Improvement and Management Programme in 1954 (Niitani 2001a). Thus, the planning policy changes during this time also explain as the third reason why the role of planners as a coordinator of land-use has not been established in post-war Japan.

4.5 Conclusion

How have the wars, the post-war reforms and the reconstruction affected the subsequent development of planning and the discourse on the public interest in Japan? The unique nature of SCAP reforms left a distinctive imprint on Japan's political, economic and social landscape. First of all, during the late US occupation period, the leadership of the central bureaucracy in policy-making was strengthened; the state's close relationship with businesses was encouraged. The economic bureaucracy's long-term economic development plans, based on infrastructure

⁴² The City Planning Institute of Japan (CPIJ) even submitted a petition to the relevant ministries, asking for the establishment of an institute of urban planning and new schools of urban planning to train planning professionals, because its members believed that planning in Japan was far behind from one in Europe and the US. As a result, the Department of Urban Engineering was founded at the University of Tokyo in 1962, representing Japan's first planning school. (Niitani 2001b: 30).

development, had a powerful impact on spatial planning in post-war Japan (Shimokōbe 1994). The Japanese redefined the concept of economic development as a mean to accomplish pacifism, democracy and egalitarian society (Castells 2000; Johnson 1982). This belief allowed Japanese people to depart from the Japan's disgraceful past. As a consequence, the discourse of economic development as the public interest was strongly built into post-war Japanese society.

Second, the US intervention to Japan's politics and social movements in the late occupation period weakened fair development of the public sphere in the nation. While party politics, election campaigns and labour movements all represent important ingredients towards the creation of democracy, undermining the election campaign procedure and the US-led anti-left initiatives seriously conditioned the progress of Japan's post-war democratic system. Furthermore, the infringement on the freedom of speech through SCAP's censorship and the Japanese media's self-censorship also weakened the foundations of Japan's liberal democracy. The continued reign of the Showa Emperor also contributed to the acceptance of authoritarian culture of pre-war Japan, thus diluted the strength of post-war democracy (Dower 1999: Ch. 11; Gluck 1993).

The formation of the Self-Defence Forces (*jieitai*) during the Korean War, which strongly militated against the principle of Article 9 of the Constitution⁴³, also resulted in the creation of the division between of *tatemae* (official, public or principal) and *honne* (informal, private and real) in politics and policy-making in Japan. This

⁴³ Chapter II Renunciation of War, Article 9 contains the following declaration: 'Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce the war as a sovereign right of the nation and the threat or use of force as means of settling international disputes. In order to accomplish the aim of the preceding paragraph, land, sea and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognised.'

division undermined the authority of the Constitution and thus the establishment of the rule of law in post-war Japan (Henderson 1968; Hook and McCormack 2001; Stockwin 1982: Ch.10). Although SCAP reforms did significantly contribute to the development of Japan as a modern state, the reforms were not completely successful in constructing a liberal democracy as they did not lead to the meaningful construction of the public sphere in Japan as an open political community. As a consequence, Japanese citizens were unable to establish the concept of the public interest as a common interest in planning policy-making.

Third, Japan's reconstruction planning also failed to incorporate the idea of social life as the public life. Despite of the magnitude of the war destructions, as well as the dynamic social changes in the wake of the war, there were only small movements aiming to preserve collective memoirs of the war for its victims in public spaces during the reconstruction period. While there were strong national movements and international cooperation to conserve the imprint of the tragedies caused by the atomic bomb in Hiroshima⁴⁴ (Ishimaru 2003), there were only a small number of public monuments to commemorate the millions of victims of the war in Japan. This was partly due to the censorship implemented by SCAP, which restrained the public display of grievance for war destructions and death (Dower 1999: 413-419; Trefalt 2002). Although vivid memoirs of the war dead in the Japanese mind supported its strong peace movements for quite some time after the war (Yamamoto 2004), these feelings seem to have faded away as time has gone by in the absence of sufficient physical and visual symbols dedicated to remembering the war tragedies. Japanese

⁴⁴ Hiroshima is famous for its Peace Memorial Park with its 100-metre road and Peace Memorial Museum, designed by Tange Kenzo (1913-2005), one of Japan's most famous modernist architects.

planners failed in materialising such strong public sentiment of the time in the urban design.

Furthermore, it is even questionable whether Japanese planners were aware of necessities of such public spaces (Cybriwsky 1998; Shelton 1998). The post-war reconstruction was a significant opportunity for planners to demonstrate how a spatial plan could represent the nation's past failure and people's hope for future. In Europe, citizens were actively involved in the debate on how post-war reconstructions should be managed, whether to conserve heritages or build a completely new modern city (Cherry 1996; Diefendorf 1993; Donnison and Soto 1980; Tiratsoo 2002). Although public participation in reconstruction plans in the UK was limited to comments to planning blue prints (Tiratsoo 2002: 10), German citizens had opportunities to incorporate their views into reconstruction design through various grassroots organisations (Diefendorf 1993: Ch. 9). The absence of such efforts in reconstruction planning in Japan reduced the power of spatial forms to mere design matters imposed by planners. This subsequently resulted in alienating ordinary citizens from participating in the creation of sociable spaces in Japan.

Finally, despite the impressive advancements of women's rights as endorsed by the Constitution, the boundary of the 'public-private' domains in post-war Japan did not change very much from pre-war times. In post-war years, women were active both in formal and informal politics. The Constitution gave all adult Japanese women suffrage and the right to stand for elections. Furthermore, Japanese women significantly contributed to grassroots political activities such as peace movements in immediate post-years (Yamamoto 2004). Nonetheless, the number of female MPs was only substantial in the first national election after the war. Subsequently, the

number of female politicians has continued to remain very small, both in the national and local assemblies.

The status of women in public domains such as in the workplace has improved very little, even sixty years after the Constitution declared the equal status of women and men in both the public and private realms. Moreover, women did not succeed in organising their interests as pressure groups to improve the quality of life such as housing during the construction era. Even the most controversial fact for women's citizenship and the use of public space during the occupation period was that Japanese government opened 'special official brothels' (*Tokushu Ian Shisetsu*), the Recreation and Amusement Association where Japanese women served for the US occupying forces (Mackie 2003: 136-138). Such an affair symbolised the defect of the post-war reforms in empowering Japanese women both in public and private domains. This dichotomy between the public face (the Constitution) and private practice (reality) in gender relations also represented disillusionment in Japan's post-war liberal democracy. The failure in establishing women's citizenship represents oppressions and the exclusion of other voices from planning policy-making in post-war Japan.

While the demilitarisation and other post-war reforms provided promising foundations for Japan's modern state, the limitations in the implementation left negative legacies in planning and discourse on the public interest. Not only did the reforms fail to transform the ideologies and institutions of Japan's planning, they also reinforced the power of economic bureaucracy and businesses that deployed planning as a tool for economic development. The ways in which the notion of

‘public’ was constructed during the US occupation also influenced the Japanese idea that ‘public’ is irrelevant with people’s lives and needs.

Chapter Five: Planning for the Economic Miracle, 1955-2007

The period between 1955 and 1973 in Japan is often referred to as the age of 'economic miracle' (Beasley 1995: Ch. 15). While Japan's spectacular economic growth during this period attracted attention from all over the world, its downside also became apparent in the late 1960s. The *Minamata* pollution case informed the world for the first time of the tragic human cost of Japan's economic success. However, pollution was only a small part of the social problems that accompanied Japan's rapid economic growth. As Japan's economic planning was tightly linked with spatial planning (see Chapter 4), the social cost of the economic miracle often appeared as negative externalities on land-use.

The purpose of this chapter is first, to describe how the idea of 'comprehensive development' proposed by the economic bureaucracy materialised as spatial planning in post-war Japan. Then I will discuss its impacts on the society. Section 5.1 details the underpinning of post-war Japanese planning as a combination of national long-term economic development plans and spatial strategies. While this strategy created post-war economic success, it also resulted in a variety of market failures. Section 5.2 examines these negative impacts of this planning strategy, with special attention to its environmental impact. Section 5.3 turns the attention to social movements as citizens' protests against policy failures regarding environmental protection, giving a detailed account of the rise of autonomous civil society. Section 5.4 looks at policy responses to these growing citizens' movements. Then Section 5.5 evaluates the impacts of these policy measures. Section 5.6 analyses 'novel' planning strategies of deregulation and private-public partnerships, which were initiated in response to foreign pressures as well as the emerging global economy. These new planning

policies caused excessive developments and land speculation. Combined with the failure in monetary policies, this situation led to the 'bubble economy' where the price of assets (in particular land) far exceeded its realistic values. The final section summarises planning policy development in post-war Japan from the viewpoint of the public interest. The narratives of Japan's post-war planning history will provide contextual backgrounds for the institutional and conceptual analysis of the public interest presented in later chapters.

5.1 Spatial Strategies for the Economic Miracle

In order to materialise the target of economic growth for post-war reconstruction, the Japanese government designated key industries and their locations in national spatial plans. Public companies created industrial infrastructures for strategic locations, serving those key industries such as iron, steel, shipbuilding, oil-refinement, petrochemical production and machinery (Kornhauser 1976: 125-133). The plans were to enhance the production capacity of these industries by concentrating them on the Pacific Belt region, which already had hosted an agglomeration of these companies from the pre-war period (Kornhauser 1976; Sorensen 2002: 176-178). This growth-pole development plan became the standard recipe of Japanese national land planning policy (*kokudo keikaku*) in order to achieve 'balanced' national economic growth.

Furthermore, the state outlined three Metropolitan Regional Plans for Tokyo (1956), Nagoya (1966) and Osaka (1963) to promote the development of these key regions. Although the objectives of the national and regional plans changed over time in response to environmental and social problems, their central theme remained the pursuit of 'economic development'.

Moreover, in order to enhance the competitive advantage of the whole Japanese economy, the central bureaucracy planned to improve underperformed sectors in Japan's dual economic structure in the early 1960s. Thus, the agricultural sector, which then still occupied more than 30 percent of Japan's labour force, was one of the targeted sectors (Watanabe 1988). In order to increase the productivity of the agricultural sector, the central government implemented a policy to reduce the farming population to less than 10 percent of the labour force, by encouraging small-scale farmers to find jobs in industrial sectors through the 1961 Basic Law on Agriculture (Watanabe 1988).

When the Pacific Belt Region Development Plan successfully attracted strategic industries and labour to the designated urban areas on the Pacific coast, the decline of rural areas and diseconomies of urbanisation became apparent. Japan's ruling conservative party (LDP), which relied heavily on voters in rural areas, pressed the public administration to alter the polarising income inequality between urban and rural areas (Shimokōbe 1994; Sorensen 2002). As a result of this lobbying, the first Comprehensive National Development Plan (CNDP) was formulated in 1962 to address problems associated with this unbalanced development.

In an attempt to decentralise industries and control urban growth, the first CNDP planned to build 'development centres' of various scales in peripheral regions in order to attract industries, connecting these development centres to existing megalopolises with transport and communication networks. As a result, fifteen *New Industrial Cities* (NICs) were designated as development centres. However, the effect of these NICs was undermined, when six Special Areas for Industrial

Concentration were designated in the Pacific Belt in 1964 in response to business lobbying (Sorensen 2002).

In fact, despite the objectives of the CNDP, the government kept investing heavily in the Pacific Belt region until the late 1960s (Glickman 1979). During the 1960s, the government implemented numerous urban development projects, new town housing projects in urban fringes, and the construction of transport infrastructures in Tokyo, Osaka and Nagoya. These developments completely changed the cityscapes of Japan's megalopolises (Ishida 1987a; Sorensen 2002; Tokyo. Metropolitan Government 1994). Subsequently, regional inequality rose and urban problems deepened in the 1960s.

5.2 Impacts of Planning Development from 1955

Under the seemingly flourishing corporatist regime, there were groups of people who were excluded from Japan's official version of affluent, egalitarian and democratic post-war utopia; the minorities, women workers and pollution victims were left behind from the nation's prosperity (Upham 1993b). In fact, their quality of life and livelihoods were adversely affected by the nation's 'economic success'. Rapid spatial transformation along with industrialisation changed the way of life of Japanese people. As Japan's post-war planning policy was designed for economic development, these people who did not benefit from Japan's prosperity tended to carry the severest social cost of environmental changes. This section explains how the spatial strategies of Japan's developmental state had negative impacts on the quality of life of its citizens.

Uncontrolled urbanisation

While large amounts of public money were invested in the construction of road networks, ports, land reclamations and industrial water on the Pacific Belt region to attract industrial complexes, the rural population continuously migrated into the designated urban areas as industrial labour force. Although Japan's urbanisation started in the nineteenth century, the scale and speed of rural to urban migration during this period of rapid economic growth far exceeded that of the previous periods. Between 1950 and 1970, Japan's urban population swelled from 37.4 percent to 83.2 percent⁴⁵ (Davis 1969). Although the central government had a spatial plan for economic development, neither the ministries nor the local governments had detailed master plans for housing, life-related infrastructure provisions or specific financial arrangements to cope with the influx of such large migration into cities. As a result, the immense urbanisation occurred without appropriate development controls and plans for necessary service provision.

A major problem associated with this intense urbanisation was ever-increasing land prices, both in metropolitan areas and urban fringes. In addition, while the major three (residential, industrial and commercial) land price indexes continued to increase up to 1991, it was the residential land price of the six major metropolitan areas (Tokyo 23 wards, Yokohama, Nagoya, Kyoto, Osaka and Kobe) that soared the most in 1955-1991. It experienced a staggering 210-fold increase in value between 1955 and 1997, while nominal GDP rose by 60-fold (Japan. National Land Agency 1998: 94). The first wave of land inflation occurred in 1961, when the annual

⁴⁵ Davis's data for 1970 is based on estimate and uses the different sources.

increase of land prices reached 42 percent, following the implementation of *the National Income Doubling Plan* in 1960 (Hebbert and Nakai 1988: 16).

Soaring land prices made it impossible for both the public and the private sectors to supply affordable housing with adequate facilities and infrastructures. This was inevitable because the 1919 City Planning Act did not oblige developers to provide even minimum infrastructures such as roads and sewages (Ohshio 1967: 64). The flaw with the law was such that even defect housing units were traded in the market under the existing planning law. In the end, the government had to provide necessary infrastructure to serve those 'unfit' housing at greater cost in later days (Ohshio 1967). As a result, those existing 'better-serviced' housing became expensive so that new residential developments with substandard housing units continued to expand further outward in search for cheap land.

Substandard housing stock

One of the most serious consequences of the absence of effective planning policies during the era of Japan's rapid economic growth was the accumulation of an inadequate standard of housing stock, especially in urban areas. As explained in Chapter 4, post-war housing reconstruction was almost entirely left to the market, while approximately 11 million people migrated from rural to metropolitan prefectures between 1950 and 1975 (Sorensen 2002: 174). As an effect of this, the population of the Tokyo Metropolitan Region swelled from 13.28 million to 18.86 million just within a decade from 1955 (Tokyo. Metropolitan Government 1994: 57). This large urban migration occurred without much planning controls and public housing provision; thus, the newly settled young working population was only accommodated in 'substandard, barrack-like wooden apartments'(ibid). More than

60 percent of all the new housing units built in Tokyo between 1961 and 1965 can be classified as this type of housing, forming the '*Cheap Wooden Apartment Belt*' (ibid). As a result, despite the increasing affluence of the nation in 1973, more than 30 percent of the national housing stock was below minimum standards (Japan. Housing and Urban Development Corporation and Building Center of Japan 1992).

This inadequate housing stock in Japanese metropolitan areas did not completely disappear in the late twentieth century. Even in 1993, 319,000 housing units (7.8 percent) did not meet the nation's minimum housing standards, and only 40.5 percent of all housing units in Japan satisfied the nation's targeted housing standards (Japan. Statistics Bureau 1999). The situation was worse in Tokyo. *The 1993 Housing Survey of Japan* showed that 15.5 percent of Tokyo's housing stock was below minimum standards, and only 25.8 percent of housing in Tokyo satisfied the nation's targeted housing standards (Tokyo. Metropolitan Government 1998: 27). The current large stock of poor housing, described as 'densely populated wooden apartment buildings with extremely poor sanitary facilities and high earthquake and fire risks constructed side by side' by a government report (Tokyo. Metropolitan Government 1994: 57), indicates persisting planning problems in many Japanese inner city areas.

Insufficient life-related infrastructures

Another major problem associated with Japan's rapid urbanisation was insufficient life-related infrastructures. This happened because the 1919 City Planning Act lacked a development permission system and did not oblige developers to provide adequate infrastructures. After all, Japan's local governments ended up supplying required infrastructures for the growing urban population, without the appropriate

financial resources. Water, sewage, parks, schools and hospitals were all in short supply in these newly developed residential areas, which sprawled continuously outwards from the existing urban areas.

To overcome this flaw of the 1919 City Planning Act, some local governments in growing regions started demanding financial contributions from developers, in order to finance the necessary life-related infrastructures in exchange for granting building confirmation⁴⁶ for residential developments. However, Japan's national government gave guidance that local ordinances should not be 'against national laws'. The guidance was interpreted as those local ordinances should not enforce stricter planning and environment controls than national laws (Harada 2001: 104; Harano 1984). As a result, local governments had no other option than relying on voluntary agreements with developers (*Takuchi Kaihatsu Shidō Yōkō*)⁴⁷ to control residential development (Chiba 1984; Harada 2001: 95-96; Kusumoto 1984). While the 1968 City Planning Act introduced a development permission system, its effectiveness has been minimal (See Chapter 6). Therefore, the local autonomy about development control has continued to be an issue in Japanese planning.

Insufficient life-related infrastructures are a direct consequence of the Comprehensive National Economic Development policies on land-use. In fact, throughout the post-war years, despite huge public investment in industrial infrastructures, only a small budget was allocated to housing or life-related infrastructure development (Miyamoto 1998). While the national government

⁴⁶ In Japan, the procedure for obtaining building confirmation is separated from development (planning) permission, since two different government commissions grant permits. See Chapter 6 and 7 for more details.

⁴⁷ Its origin was formed by Kawasaki City, adjacent to Tokyo in 1965 and the name 'yōkō' was first used by Kawanishi City, neighbouring Osaka in 1967 (Harada 2001: 131-132).

allocated 34.5 percent of the long-term public investment budget at the prefecture level to roads, harbours, airports, and industrial related infrastructures between 1959 and 1964 (36.6 percent in 1965-1970), they allocated only 20.1 percent in 1959-1964 (and 26.8 percent in 1965-1970) for planning, housing, residential land development, environment, water, sewage, and social welfare facilities (Miyamoto 1998: 169-173). While the national government redressed this imbalance in recent years, the government has still been criticised for spending too much on unnecessary public works relating industrial infrastructure building (Igarashi and Ogawa 1993; Igarashi and Ogawa 1997; Kerr 2001; Miyamoto 1998).

Pollution and environmental crisis

The most serious impact caused by Japan's national land-use plans during the post-war years was environmental hazards, some of which actually escalated to kill many people. Intensive industrial land use in the Pacific Belt region, encouraged by the government's agglomeration policy, increased the levels of congestion and pollution. While pollution in urban areas was rather a market failure due to industrial areas' proximities to residential areas, national land development policies, such as NICs, spread pollution towards the state's designated industrial sites in rural regions.

Minamata Disease (mercury poisoning) and *Itai-Itai Disease* (cadmium poisoning) are the most well known pollution cases of water contamination in Japan, caused by highly poisonous chemical discharges from factories in rural areas. An increase in bronchial ailments since 1959 in Yokkaichi City, where the earliest petrochemical complexes were built, became known as *Yokkaichi Asthma*. These prominent pollution cases turned out to be key environment litigation in post-war Japan. The extensive national and international media coverage provoked the rise of citizens'

movements in the nation. This resulted in the promulgation of the Basic Law for Environmental Pollution Control (*Kōgai Taisaku Kihon Hō*) in 1967.

Except for the toxic pollution cases mentioned above, the most notable planning policy failure was nuisance such as noise, vibration and air pollution caused by Japan's transport policy. While infrastructure building was the core strategy of Japan's developmental state, its construction was carried out without any coordination of land-use. Development control measures such as environmental impact assessments on neighbouring residential areas were absent. Motorways, airports and train networks in Japanese urban areas were built within surprising proximity to residences without adequate public consultation.

The major transport networks were constructed under event-led development projects such as the 1964 Tokyo Olympics, the 1970 Osaka World Exposition and the 1972 Sapporo Winter Olympics within a relatively short term. To prepare for those national projects and to implement the programmes of the CNDP, the Tokyo Expressway Public Corporation (*Shuto Kōsoku Dōro Kōdan*) and the Hanshin Superhighway Corporation (*Hanshin Kōsoku Dōro Kōdan*) were founded for highway constructions (1959 and 1962 respectively). Besides, the first Bullet Train (*shinkansen*) between Tokyo and Osaka was built just before the opening of the Tokyo Olympics.

Facing difficulties to secure appropriate land for transport infrastructures in built-up areas, those public enterprises constructed highways and high-speed railways at the sacrifice of local amenities and even the residents' health. In Tokyo, the elevated expressways were built over existing roads, parks, river and canals (Koshizawa 1991). Likewise, in Osaka and Kobe the elevated expressways were also built in the

same manner. One of them was constructed over the busy National Route 43 which is closely lined with residential developments between Osaka and Kobe. The construction of the elevated expressway over the National Route 43, as well as the operation of the bullet train in a residential area in Nagoya became environment litigation later as detailed in the following chapters.

Furthermore, intense urbanisation without effective planning controls led to chaotic land-use in many urban areas. In addition to the proliferation of urban sprawl without essential infrastructures, detached houses and high-rise apartments, tall office buildings and large-scale retail stores were often built next to each other, sometimes in farmland in urban fringes. Consequently, these conditions caused disputes between neighbours about sunlight, noise, odours, traffic and views. Open spaces and roads were not sufficiently supplied in Japan's built-up areas. Moreover, dilapidated wooden apartments in inner cities have often remained untouched while the socially marginalised have continued living there. These dilapidated buildings became safety hazards in the event of fires and earthquakes as the 1995 Hanshin Awaji Earthquake proved it. The poor quality of urban life despite rising affluence in Japan outraged urban voters in the 1960s and 1970s. As a result, urban and regional problems turned out to be a major political arena of Japan during this period.

5.3 Citizens' Movements – In Search of the Public Interest

The pursuit of environmental justice

The cost of Japan's economic success was recognised among Japanese citizens as early as the 1960s. The 1919 City Planning Act did not have any mitigating effect on the intensified land-use of urban Japan during the era of rapid economic growth. The

consequences of this uncontrolled land-use and the lack of environmental protection apparently endangered the health and even the lives of residents from the early 1950s. In July 1970, 55 percent of the respondents of a newspaper poll answered that they suffered from some form of pollution (McKean 1981: 19). The government officially admitted that more than 73,000 persons could be classified as pollution victims and hundreds had already died from pollution by January 1979 (McKean 1981: 20).

While the state was ineffective or even ignorant of the mounting environmental crisis and urban problems in the early post-war years, it was citizens, many of whom became victims of pollution, who forced changes in Japan's planning policy. These citizens had to fight against the state and industries in order to protect their lives, especially from serious environmental problems. *Minamata Disease*, *Yokkaichi Asthma*, *Itai-Itai Disease* in Toyama prefecture, and the second *Minamata Disease* in Niigata prefecture developed into the 'Big Four' pollution litigation in Japan. The final result of the Big Four pollution cases altered Japan's environmental policy and also influenced Japanese peoples' ideas on economic development, local politics and planning policy-making (Kojima and Institute of Developing Economies 1995; McKean 1981; Tsuru 1999).

Despite the litigation's positive impacts on subsequent development of Japan's environmental policy-making, the pollution victims of the Big Four cases had a long way to go before they received full compensation and recognition from the polluters and the state (George 2001; McKean 1981; Upham 1987). Even in the presence of abundant evidence showing the link between the deaths or crippled health of the victims and the actions of the polluters, the Japanese government (and the scientists

who represented the state) dismissed this link for quite a long time, arguing that there was insufficient scientific evidence to prove causation (George 2001; Ogano 1995; Tsuru 1999; Upham 1987).

In the Minamata's mercury pollution case, the Japanese government formally admitted that organic mercury emitted from the *Chisso* plant was the cause of the *Minamata Disease* in 1968, fifteen years after the disease had first been recognised by scientists and locals (Upham 1987). Before a faction of the *Minamata* patients group won in court to receive compensation for their damage in 1969, victims had been encouraged to enter a mediation process by the government-led mediation committee to receive small sums of money in the form of sympathy payments (*mimaikin*), even for the death of their family members (George 2001; Tsuru 1999; Upham 1987). Once the victims had received the money, this shattered their chances to pursue further legal actions against *Chisso* (Upham 1987). After a 43 years' struggle, the *Minamata's* case was finally settled out of court in 1996. However, although both the former president and factory manager of *Chisso* were found guilty of negligent homicide in 1988 in the Supreme Court, the legal responsibility of the central and prefectural governments has not yet been identified in the Japanese court (George 2001: 266-267; Watanabe 1988; Yoshikawa 1997).

The rise of citizens' movements

The discovery of serious pollution cases inspired Japanese citizens to act for justice and the protection of their local environment as defending their human rights. In 1973, there were at least 3,000 *jūmin undō* (residents' movements) that mobilised residents for local concerns such as planning development disputes, protest against pollution and demands for better public facilities (Kano 1970: 279). In addition, an

estimated 10,000 disputes were led by those protest groups in the same year (Kano 1970: 279). Finally, the victims of the pollution cases set up associations to demand compensation in court for their injuries.

Furthermore, having learnt from the previous pollution cases, residents who were likely to be affected by proposed industrial developments, organised protest groups and started fighting for their right to be informed about local environmental changes. They also demanded participation in planning policy-making. Social movements involved in environmental politics in the 1960s and the 1970s are classified into two groups: the first group, which acts demanding compensation is labelled as *compensation movements*; while the second group, which protests against possible development, is named as *environmental protection movements* (Avenell 2006; Barrett and Therivel 1990; Lewis 1980). *The Mishima-Numazu Movement* in 1963-64 is the first residents' movement in Japan succeeded in stopping the construction of an oil and chemical plant complex in its vicinity (Krauss and Simcock 1980; Lewis 1980). Moreover, since the organisers of the *Mishima-Numazu Movement* consciously used the word *shimin undō* (*citizens' movement*) instead of *residents' movement* (Krauss and Simcock 1980), they helped to construct a new paradigm of 'the public' in post-war Japan. Thereafter, Japan's environmental movements expanded nationwide to various forms of social movements towards the 1970s.

While the Big Four pollution cases represented the evident failure of the government's emission control of Japanese industries, more common pollution problems were caused by the lack of appropriate planning controls despite Japan's mass urban migration and high population density in the metropolitan areas (Sorensen 2002). The complaints of urban residents were mainly about noise,

vibrations, ground subsidence (mostly due to industrial use of underground water), the blockage of sunlight caused by the construction of nearby tall buildings, odours, air pollution due to motorisation, and overhead electric power transmission lines suspended by poles in dense urban areas. These complaints often developed into residents' protest movements (McKean 1981). Some cases were also brought to court to stop new developments.

Some residents started actions beyond the protection of the existing quality of life in their communities: they advocated the improvement of the community environment by demanding physical and social infrastructures that were absent in their communities (Ishida 1987a). The infrastructures requested by the residents were playgrounds and parks, libraries, schools, nurseries, sewage systems, paved roads and disaster prevention systems (Ishida 1987a: 300). Due to rapid urban sprawl and the serious defects of Japan's planning system, these essential facilities were neither properly provided by developers nor the government. Moreover, residents' movements further progressed into the demand of the right to participate in the plan-making process. Since the 1919 City Planning Act did not include any article about the consultation of residents, the movements led the state to reconsider the existing planning laws.

The reason why citizens' movements grew in this period was related to changes in the international and domestic political economy in the late 1960s. First of all, it was linked to worldwide social movements such as the US civil right movement. The experiences of Japan's previous citizens' movements against the renewal of the Security Treaty with the USA in the late 1950s also helped to form the foundation of environmental movements (Krauss and Simcock 1980). Second, the growth of the

information society, in particular represented by the expansion of television networks, made ordinary Japanese citizens recognise the plight of the pollution victims with vivid visual images (George 2001). The media also informed the Japanese population of the explosion of global political movements during this era.

Third, there was growing affluence among Japanese citizens. Japan's rapid economic growth, together with ever more egalitarian income distribution through its high-progressive tax system, enabled ordinary Japanese citizens to own television sets⁴⁸ (George 2001). Fourth, the rise of citizen movements in Japan proved that Japan's democracy reached another stage in its development. In fact, Japan's citizens' movements led to the rise of opposition parties in local politics by electing independent and progressive mayors or governors amidst the 'conservative paradise' of Japanese politics during the late 1960s and 1970s (Steiner, Krauss, and Flanagan 1980). Marxist academics were also active during this era to encourage local autonomy and citizens' movements (Avenell 2006; Barrett and Therivel 1990; Barshay 2004; Ui and United Nations University 1992). They gave ideological support to newly elected left-wing mayors and governors (Barshay 2004; Kersten and Williams 2006; Miyamoto 1969) and developed new ideas, such as the notion of the 'civil minimum' (the minimum standard for quality life) claimed by Professor Matsushita Keiichi (Matsushita 1971; Tokyo. Metropolitan Government 1968). As in the case of the first British Planning Act in 1909, Japan's civil society succeeded in mobilising politics to change its statutory planning system.

⁴⁸ Whereas only 15 percent of non-farm urban households had televisions in 1958, its ownership leapt to over 90 percent of all households in 1970. (George 2002: 171).

5.4 The 1968 City Planning Act

In response to mounting problems due to the rapid urbanisation of the 1960s, the 1919 City Planning Act was replaced with the 1968 City Planning Act. The 1950 Building Standard Law was also revised in 1970. While the revision of the two planning laws was aimed at restricting further unplanned new developments in mainly urban fringes, the Urban Redevelopment Law (*Toshi Saikaihatsu Hō*) was introduced in 1969 to improve built-up areas. These three laws came to consist of Japan's core planning control laws, often referred to as *toshi sanpō* (three laws on urban development) in Japan.

According to Ohshio Yōichirō, the former chief of the City Planning Section of the City Bureau of the Construction Ministry, who drafted the bill of the 1968 City Planning Act, there were four main objectives in the revision of the 1919 City Planning Act: (1) to control the urban sprawl, (2) to strengthen the comprehensiveness of urban planning, (3) to obtain coordination between urban planning and regional planning, and (4) to rationalise urban planning actors and procedures (Ohshio 1967; Ohshio 1975). Against this background, there was optimism about tackling urban problems until the early 1970s, as the government expected that the 1968 Planning Act and the new CNDP in 1969 would solve the defects of the existing planning system (Sorensen 2002).

New land-use control measures

The main planning control tools implemented by the 1968 Planning Act were threefold. First, City Planning Areas (CPAs) was divided into two areas: Urbanisation Promotion Areas (UPAs) where developments and urbanisation are

encouraged and Urbanisation Control Areas (UCAs) where in principle no development is permitted. As the boundaries were made by lines on maps, it was referred to as *senbiki* (line-drawing) in Japanese. The second tool was the introduction of a more detailed zoning system, increasing the previous four zoning categories into eight. The third one was the implementation of a development permission system for certain types of developments. If these planning control tools had been exercised in a proper manner, they could have had quite an effect on the land-use control of Japanese burgeoning cities during this period. However, because of the continuous politicisation of the implementation of the 1968 Planning Act, the new tools had little impact on the progress of urban sprawl in Japan.

First of all, the idea of UPAs and CPAs did not work very well. The UPAs covered too large areas, extending to underdeveloped areas so that strict planning controls applied to UCAs were not implemented in existing urban fringes (Hebbert 1994; Hebbert and Nakai 1988; Ishida 1987a; Sorensen 2002). The cause for over-designation of UPAs was understood to be the result of the intense lobbying of farmers, farm organisations and landowners (Hebbert 1994; Hebbert and Nakai 1988; Sorensen 2002). Moreover, except for the outer metropolitan areas, many municipalities were not even required to divide the CPA into UPAs and UCAs until it was considered necessary. The undivided CPAs, UCAs and areas not included in CPAs are called *shiraji chiiki* (blank area), meaning that the areas did not belong to any zoning categories so that no zoning controls apply to this area. In 1999, undivided CPAs made 11.6 percent of the national land area, amounting to about half of all CPAs (Sorensen 2002: 240). Because of these defects of the UPA/UCA, the new Act did not function to fulfil its original purpose.

In addition, as the name of the City Planning Act suggests, the legal power of the Act did not cover rural areas (Hebbert and Nakai 1988: 35). While the CPAs represented only 26 percent of Japan's national land in 1996 (Sorensen 2002: 246), developments outside the CPAs (a part of *shiraji chiiki*) were virtually unregulated and did not require a development permission until 2001. It should be noted that many development occurred outside the CPAs, even within National Parks. In particular this was the case of resort development in which the government took the initiative in the 1980s (Ohno, Sasaki, and Nakayama 1991).

Second, the new eight zoning categories were not sophisticated enough to prevent heterogeneous land-uses, so that the environmental problems associated with mixed land use remained. Under the new zoning system, building structures were controlled by floor area ratios (FAR) and coverage ratios of individual sites. The problem was that these ratios were generally set much higher than necessary within most of the zoning categories, owing to lobbying from the real estate and construction industries (Igarashi and Ogawa 1993; Ishida 1987a). Therefore, the new zoning system had little effect to mitigate the problem of noise, sunlight, odour, and air pollution in inner-city areas.

Third, there were various loopholes which undermined the development permission system of the new planning act. The definition of the development was too narrow to include many types of development. It exempted the development of 1,000 square metres or less within UPAs, thus allowing small-scale development (so called *mini kaihatsu*) (Ishida 1987a; Sorensen 2002). Within blank areas, any development permission was unnecessary until 1974 and development of less than 3,000 square metres did not require permission until revisions were made in 2003. Moreover,

because the FAR in blank areas was 400 percent until 2000, many sprawl development took place in this area (Igarashi and Ogawa 1993). Unlike the discretionary powers of local planning authorities exercised under the British planning permission system, local planning authorities in Japan must grant a development permission to applicants as far as they complied with the criteria of the City Planning Act, even though these criteria did not cover extensive facilities that might be necessary for the development (Hebbert and Nakai 1988: 37).

Local autonomy in planning

Three other objectives of the 1968 City Planning Act proposed by the government (Ohshio 1975) turned out to be highly questionable in terms of the public interest. To strengthen the comprehensiveness and integrity of urban planning, the state placed the City Planning Act under the tier of National Land Development Laws controlled by the ministries. The major acts governing the City Planning Act are as follows:

- Comprehensive National Land Development Act (1950)
- National Land Use Planning Act (1974)
- National Capital Region Development Act (1956)
- Kinki Region Development Act (1963)
- Chūbu Region Development Act (1966)
- Rural Development Act (1965)
- New Industrial City Construction Promotion Act (1962)
- Rural Area Industrial Development Promotion Act (1971)
- Industrial Relocation Promotion Act (1972)
- Special Area Industrial Development Promotion Act (1964)
- Pollution Control Basic Act (1967)

Source: (Ohama 1994b: 183)

The Comprehensive National Land Development Act (*Kokudo Sōgō Kaihatsu Hō*) and The National Land Use Planning Act (*Kokudo Riyō Keikaku Hō*) are the most important in the list. Then, the three metropolitan regional plans such as the National Capital Region Development Act (*Shutoken Seibi Hō*) follow. The National Land Development Act is the oldest act about national land planning. Under this act, however, only CNDPs and Special Area Comprehensive Development Plans (*Tokutei Chiiki Sōgō Kaihatsu Keikaku*) were formulated, while the Comprehensive Prefecture Development Plan and Comprehensive Local Development Plans have never been prepared so far by the central government (Ohama 1994b). The remaining acts in the list which the 1968 Planning Act should comply with are all about development programs, except for the Pollution Control Basic Act (*Kōgai Taisaku Kihon Hō*). The CNDPs, the National Land Use Plans and the three regional development plans have provided the guidelines on the allocation of available resources (human and natural) for developments in each region and the creation of necessary physical infrastructures to accommodate industry and population growth.

Those plans are not legally binding to control actual land-use and local planning (Ohama 1994b). Instead, the acts and plans became the basis for obtaining budgets for construction projects such as motorways, airports, industrial parks, new industrial cities and new town developments. In addition, while the making of a national land-use plan was compulsory, making prefectural plans and local plans was only optional under the National Land Use Planning Act⁴⁹ (Ohama 1994b). As the infrastructure building projects were largely implemented independently by public corporations, the projects often lacked coordination with local planning needs or even with

⁴⁹ The municipal and prefectural master plan system became compulsory by the amendment of the 1968 City Planning Act in 1992 and 2000

Regional Plans⁵⁰ (Ishida 1987a; Sorensen 2002). Without a legally binding master plan system, those development projects, which acquired funding through the upper tier of National Land Laws, were often put before local planning concerns.

Although the 1968 City Planning Act stipulates that the ultimate responsibility of city planning belongs to municipalities, the control of the ministries was strengthened through the requirement for authorisation of governors and ministers to city planning decisions such as the designation of UPAs and zoning changes (Igarashi and Ogawa 1993; Ohama 1994a; Sorensen 2002). Moreover, although the designation of UPAs and zoning changes are fundamental planning tools of municipalities, the criteria to determine how those areas and categories should be allocated have been tightly controlled by ministries through the 1968 City Planning Act, governmental orders, and prefectural and ministerial circulars (Hebbert and Nakai 1988; Igarashi and Ogawa 1993). While the 1968 City Planning Act made conduct a City Planning Basic Survey every five years as a statutory duty, the local planning criteria were continuously revised under ministries' guidance, which often advised the deregulations of land-use controls (Igarashi and Ogawa 1993).

Public participation

As part of the rationalisation of planning actors and procedures, the 1968 City Planning Act introduced public participation system so that the public became able to express their opinions in written form as well as attend public hearings. However, the system was heavily criticised for its ineffectiveness and hypocrisy (Igarashi and Ogawa 1993; Ishida 1977; Ishida 1987a; Sorensen 2002; Sumida 1977). First of all,

⁵⁰ The projects of the Japan Housing Corporation (JHC) were often built in green field sites, far from city centres, so that in some cases they were in conflict with local planning policy that aimed to contain urban sprawl (Ishida 1987a: 268-269).

public hearings were called for only when the local or prefectural government considered them necessary (Igarashi and Ogawa 1993; Ishida 1977; Sumida 1977). As a result, in many cases, public hearings were only limited to major changes of local planning, such as the reviews of overall zoning areas, UPA designation amendments and re-examination of road networks (Sumida 1977).

Second, public participation in planning was too narrowly defined by both urban planning laws and the circulars of the Urban Planning Bureau of the Construction Ministry (Igarashi and Ogawa 1993; Ishida 1977; Sumida 1977). These circulars instructed that, in order to reflect the overall views of residents, only selected speakers from stakeholders were allowed to speak in public hearings (Sumida 1977). Moreover, the speakers were not allowed to ask questions to committee members in public hearings, while committee members could ask questions to the speakers (Ishida 1977). As a result, any form of discussion in these public hearings was impossible, resulting in a one-way communication (Ishida 1977; Sumida 1977).

Third, the public hearings were only held at the last stage of planning (Ishida 1977; Sumida 1977). Proposed plans were only displayed two weeks for public viewing. As a consequence, even when the public suggested any amendments to the proposed plans, it was rare that such recommendations were reflected in the plans at the final stage of planning decision (Ishida 1977).

Finally, there was no stipulation in the Act about how public opinions should be incorporated into local plans (Sumida 1977). Therefore, although the public were able to express their concerns on local planning matters in the form of public hearings and written suggestions, no guarantee was made about whether public opinion would be inputted into local planning (Sumida 1977). As Ohshio explained,

the article of public participation was added to 'prevent residents from complaining about not being informed' (Ohshio 1975: 68). Because of the very limited scope of public participation in plan-making, public opinions could have little impact on planning future.

In the end, despite its revision, the 1968 City Planning Act did little to improve existing planning problems. Intense lobbying from landowners subverted the measures for development control in the Act. The central bureaucracy did not surrender their power over land-use controls and kept a tight rein on local autonomy and public participation. At the same time, the idea of 'comprehensive national economic development' continued to work through numerous long-term spatial development plans, the projects of public companies, and special laws materialising specific projects. In fact, the planning crisis further deepened after the promulgation of the 1968 City Planning Act, to which we now turn.

5.5 The Failure of Growth Pole Development

In response to the failure of the first CNDP, the second CNDP was formulated in 1969. The second CNDP further promoted investment in high-speed transport networks and the relocation of industries to peripheral regions. This vision was emphasised more vigorously by the prime minister of Japan in 1972-74, Tanaka Kakuei (1918-93), in his *Building a New Japan: a Plan for Remodelling the Japanese Archipelago* (Tanaka 1973). In the preface to this book, Tanaka endorsed his plan as follows:

Public opinion calls for the simultaneous solution of overcrowding and under population to live in comfort in a beautiful land of affluence and security. To achieve these ends, we must boldly reverse this torrential urban concentration and direct our national energy and surplus economic

strength to remodelling the entire archipelago. Disparity between urban and rural areas, between the prosperous Pacific coast and the stagnating Japan Sea coast, can surely be eliminated by using levers such as relocating industries, making them more knowledge intensive, constructing super-express railways and trunk expressways throughout the nation, and creating nationwide information and communication networks (Tanaka 1973: iv).

Born in a poor rural family in Niigata, on the Japan Sea Coast, Tanaka moved to Tokyo and, by the age of 19, founded his own construction firm. He gained a seat at the lower house of the Diet in 1947 and held two ministerial posts as well as serving as secretary-general of LDP twice (1965–66, 1968–71). His most significant influence in post-war planning was to establish a strong connection between the construction industry and planning policy (Babb 2000; Johnson 1986; Woodall 1996). He laid the foundations of pork-barrel politics in post-war Japan based on the *oyabun-kobun* (father-child) relationship, which has been ubiquitous in Japanese society from the mafia to the corporate world (Babb 2000; Johnson 1986; Schlesinger 1997). This liaison extended to connect MPs, councillors, bureaucrats and businesses for construction projects. Not only did he leave the legacy of ‘the construction state’ that promotes public works regardless of their necessities for the sake of economic growth (Johnson 1986; Schlesinger 1997; Woodall 1996), but his vision also made land prices of planned areas soar. Tanaka himself established ‘ghost’ real estate companies under his mistress’s name to trade land that had been designated for state-led development, such as reclamation projects, bullet-train right-of-way and government-built power plants (Johnson 1986: 8-9). And later on, he earned profits by selling the land back to the government (Johnson 1986).

Land speculation soon became prominent among corporations, in particular to those who had access to governments’ inside information. As a result, the average national land price increased by 30.9 percent between 1972 and 1973 (Igarashi and Ogawa

1993: 77). Land speculation was most intense in Japan's six major cities, where land prices rose by 42.5 percent in the year of 1973, while they had already increased annually by 20 percent in the late 1960s (Ishikawa 1995:130). Land speculation spread further to rural Japan, in the expectation that Tanaka's development plans would be successfully implemented. However, the boom ended when Japan's rapid economic growth era stagnated following the 1973 worldwide oil crisis.

Ironically, Tanaka's plan was formulated when the golden age of the 'Japanese Miracle' was drawing to a close. Japan's economic policy had reached a turning point in the early 1970s, following criticism of Japan's export-led economic growth from the EEC and the US (Sargent 1973). In response to these attacks, Tanaka's plan was intended to expand economic growth towards more backward regions of Japan and to stimulate domestic consumption, rather than the production for export. Since its core idea was the same as the growth-pole development in the Pacific Belt region, Tanaka's plan promoted the relocation of some industrial complexes to rural areas by building the transport network. After all, the relocation of industries was not so successful and pollution was exported to the designated rural areas.

Japanese economy was severely hit by two-digit inflation, caused by the 1973 Oil Embargo and the subsequent global depression. GDP growth between 1974 and 1979 slowed down to an average of 3.6 percent, in comparison to previous two-digit growth. Furthermore, Tanaka's money politics, which included making profits from land speculation, was made public by a journalist, Tachibana Takashi in the November 1974 issue of *Bungei Shunjū* magazine⁵¹. Tanaka resigned as prime

⁵¹ Tachibana Takashi 'Research on Tanaka Kakuei: his money and power politics (*Tanaka Kakuei Kenkyū: sono Kinmyaku to Jinmyaku*)'.

minister in December 1974 and he was arrested in 1976 under the allegation of having accepted 500 million Yen from the US Lockheed Martin Corporation, which aimed to sell aircrafts to Japan's All Nippon Airways (ANA). As the political and economic climate dramatically changed in the early 1970s, the second CNDP and Tanaka's vision to resolve uneven development completely failed. Despite its achievement, Japan's post-war growth pole development strategy resulted in the degeneration of both urban and rural environment and the legacy of money politics involving regional and urban planning.

5.6 Planning policy in the global economy

The 1973 oil shock was a turning point in the post-war period of Japan. Although the era of Japan's high GDP growth abruptly ended, the nation's economy survived throughout the 1970s and 1980s, maintaining an annual GDP growth rate between 4 to 5 percent (Gordon 2003: 298-301). The continued economic growth was owed to the lean management of the manufacturing sector and its shift from the reliance on the chemical and steel industries to high technology industries, which specialised in electronics, machineries and automobiles (Cerny 2001; Oizumi 1994). While a renowned 'lean production' or 'just-in-time production' system made the Japanese manufacturing sector globally competitive, it caused trade frictions with the US and Europe, because of Japan's reliance on export sales to these countries. Furthermore, the sector's global sales strategy resulted in changes in Japan's financial sector, which had long been the heart of its state-led economic development (Cerny 2001).

Whilst leading industrial economies such as the US and UK suffered from prolonged recessions in transition to a post-industrial economy, Japan's robust economy developed into the subject of academic inquiries. The 'learning from Japan' boom

boosted Japan's national pride and encouraged Japanese to search the national identity. Overcoming a series of challenges, Japan emerged as an economic superpower in the 1980s. As a result, many Japanese became very much conscious about the nation's affluence (Kelly 1993; Tipton 2001: Ch. 12), although the fruits of its economic success were not in reality shared by the whole population (Chubachi and Taira 1976; Ono and Watanabe 1976; Upham 1993b).

Whereas the public seemed to be content with the status quo, the international economy again forced changes to the existing conditions of Japanese society. The newly emerged global economy altered Japanese economy, politics and society. Inevitably, it changed Japan's planning system, too. Japan's planning policy that responded to globalisation had far more impacts on its citizens than any other countries' policy: the rise and collapse of the bubble economy. The following section explains these social changes and their influences on Japan's planning policy.

Ideological shift in the affluent society

To understand Japan's politics, society and planning after 1973, there were two important intellectual and ideological shifts from the 1970s: First, a change in the US's policy towards Japan affected Japanese intellectuals' discourse on Japanese identity and society. Up to the 1950s, to defy communist influences in Asia, the US covertly obstructed activities of radical leftist movements in Japan and gave funding to the LDP through CIA operations (Gordon 2003: 289; Pempel 1998: 101). However, countering strong anti-US sentiments in Japan, which escalated in the 1960s during the US-Japan security crisis, the US appointed Harvard Professor Edwin O. Reischauer, a historian of Japan, as Ambassador to Japan in 1961 and

promoted the portrayal of successful Japan through academic studies such as *Japan as Number One* (Gordon 2003: 289; Vogel 1979).

These academic works inspired Japanese intellectuals to develop *nihonjinron* (the theories on Japanese uniqueness). This body of literature more or less stresses the uniqueness of Japanese culture, which values group harmony and consensus, as the reason for its outstanding achievements (Kumon 1992; Umehara 1990; Umesao, Befu, and Kreiner 1984). This discourse eased conflicts between the US and Japan, unions and employers, and the left and the right, which had coloured Japanese politics in the previous period. Simultaneously, a picture painted of Japan as conflict-free society resulted in undermining the power of labour unions, the left-wing parties and social movements to challenge the status quo in Japanese politics and society.

Second, as a reaction to the failure of opposition politics against conservative hegemony, a new wave of Japanese intellectuals started to criticise progressive modernist ideas that had been the academic mainstream in the 1960s and early 1970s. Two philosophers, Yoshimoto Takaaki and Takeuchi Yoshimi, spearheaded the criticism against the modernists' view of politics such as Maruyama's as a bourgeois democracy, and proposed a notion of a 'bottom up democracy', based on individual happiness and interests as an alternative to the state-centred public sphere (Barshay 2004; Iida 2002). However, in his *In Theory of the Mass Image* (*Masu Imege Ron*, 1984) and other works in the 1980s, Yoshimoto wrongly believed that the emergence of Japan's strong consumerism led to the independence of the masses, free from the guidance of the state's elite (Iida 2002: 185).

However, while the role of the mass media is believed to offer opportunities for public debate (Habermas 1997), the modern mass media, in particular Japan's, has downside which manipulates and subverts people's desires, opinions and virtually their everyday life influenced by strong consumerism (Ivy 1993; Kelly 1993; Moeran 1996; Skov and Moeran 1995). Indeed, it was the media who spread the idea of '*ichioku sō chūryū* (100 million Japanese all belong to the middle-class)' among the Japanese in the 1970s.

From the mid-1970s, a post-modernist perception of civilisation appealed to the new generation of Japanese intellectuals as well as to the public, who started appreciating the material affluence of the successful national economy (Iida 2002; Ivy 1993). Japanese people believed economic equality and homogeneity within society, which was exaggerated by the mass media (Kelly 1993; Painter 1996; Vlastos 1998), was the secret of 'the success' of Japan although its income inequality actually started to widen since the 1970s (Tachibanaki 1998). Cultural essentialism of the nation as a commune, and the perception that everyone was happy with reality, silenced the public's discontents about planning policies which had peaked in the early 1970s.

Conservative hegemony

Japanese society's contentment with the status quo also resulted in a decline in the political power of the opposition parties. Popular support for the JSP and JCP had been already decreasing since the 1950s as a result of poor leadership, ideological divisions within the parties and the lack of electoral support (Christensen 2000: Ch. 6). In particular, the JSP, which had heavily relied on labour unions for its electoral support, lost its political basis along with the decline in the rate of union membership (Stockwin 1999). In contrast, the LDP had been capable of accommodating changes

in the political environment in post-war years. Not only the LDP made a coalition with big businesses, but they also gained political support from small businesses and farmers (Calder 1988; Pempel 1982). Facing labour protests in the 1950s and the 1960s, the LDP was swift to seek solutions in state welfare (Garon and Mochizuki 1993b; Pempel 1982). All these factors weakened the ability of opposition parties to propose an alternative policy against conservative politics.

In this political climate, active environmental movements in the previous period also began losing their momentum (Avenell 2006; Mason 1999). In addition to the decline of oppositions' political power in national politics, there were also other key factors for this change. First, the oil crisis in the early 1970s suddenly reminded the Japanese of their nation's susceptibility to a shortage of natural resources (Gordon 2003: 287-288). This renewed awareness encouraged both the state and businesses to search for technological innovations in order to reduce emissions and increase energy efficiency. Furthermore, as Japan's industrial production bases started moving to overseas (Dicken 2003) and environmental regulations became tightened, public concerns about environmental issues lost the immediacy in the 1980s (Mason 1999).

Second, although the progressive coalitions succeeded in winning local elections in urban areas in the early 1970s, their triumphs were short-lived. Newly elected chief executives did succeed in stopping key development projects that many local residents opposed to (Johnson and Nissan Institute of Japanese Studies 2000: Ch. 5; Steiner, Krauss, and Flanagan 1980). Nonetheless, despite their pledge to improve the quality of urban life, the majority of progressive executives failed to deliver policies proposed in their manifestos. In essence, the level of local governments'

autonomy, as well as the size of their financial resources, was too weak to materialise these proposals. On the other hand, the LDP succeeded in promoting controversial development projects in rural areas, claiming to help those declining rural economies. They could exercise strong bargaining power, taking advantage of old community ties and abundant compensation funds to win over the rural electorate (Lesbirel 1998).

Once immediate environmental dangers such as pollution were eased, urban citizens very much lost interest in national and local politics on planning, as they were aware of their limited influence in policy-making. The failure of citizens' protests against the renewal of the US-Japan Security Treaty in 1960 and 1970 as well as the Vietnam War also strengthened a sense of disillusion with national politics during this period. These events reinforced the increase in political apathy among the Japanese population.

Pressure on an economic superpower

In the 1980s, it was apparent that the production mode of the leading world economy transformed from Fordism to post-Fordism: a globally flexible mode of production and consumption (Amin 1995; Jessop 1991). Since substantial production capacities moved outside national boundaries (Dicken 2003), many advanced economies suffered from the loss of manufacturing jobs within their territories (Amin 1995; Jessop 1991). This economic restructuring led to a depression in those leading industrialised nations as the economy took time to adjust to structural changes. Whereas some geographically advantageous cities in the West thrived as global/world cities based on the knowledge and service economy (Knox and Taylor

1995; Newman and Thornley 2004; Sassen 2001), Japanese economy appeared to be relatively unaffected by the process of economic restructuring during this period.

Discontents of the USA and Europe with the Japanese government about Japan's large current surplus in trade mounted in the 1980s (Johnson 1987; Nester 1993; Packard 1987). The Japanese Yen's relatively low value against other currencies also contributed to reinforcing the trade imbalance between Japan and other advanced economies, in particular with the US. As a result, the US establishment started to believe that Japan's trade protectionism and low domestic demand was the main causes of the trade imbalance between the two nations (Johnson 1987). Thus, both the USA and Europe urged Japan to increase its domestic demand and reduce the exports to them.

In order to resolve this 'Japan problem', representatives of leading economies implemented interventions in the world financial market and demanded Japan to take vigorous actions in terms of market liberalisation and deregulation. First, the G-5 nations (France, West Germany, Japan, the USA and the UK) agreed to devalue the US Dollar against the Deutsche Mark and the Japanese Yen under the Plaza Accord in September 1985. The value of the Japanese Yen against the US Dollar nearly doubled within two years. As a consequence, it became much easier for Japanese firms to raise capital in overseas markets compared to the previous period. This resulted in reducing the role of Japanese banks further, which had predominantly supplied cash for industries before.

Second, under intense pressure from the US, the Japanese government published *the Maekawa Report*⁵² (Japan. *Kokusai Kyōchōno tameno Keizai Kōzō Chōsei Kenkyūkai* 1986) in April 1986, which concluded that Japan had to increase domestic demand and rely less on the export income by implementing ‘structural changes’ (Ishi 2000; Noguchi 1994:65-67). The US further pressed Japan to implement specific deregulation measures through bilateral negotiations such as the U.S.-Japan Structural Impediment Initiative (SII) that started in 1989. The changes in the market environment and pressure to increase domestic demand created the specific conditions of Japanese economy, which affected planning policy development in following years.

The rise of neo-liberalism and planning policy

After the LDP established its hegemony in the late 1970s, the government had to face accumulated debts (Ito 1996; Suzuki 1999). First, this was due to the LDP’s policy to expand social welfare budgets to win votes against opposition parties in the previous period (Calder 1988; McCormack 2001; Suzuki 1999). Second, the state also implemented more public work projects to stimulate investment against the slowdown of the economy (Igarashi and Ogawa 1997; McCormack 2001). Third, the demographic structure changed due to the aging of the population (Ishi 2000: Ch.10). In the early 1980s, the budgetary deficit continued to expand so that the pressures for reducing government expenditure became compelling (Ishi 2000: Ch.6; Ito 1996). As a consequence, *rinchō* (the Provisional Administrative Reform Committee) undertook two consecutive administrative reforms until the mid-1980s. A variety of

⁵² Prime Minister Nakasone asked an advisory group to address issues concerning the structural changes of the Japanese economy in response to the US pressure. The report was named after the former governor of the Bank of Japan, Maekawa Haruo.

state expenditures were cut under this scheme, in particular welfare expenditures. The most notable achievement of the reform was the privatisation of Japan National Railway (JNR)⁵³ and the Nippon Telegraph and Telephone Public Corporation (NTT) (Ito 1996).

Another shift related to the rise of neo-liberal policies in Japan during the 1980s is the emergence of the so-called *minkatsu* ('*minkan katsuryoku no katsuyō*': *utilising the ability of private enterprises*) policy for economic development. Although a set of *minkatsu* policies undertaken during the Prime Minister Nakasone regime (1982-87) is often regarded as an equivalent of smaller government, deregulation, privatisation and public-private partnerships as those initiated under the Thatcher or Reagan regimes, the policy applied only to limited practices, notably urban developments (Iio 1993). In reality, the core of the *minkatsu* policy was promoting land development to stimulate the stagnated economy by selectively deregulating land-use controls and giving incentives to developers (Anchordoguy 1992; Hayakawa and Hirayama 1991; Iio 1993; Oizumi 1994). Therefore, *minkatsu* did not differ from the planning policy in which the government assisted land developments in the previous period.

Moreover, the targeted urban areas for *minkatsu* were selected not because they suffered from long under-investment like US or British inner cities in the 1980s, but because the land-use in these areas was considered *ineffective* by the business elites and central bureaucracy due to the presence of detached houses and small shops

⁵³ As the JNR had one of the strongest labour unions in Japan, the privatisation in effect further weakened the position of the left in policy-making.

(*Tochi Mondai Kondankai* 1983)⁵⁴. Therefore, new guidelines suggested by the Construction Ministry were ‘reviewing Category I Exclusive Residential Zone areas (restricted to low-rise dwelling only) and other zoning areas for allowing high-and-medium-rise buildings, redressing the *excesses* of municipal governments’ voluntary development control agreements with developers (*takuchi kaihatsu shidō yōkō*) and selling public land for urban regeneration and *quality* (which often implies luxury in Japan) high-rise housing’ (Japan. Construction Ministry 1983). *The Maekawa Report* also proposed these same deregulation measures and incentives to developers in order to boost ‘domestic demand’. *The Maekawa Report* argued that these strategies were to control a rise in land price and increase a number of high-rise housing units in the inner cities of metropolitan areas to enable office and housing locations closer as well as strengthen the role of cities (Japan. *Kokusai Kyōchōno tameno Keizai Kōzō Chōsei Kenkyūkai* 1986). The set of urban policies during this period was called *urban renaissance*.

Minkatsu policy did not just end in urban development, but it also extended to rural areas. Whereas the Fourth Comprehensive National Development Plan (*yonzensō*) underlined the importance of Tokyo as a global financial centre (Japan. National Land Agency 1987), the government proposed the Act on the Development of Comprehensive Resort Areas (The Resort Act) in May 1987 to advance leisure industries in rural areas to improve *the quality of life* and enhance local economic development (Japan. Ministry of Land Infrastructure and Transport 2003a). Under this Act, many rural municipalities set up ‘third sector’ organisations (*dai san sector hōjin*: a private-public partnership company) to ‘utilise private sector’s vitality’ for

⁵⁴ The committee was chaired by the National Land Agency. The report was first published on 20th April 1983.

developing leisure facilities such as golf/ski grounds, luxury hotels and theme parks with central government subsidies. Based on this Act, 712 municipalities have basic plans of resort development projects, and the whole planned area consists of 17.5 percent of Japan's total land area up to present (Japan. Ministry of Land Infrastructure and Transport 2003a: 4).

The reason why the *minkatsu* policies were heavily focused on spatial development proposals was related to the series of strategies recommended by the committees of the Construction Ministry, well before Nakasone's administration took power (*Jichitai Mondai Kenkyūsho* 1983; Otake 1993). In fact, the Construction Ministry's initiatives were a result of intense lobbying from the Japan Project-Industry Council (JAPIC), which was set up in 1979 by Japan's traditional big businesses in steel and construction industries, trade companies and banks (Hayakawa and Hirayama 1991; Igarashi and Ogawa 1993; Iio 1993; Oizumi 1994; Otake 1993). During the low growth period of the late 1970s, these well-established industries lost investment opportunities within the nation so that they were seeking for potential development projects and support from the government. The old vested interests seized opportunities when the US strongly pressed Japan to increase domestic consumption and Japan itself was shifting towards a post-industrial economy based on service provision.

The bubble economy and its impacts

The emergence of the bubble economy was the consequence of the Japanese government's macroeconomic mismanagement as well as the market's speculative investment during the late 1980s (Ishi 2000; Noguchi 1994; Oizumi 1994). As a result of the incremental financial market liberalisation since the early 1980s, many

Japanese manufacturing firms started to raise funds by issuing stocks and bonds rather than bank loans (Cerny 2001; Noguchi 1994; Oizumi 1994; Suzuki 2006). This forced Japanese financial institutions to find different borrowers other than the big companies or manufacturing sectors (Cerny 2001; Noguchi 1994; Oizumi 1994; Suzuki 2006). Simultaneously, the government increased the money supply with a low official discount rate to stimulate domestic demand (Okina, Shirakawa, and Shiratsuka 2000: 289-292). Since the government encouraged spatial development by *minkatsu* policy in the post-Fordist economy, much of these loans went to the real estate industry (Dehesh and Pugh 1999; Hayakawa and Hirayama 1991; Noguchi 1994; Oizumi 1994).

The mixture of the economic conditions and the policy provisions with abundant cheap loans and incentives from the government induced overheated speculation in land development. In 1990, land prices were 3.3 times higher than those in 1985 (Ishi 2000: 77). The boom started from the commercial areas of the big cities, and then spread to residential areas and smaller cities. As a result, Japan's total stock of property value in 1990 reached nearly four times the value of the total property stock in the US (Wood 1992: 8) and consisted of roughly 20 percent of the world's wealth in 1991 (Dehesh and Pugh 1999: 147).

In addition to financial and monetary policies, weak development controls, further deregulation and incentives by *minkatsu* policy facilitated this vast increase in land value. Policies promoting 'effective land-use' in urban areas resulted in the demolition of detached houses and small shops to be replaced by large-scale office, retail and residential developments. The profits generated by these conversions were extraordinary, as the floor space possibly increased 20-30 fold, thus land value

skyrocketed. Real estate companies carried on seeking potential development sites and bought up these areas for future speculation. Since these inner-city sites were in many cases non-vacant plots, some developers pressurised the existing residents to move out, even by hiring gangs (*jiageya*: land shark) to intimidate them (Hill 2003a; Hill 2003b; Kaplan and Dubro 2003). Furthermore, land prices increased in those resort development areas as well.

Another serious consequence of the *minkatsu* policy was its impact on both urban and rural environment. Large-scale office and shopping developments tore apart *shitamachi*, Japan's working class neighbourhoods in metropolitan areas. Kyoto, Japan's cultural capital was not an exception of this change. Despite protests from the city's Buddhist temples and the general public, a plan for remodelling the Kyoto Hotel from a 31 metre tall building to a 60 metres high one was permitted in 1992 with a new deregulated building code ⁵⁵(Igarashi and Ogawa 1993: 6-7). In one Kyoto's *machiya* (traditional wooden house) neighbourhood, 220 units out of 240 houses disappeared within a four- to five-year period since the late 1980s, as land speculators attempted to vacant a land plot for high-rise buildings along with the renewal of the nearby Kyoto Station building⁵⁶ (Igarashi and Ogawa 1993: 9-10).

The designated resort development areas also suffered from the destruction of nature and landscape (McCormack 2001: Ch.2; Ohno, Sasaki, and Nakayama 1991). Employing the Resort Act provisions, 111 golf grounds and 95 ski grounds have

⁵⁵ See also 1992a. The case of Kyoto Buddhism Association - judgement upon the request for an injunction of the building construction destructive to historical cityscape. In *Hanrei Jihō*: Kyoto District Court, Japan.

⁵⁶ The design of the new Kyoto Station was also heavily criticised for its impact on the landscape. Because of its massive size, the building stands like a big wall in the centre of the city. Moreover, department stores and hotels occupy more than 95 percent of the floor space of the station building (Buck 2000; Igarashi and Ogawa 1993: 7-8).

been built so far (Japan. Ministry of Land Infrastructure and Transport 2003a: 5). In 1990, 18 golf grounds were planned within the areas of national and quasi-national parks (Ohno, Sasaki, and Nakayama 1991: 14). Since *minkatsu* efforts were very much concentrated on land development, the collapse of the bubble economy not only hit the nation's financial industry but also the foundations of citizens' everyday life.

In 1989, it became obvious that Japan's economy was overheated (Okina, Shirakawa, and Shiratsuka 2000). In particular, the public and media strongly criticised the government for spiralling land prices, blaming their inaction against 'land fever' (Noguchi 1994). Responding to this criticism, the central government introduced two schemes to control the increase in land value. In large cities, the Land Transaction Surveillance System began in 1987 to keep a close watch on land prices in surveillance areas and for land larger than 2,000 square metres (Japan. National Land Agency 1995: 205-209; Noguchi 1994: 301). In April 1990, the Ministry of Finance (MOF) introduced restrictions on loans for the real estate industry by asking financial institutions to limit the growth of those loans lower than the increase of their total balance of loans (Cargill, Hutchison, and Ito 1997: 109; Noguchi 1994: 303). The MOF also increased capital gain taxes on land transactions and inheritance taxes in relation to landholdings (Cargill, Hutchison, and Ito 1997: 109). Although the achievements of the transaction surveillance system in curbing the land price surge was questionable, the restriction of loans to real estate companies and other tax measures started to show some effects on land price stabilisation (Cargill, Hutchison, and Ito 1997; Noguchi 1994).

A far more powerful impact on the market was a change in macro economic policy. The Bank of Japan finally decided to increase the official discount rate from 2.5 to 3.25 percent in May 1989, and subsequently gradually increased it up to 6 percent in August 1990 (Noguchi 1994: 303; Okina, Shirakawa, and Shiratsuka 2000). Finally, both stock and land prices started to fall in 1990. However, the drop was too sharp for the Japanese economy to absorb its immediate shocks (Okina, Shirakawa, and Shiratsuka 2000). The Nikkei Index of the Tokyo Stock Exchange Market reached 38,915 Yen at the end of 1989 and fell to 14,309 Yen by August 1992 (Yamamura 1997: 291). Land prices also plunged very quickly. The land value index of the highest price lot of the six large cities was 545.1 in March 1990 compared to 100 in March 2000 (Japan Real Estate Institute 2005). It dropped to 210.8 in March 1995 and then further reduced to 86.6 in September 2005 (Japan Real Estate Institute 2005). The bubble economy collapsed and its impacts were far more powerful than the government had predicted.

The collapse of the bubble economy ended the era of Japan as an economic superpower. An economic depression caused by the overinvestment that took place during the bubble era prolonged for more than a decade (Maswood 2002; Yoshikawa, LTCB International Library Trust, and *Kokusai Bunka Kaikan* 2002). Furthermore, the crisis of Japan's financial sector exposed the limitations of Japan's state protected financial market, as well as the lack of 'a check and balance system for corporate behaviour from outsiders (Hill 2003a; Kaplan and Dubro 2003; Suzuki 2006; Wood 1992). The huge accumulation of bad loans in Japan's financial sector revealed precisely 'the unregulated sides' of the Japanese economy (Krawczyk 2006; Suzuki 2006; Wood 1992).

The burst of the Japanese economic bubble also exposed serious defects in the nation's developmental state ideology when it was applied to planning policy (Anchordoguy 1992; Igarashi and Ogawa 1993; Iio 1993; Oizumi 1994; Yamamura 1992). After numerous real estate developers and housing loan companies went bankrupt (Cargill, Hutchison, and Ito 1997; Dehesh and Pugh 1999), many development projects halted abruptly so that vacant land plots were left everywhere in Japan, and remained untouched for quite a while. This applies particularly to the *minkatsu*-sponsored resort development projects in rural areas. In January 2002, only 23.8 percent of the original resort development plans since 1987 were completed or under construction (Japan. Ministry of Land Infrastructure and Transport 2003a: 4).

Furthermore, while the third sector companies planned and implemented the majority of urban and resort development projects during the bubble era, quite a number of those companies went bankrupt as well (Asahi Shimbun 1999: 17). By the end of March 2004, 36.8 percent of those companies still being in operation were in debt (Japan. Ministry of Internal Affairs and Communications 2005: 13). In fact, the real financial problems of the third sector were far worse than their balance sheets, since they continued to receive funds from the government to supplement losses (Fukasawa 2005; Japan. Ministry of Internal Affairs and Communications 2005: 23-25). Both the central and local governments also suffered from the accumulated deficit because they continued issuing bonds during the bubble economy to finance development projects and other public works (Asahi Shimbun 1999: 9-16; Japan. Ministry of Internal Affairs and Communications 2004b: 17-18). Along with the demographic changes of Japanese society, welfare expenditures continued to be a target of the budget reduction since the 1980s (Takahashi 1997; Tsukada 2002). The

financial crisis of the public sector together with the prolonged depression has created a growing sense of despair among the Japanese population.

The quality of life in post-modern Japan

Starting in the 1970s, Japan's architecture entered a new era. While Japanese architects followed a strong modernist tradition in urban design since 1868, post-modern philosophy penetrated into its mainstream architecture fashion. New confidence felt by Japanese architects was also the reflection of the nation's economic power and technological innovations as well as the international recognition of Japan's long-standing tradition of design (Knabe and Noennig 1999; Shinohara 1971; Stewart 1987). A pioneer of Japanese post-modern architecture, Shinohara Kazuo proclaimed as follows:

Nevertheless, as I had foreseen, in five or six years, the house did in fact become a work of art in many cases. It is no longer necessary to disguise one's belief that a house is a kind of spatial creation based on a criticism of civilisation and not something, like large general buildings or urban plans, that participates directly in society as a product. We may now be frank because conditions for freedom in our work have developed (Shinohara 1971: 81).

However, unlike in the West where the freedom of design has increasingly become restrained with public consultation (Punter 1999), modern Japanese architects have long enjoyed great autonomy (Marshall 2002: 2). Shinohara implied that architects in Japan could experiment with any form of design, regardless any given spatial context. This rationalisation of artistic liberty in architecture and urban design further created chaos in Japanese landscape, and broke up community cohesion during the bubble economy.

In addition to traditional public works such as road construction, the government promoted developing leisure and tourism for the realisation of '*Seikatsu Taikoku*

(Making Japan a great place to live)’⁵⁷ in response to the trade friction and the rise of post-industrial economy, both of which pressed the Japanese government to boost domestic demand by increasing leisure time and facilities (Buntrock 2002: 128-147; Japan. Economic Planning Agency 1995; McCormack 2001). The government and businesses also use the slogan of globalisation to increase office space, shopping malls and luxury apartments in urban areas for ‘the service-oriented 24-hour economy’ (Tokyo. Metropolitan Government 1993: 54). While both the state-led industrialisation and the intense urbanisation had already taken its heavy toll on the townscape of Japan, the nation’s urban policy since the 1980s significantly changed the psychology of land-use (Clammer 1997; McCormack 2001 Ch.2; Nute 2004). It was not aimed at promoting industrialisation this time, but at enhancing service production and consumption related with spaces modelled on the development of other global cities (Edwards 2002; Newman and Thornley 2004; Sassen 2001).

During this period, the government budget was also lavishly spent on the construction of concert halls and cultural centres designed by leading architects (Buntrock 2002). While according to the yearbook of *Japan Architect*, 1,257 public culture centres already existed all over Japan in 1997, three new magnificent public halls opened in Tokyo in the same year, at the cost of \$1.36 billion, \$620 million, and \$165 million respectively (Buntrock 2002: 137). As a consequence, in the 1990s, public works constituted 40 to 70 percent of the total construction investment in Japan (Buntrock 2002: 131). The epitome of this phenomenon was the mushrooming construction of theme parks across the country (Buck 2000; McCormack 2001: 97-

⁵⁷ The word originates from ‘*Seikatsu Taikoku Gokanen Keikaku* (‘The Five-Year Plan for Making Japan a Great Place to Live’), issued in June 1992 by the Economic Council under the cabinet of Miyazawa Kiichi.

101). Here, the discourse on quality of life was used to justify more developments pursued by interest groups.

The irony was that, although the government, business sector and architects made a catchword out of 'culture' to improve the quality of life in Japan in the 1980s and 1990s, it was precisely during this period that old yet distinctive buildings of cultural importance were relentlessly destructed. The beautiful townscape of wooden *machiya* in Kyoto, which survived the bombing in the Second World War, almost disappeared due to successive development (Igarashi and Ogawa 1993). Many wooden buildings were demolished during this period as some architects and bureaucrats claimed that they would not survive for a long time anyway (Kerr 2001). Many Victorian-style as well as Art Deco brick and stone buildings from the pre-war period were also pulled down for regeneration. The Architectural Institute of Japan (*Nihon Kenchiku Gakkai*) listed 13,000 historical monuments in 1980, of which one-third has vanished since then (Kerr 2001: 173). The reinforced commodification of land by Japan's planning policy in the global economy had a disastrous impact on the built environment in Japan.

Despite these changes on Japan's townscapes, quite a few architects and planners rationalised the chaos as a consequence derived from 'Asian values' and praised its 'potentials' [to create something for the better] (Buck 2000; Knabe and Noennig 1999; Lim 1998). Some of the most celebrated Japanese architects expressed their views as follows:

Isozaki Arata: This 'cycle-oriented' life [of buildings] is derived from Japanese thinking or Oriental thinking as a whole (Knabe and Noennig 1999: 111).

Andō Tadao: Well, I consider chaos as being something which possesses dynamic life (Buck 2000: 152).

Takamatsu Shin: I don't think of chaos as confusion to be thrown into disorder, but as an order, as an open system (Buck 2000: 140).

On the contrary, many citizens became quite dissatisfied with the townscape in Japan.

In a 2004 *Public Opinion Survey on Housing* conducted by the Cabinet Office, only 9.6 percent of the respondents considered that the townscape in Japan was 'fine' (22.6 percent told 'satisfactory') compared to European cities (Japan. Public Relations Office. Minister's Secretariat. Cabinet Office 2004). Back in 1998, when the impact of excessive development during the bubble economy was apparent, 48 percent replied that Japan's townscape was not 'good' (Japan. Public Relations Office. Minister's Secretariat. Cabinet Office 2004). Furthermore, 61 percent of the respondents answered that living in residential areas with stricter development controls was appealing (Japan. Public Relations Office. Minister's Secretariat. Cabinet Office 2004). The clash of opinions between planning professionals and the general public about urban design exposes that Japan's planning failed to include citizens' views into planning as the public interest representing social life.

5.7 Conclusion

Japan's planning policy in its long 'post-war' period exhibited both positive and negative aspects regarding the role of the state. First, Japan overcame its limitations of being a resource-scarce nation for industrialisation by implementing the comprehensive national spatial development plans. Afterwards, Japan successfully transformed itself as one of the most technologically advanced economies in the world by building effective transport networks and concentrating key industries at strategic locations. The collaboration between the state, businesses and society

appeared to be effective in achieving national wealth in the public interest. However, the government's overemphasis on economic development in planning overlooked the negative externalities produced by the market economy.

In addition, planning policy that was implemented to solve existing problems often resulted in further exacerbation of the environmental conditions. Japan's post-war planning policy, based on national and regional economic development plans, ended up not only aggravating the negative effects of uneven development, but also diffusing environmental degradation to rural areas. The public interest of Japanese planning as 'economic growth' fundamentally contradicted the essence of the public interest in Western planning as 'development control' to reduce the social risks that accompany capitalism (Ashworth 1954; Benevolo 1967; Hall 1996a). Notwithstanding the environmental cost, Japan's spatial planning was once effective to increase the output of the Japanese economy at least up to the 1960s.

However, when Japan's industrialisation matured, the state-led spatial economic planning lost its advantages and began to show the downside of the cooperation between the state and the market. Thus, it is not surprising that when neo-liberals promoted their worldview, which planning policy could enhance Japan's participation into a global and post-industrial economy, it was the Japanese planning policy that tore down the foundations of Japanese society - communities. The collapse of Japan's bubble economy illustrated well the limitations of a self-regulated market ideology and its planning policy which focused solely on economic development.

Second, another problem of post-war Japanese planning is how the public sphere as a political community has been structured in Japan. As the central government has

almost exclusively gripped Japan's planning policy, stakeholders who are able to influence planning decisions have been extremely limited, both in number and in diversity. The numerous political scandals involving convicted ministers, MPs, local government executives, top business leaders and mobs in connection with development projects (Hill 2003a; Kaplan and Dubro 2003; Schlesinger 1997) exemplifies the failure of Japan's pluralism in planning policy-making (Calder 1988: Ch. 6,9). As to be explained in Chapter 6 and 7, ordinary citizens have had little access to information and opportunities in planning policy-making throughout post-war years.

Citizens' movements in the 1960s and 70s attempted to challenge Japan's 'iron triangle of the public sphere' (politicians, bureaucrats and businesses), which was prevalent in its planning policy-making. Japan's civil society demonstrated capacities and potentials in building an alternative model of the public interest in planning development (Avenell 2006; Ishida 1987a; Krauss and Simcock 1980; McKean 1981). Besides, during this era, the media and left-wing academics provided intellectual support to citizens' movements (Matsushita 1971; Miyamoto 1969; Ui and United Nations University 1992). Some local governments also responded to citizens' demands and showed the ability to do so (Stockwin 1982; Tokyo Metropolitan Government 1968).

Despite their influences on policy-making, Japan's NPOs experienced considerable setbacks in the 1980s, and still face many obstacles towards having an active role in planning (Mason 1999; Pharr and Schwartz 2003). Once Japan achieved material affluence and overcame pollution problems, citizens' movements seemed to lose impetus (Avenell 2006; Mason 1999). The marginalisation of the left in politics, as

well as Japanese intellectuals' discourse on post-modernism as cultural relativism, could be blamed for shrinking citizens' movements (Kersten and Williams 2006; Pharr and Schwartz 2003). The Japanese media, which has been immersed in strong consumerism (Ashkenazi and Clammer 2000; Iida 2002; Skov and Moeran 1995), also appeared to lose its power to face market control (Pharr and Krauss 1996b; Westney 1996). While Japan's NPOs seem to have revived again after the 1995 Hanshin-Awaji Earthquake (Hirata 2002; Yamamoto 1999a), Japan's civil society still has considerable challenges ahead towards the task of building a new paradigm of the public interest in planning (Pharr and Schwartz 2003).

Third, Japan's post-war planning has been ignorant regarding the aspect of social life in urban design because the discourse of the public realm has been rarely constructed as common or social life in Japan. In addition, a number of Japan's long-established social spaces, such as riverfronts and even rivers, disappeared due to factory development and the construction of highways (Jinnai 2001; Kornhauser 1976; Koshizawa 1991). Although Japanese architects have long been generously supported by public sector initiatives (Buntrock 2002), the projects they carried out were in many cases just to boost national pride (e.g. Olympics, expositions) or to support economic development projects. For this reason, those works seldom represented communities where their works were built, even though local governments often financed such projects (Buntrock 2002; Knabe and Noennig 1999; Nute 2004).

Moreover, the rise of strong consumerism in Japan made Japanese pieces of architecture increasingly corresponded to market symbols, and thus the concept of their design was reduced to more or less that of consumer products, which

emphasised differentiation rather than cohesion with indigenous environments. Such conditions resulted in a situation where pieces of architecture compete with each other. As a consequence, Japan's urban design became very chaotic in post-war years (Buck 2000; Knabe and Noennig 1999).

In contrast to the urban chaos, Japan's public spaces, which were built with regenerations and new towns, are spotless, but utilitarian and almost lifeless (Shelton 1998: 168). This appearance reflects Japan's strong modernist principles of scientific rationality in planning orthodoxy (Marshall 2002: 44; Masser and Yorisaki 1994). Observers also claim that many new public spaces of waterfront development projects, which were designed to symbolise the 'new urban life in the global city', have been almost deserted (Cybriwsky 1999; Marshall 2002: Ch. 3 & 4). This also contradicts the conventional belief that the high population density together with the topography of Japanese cities resulted in the lack of public spaces within them. Although a number of public spaces were created in the post-war period, they do not seem to respond to the needs of users, and this is because there were not sufficient public consultations in the Japanese planning system. As such, the absence of 'public as social life' deprived citizens of the sense of a community.

Fourth, in relation to accessibility and participation issues in planning policy-making, women's voices have hardly been incorporated into Japan's post-war planning. Spatial exclusion of women from the public domain seems to have persisted in contemporary Japan. Japanese cities have continued to expand outwards and commuting times have become longer⁵⁸ (Tokyo. Metropolitan Government 1998:

⁵⁸ 48.4 percent of the daytime population of Tokyo's 23 special wards comes from outside this administrative area.

147). Whereas male workers are expected to work long hours, female workers are expected to quit their jobs after the birth of their first child and to become full time housewives (Imamura 1987). Many housewives in suburban areas are isolated at home with inconvenient access to nurseries, shopping facilities, doctors and other public facilities (Nihon Keizai Shimbun 2005: 13-16).

Japanese cities have also not been designed very well for children and the elderly (Nihon Keizai Shimbun 1996). There are few open spaces, day care centres, elderly homes and recreation facilities that match with residents' needs (Tokyo Metropolitan Government 1998). Japan's typical narrow streets are not divided for pedestrians and cars. Many streets are not well lit, and electric light poles and bicycles occupy pavements whose surfaces are not always smooth. Women are worse off by these conditions, as they dominantly engage in non-paid work as carers and also live longer than men. These facts explain that not only women were excluded from voicing their opinions in planning policy-making processes (Ueno 1995), but also few female professionals, academics and civil servants worked to promote an alternative view of the public interest in planning (Koito 2004).

Whereas post-war Japan experienced significant transformations in its political, economic and social life, the concept of the public interest in planning hardly changed from the Meiji period. Despite implementing many policy reforms, why did Japan's planning principles remain unaffected? To answer this question, Chapter 6 concentrates on the analysis of Japan's planning institutions, and Chapter 7 provides a more detailed examination of the public interest in Japan's planning litigation.

Part Three

Chapter Six: Japan's Planning Institutions and the Public Interest

While the public interest in planning was treated as moral obligation which planners have to comply with in post-war UK (Campbell and Marshall 2000; Campbell and Marshall 2002; Faludi 1973; Howe 1992; Ward 1994), there are three stages of planning policy implementation in which the public interest is discussed: first, at the legislature branch, second at the administrative branch, and third at the judicial branch. However, Japanese planning history detailed in Part 2 revealed that the role of its planners was different from the British one, and its planning policy seemed to develop, regarding the public interest with nothing more than economic growth. The purpose of this chapter is to find out why the concept of the public interest in Japanese planning system did not work to protect citizen's interests as public goods through the examination of its institutions at the three stages of planning implementation.

Reviewing the planning history in Britain, the concept of the public interest was first identified in court in the name of 'nuisance' (McAuslan 1975; McAuslan 1980). Thereafter, the British planning system grew by incorporating the public interest idea into new legislation (Hall 1996a; Ward 1994). Likewise, along with the development of democracy in the twentieth century, Western capitalist states not only had to mediate market failures in land-use, but also they came under growing pressure to provide more public goods such as social housing, open spaces and good urban design; all in the public interest (Cherry 1996; Hall 1996a; Ward 1994). Finally, disagreeing with the technocrats' discourse on the public interest in planning, citizens started to demand direct participation in planning policy-making by claiming an alternative concept of the public interest from below (Barlow 1995; Friedmann

1973; Hague and McCourt 1974; Hall 1996b). As such, the concept of the public interest served as a vehicle to mobilise Western planning systems.

In contrast to the development in the West, there has been noteworthy absence of discussions concerning what the public interest of planning should be at legislature and administrative branches in Japan. In addition, Japanese courts have also been reluctant to broaden the concept of the public interest in planning⁵⁹. I would argue that the lack of open dialogues about the public interest in Japan's planning system has contributed to relative low levels of quality of urban life in Japan.

This chapter explores why the concept of the public interest has failed to take account of citizens' concerns for built environments in Japan and why the situation has remained unchanged. Section 6.1 and 6.2 examines institutional problems which precluded many citizens from representing their opinions as the public interest in Japanese planning system through analysing the nation's legislative and administrative procedures. Section 6.3 investigates Japan's judicial review system when citizens challenge the concept of the public interest of proposed developments. Section 6.4 summarises the findings from the analysis in this chapter and leads to the more detailed investigation in the following chapter as to how the public interest in planning has been interpreted through the study of prominent court cases in Japan.

6.1 The Legislation Process and the Public Interest

One of the most distinctive features of Japanese planning is that statute laws and central government orders have determined the future of the built environment. This is in sharp contrast to the cases of many Western countries where local governments'

⁵⁹ This reluctance will be fully explored in Chapter 7.

master plans, ordinances and initiatives matter most in shaping local land-use (Hall 1996a). Furthermore, statute planning laws and national spatial planning in Japan have often not been aimed at land-use controls; instead, they are designed to provide frameworks for economic development as detailed in Chapter 5. In addition, as I explain later in this chapter, statute laws take precedence over local ordinances and community interests, limiting local governments' autonomy to implement their own visions about spatial plans. Given the importance of statute planning laws and state-led development projects in Japan, it is important to understand how actual statute planning laws have been formed and why a diversity of opinions have not been incorporated into legislation sufficiently in Japan.

The effect of one-party dominance in parliament

First of all, as explained in previous two chapters, Japan's post-war planning development has been conditioned by the long-term political structure of one-party dominance in parliament. The major supporters of the LDP have been big and small businesses and farmers so that the needs of urban dwellers tended to be weighed less in Japanese politics. In the period of rapid urbanisation, there were neither adequate housing policies nor planning policies that sufficiently dealt with the large influx of migration into metropolitan areas. The provision of housing was left almost completely to the market⁶⁰. There were no coordinated efforts to provide adequate infrastructures for these urban developments. As a result of the government's indifference to the provision of affordable housing, housing prices in Japan's metropolitan areas have been significantly high throughout post-war years. Also, the

⁶⁰ In 1998, rented public housing only accounted for 8 percent in the three largest metropolitan areas (Japan. Housing Policy Division of Housing Bureau of The Ministry of Land Infrastructure and Transport, 2003 :12)

quality of housing and urban environments is far below other OECD countries⁶¹. Regardless of the pressing urban problems, the government has been unsuccessful in enforcing laws to curb the freedom of land-use as the ruling LDP has relied on the votes of landowners of farmland and businesses in urban areas.

The reason why urban voters have not been able to influence urban policy-making is twofold. First, there has been an imbalance in the distribution of voting weights between the urban and rural electorate (Horiuchi and Saito 2003). Although there was substantial migration from rural to urban areas, the government has not made sufficient efforts to correct this imbalance. The use of the old distribution of voting weights means that the weight of urban votes is lower than their population share, which favours the rural population. Second, the central government mostly controls planning and housing policy under the influences of fierce lobbying activities from powerful interest groups (mainly business organisations and farmers' cooperatives). Therefore, it is almost impossible for urban dwellers to change unfavourable conditions without giving more planning powers to local governments. The present situation has acted as a strong obstacle to introduce new legislation that favours the urban electorate in parliament.

Weak civil society

In comparison to other advanced democracies, the role of civil society in planning legislation has been very limited in Japan (Cherry 1996; Hallett 1988; Pennington 2000). Although the concept of civil society is contestable (Hall 1995; Schwartz 2003; Taylor 1997), free associations consist of integral components of civil society

⁶¹ See chapter 1.

in Western liberal democracies. Civil society can also be seen as a part of the public sphere of a political community (Habermas 1997). In principle, civil society is considered to be autonomous from both the market and the state (Habermas 1997).

One can argue that many free associations have existed in post-war Japan. Indeed, some organisations, such as business associations, agricultural associations and trade unions, have been actively involved in politics and heavily influenced policy-making in Japan. However, these associations can be better described as ‘interest groups’ who try to persuade the state to enact certain legislation and policy in favour of their own economic interests (Park 2000). These resourceful associations in Japan are often identified as business interest groups such as *Nippon Keidanren* (Nippon Keizai Dantai Rengōkai, Japan Business Federation). These key interest groups are very different from the associations of ‘authentic’ civil society, which can be described as ‘self-organized, voluntary, democratically structured, tolerant, and civic-minded as well as autonomous from the state’ (Schwartz 2003:33). Therefore, although commercial and professional associations did play important roles concerning planning legislation in Japan (Hanayama 1986; Igarashi 2003b; Igarashi and Ogawa 1993; McCormack 2001; Samuels 1983), the role of ‘civil associations’⁶² has remained limited.

Another distinctive feature of civil associations in Japan is their close links to the state. Major civil associations in Japan, which were founded during pre-war times, have still maintained the characteristics of state-sponsored organisations. For

⁶² In his theory of social capital, Robert Putnam distinguishes between civil associations (networks of civil engagement which should be primary ‘horizontal’, and which members’ power and status are equal) and ‘vertical networks’ (which rely on patron-client relations). Putnam, Robert D. 1993. Social capital and institutional success. In *Making democracy work: civic traditions in modern Italy*, edited by R. D. Putnam, R. Leonardi and R. Nanetti. Princeton, N.J: Princeton University Press.

example, Agricultural Cooperatives (*Nōkyō*) and the Women's Christian Temperance Union (*Nihon Kirisutokyō Fujin Kyōfūkai*) were both mobilised to promote the government sponsored Local Improvement Movement⁶³ (*chihō kairyō undō*) between 1906 and 1918 (Garon 1994; Pyle 1973). Contemporary neighbourhood associations in Japan (*chōnai-kai*, *jichi-kai* or *tonari-gumi*) originated from the nation's total war era, when the Home Ministry ordered to create of new neighbourhood associations (Evans 2001; Garon 2003). These were to replace the old ones to strengthen war-dejected communities and mobilise them effectively for the war (Garon 2003).

In fact, the pre-war pattern of civil society development in Japan, in which the state shaped the goals and practices of civil organisations, seems to have remained in post-war years (Evans 2002; Garon 2003; Pekkanen 2003). Even consumer protest movements in the 1960s, though independently organised by associations such as *Shufu Rengōkai* (the Housewives' Federation), ended up cooperating fully with government and business representatives rather than campaigning for their goals (MacLachlan 2003). This cooperative and vertical relationship between the state and civil associations is also found in welfare provisions in pre-war and contemporary Japan (Estévez-Abe 2003; Garon 1997). This attitude seems to reflect state-society relationships in Japan. As I explained in Chapter 3, a word for 'society' did not exist in the early Meiji period and there is still a tendency to equate society to the state in contemporary Japan.

⁶³ The idea of the Garden City was introduced together with the Port Sunlight Village and Bournville development by the Home Ministry as a strategy to make this campaign successful. (Ishida 1987: 177-78)

The Japanese tend to connect their own identity to that of the state as well (Befu 1998; Iida 2002; Maruyama and Morris 1963; Stronach 1995). This is seen as an important reason why Japanese citizens were easily organised for the totalitarian regime and passionately supported economic nationalism in post-war years (Garon 1997; Iida 2002; Maruyama and Morris 1963; McVeigh 2004). The public sphere or democracy cannot be constructed without autonomous citizens whose identities are separated from the state. The underlying problem facing civil society in Japan is that the concept of citizenship, which can make civil society viable, has not been established among its citizens.

Although citizenship is a central element of democracy, there has been much confusion about the meaning of citizenship and civil society when these concepts were imported to Japan. The concept of citizenship is derived from the ancient Roman/Greek traditions of politics. In the European medieval age, it was understood to represent a contract between citizens and city-states (Riesenberg 1992). When the idea of civil society and citizenship attracted intellectual attention in the late twentieth century, it was discussed in relation to eighteenth century European bourgeoisie civil society where the liberal elite succeeded in eliminating the absolute power of monarchies and installed the nation-state through the parliament as an institution representing citizens' wills (Habermas 1987). From these ideas, some Japanese intellectuals have interpreted that citizens (*shimin*) are those who are willing to undertake duties and responsibilities for the nation-state in exchange for citizenship [rights] (*shiminken*) (Saeki 1997; Willis 2002; Yagi 2001). Thus, they claim that Japanese people who only assert their rights through citizens' movements

without serving to the state are 'private people'⁶⁴, not citizens (Hasegawa 2001; Saeki 1997; Yagi 2001).

As these Japanese academics believe, the concept of citizenship in Europe originally applied to a limited part of the population in society. However, this has changed. In contemporary democratic states, individual rights have always defined the idea of citizenship (McNeely 1998: 9). Japanese citizens are all entitled to civil, political and social citizenship under the 1946 Constitution. Nonetheless, because of the strong suppression of citizenship rights before 1945 and more invisible cultural oppression in the name of 'nationalism'⁶⁵ in post-war Japan, many Japanese citizens were prevented from having a strong sense of citizenship (Befu 1998; Garon 2003; McVeigh 2004; Stronach 1995; Wolferen 1988).

The role of the Japanese media

With regard to the public sphere, the media has played a central role in contemporary society to shape what the public interest entails. Compared to other advanced economies, Japan's news media is in fact highly developed and influential. The

⁶⁴ 'Private people' is also referred to as 'shimin'. In Japanese, the term citizens (shimin) are translated literally as 'city people'. Saeki (1997) criticises the contemporary notion of citizens in Japan as those who are opposed to state policies but ignorant to their responsibilities to the state.

⁶⁵ Saeki (1997) wrote Chapter 5 '*Sokoku no tameni shinu to iukoto* (death for the sake of the nation)' in his book '*Shimintowa Dareka* (Who are citizens?)' to explain that citizens [in the old Europe] are those who dare to die for the nation in case of war in return for citizenship. Saeki's disapproval of Japanese 'citizens' in the post-war period implicitly comes from the fact that the Japanese are exempted from this duty because of Japan's renunciation of war under the Constitution. A similar type of criticism to the notion of 'shimin' is reflected in the antagonism towards the three Japanese hostages captured in Iraq in April 2004. One was a freelance journalist and two of them were NGO activists (*shimin undōka*). These members of left-wing citizen movements are often referred to as 'pro[fe]ssional shimin' in contemporary Japan. Egged on by the conservative Japanese media coverage, the public gave them the cold shoulder on their return to Japan, believing that the government should not have been carrying the responsibility for their safety, as they stayed in Iraq despite the government's prohibition to travel there. McCurry, Justin. 2005. *Charity ends at home: the outpouring of compassion for the Japanese citizens captured in Iraq has ended abruptly following their release* [Tokyo dispatch]. Guardian News and Media Limited, 20 April 2004 [cited 22 June 2005]. Available from <http://www.guardian.co.uk/elsewhere/journalist/story/0,,1196028,00.html>.

circulation of newspapers per 1,000 persons reached 653.5 copies in 2002, in comparison with 402.4 copies in the U.K and 269.2 copies in the US (World Associations of Newspapers 2003). Also, the NHK (*Nihon Hōsō Kyōkai*, Japan Broadcasting Corporation), had a budget of 673.8 billion Yen for 2003/4 (Japan Broadcasting Corporation 2004), making it one of the largest public broadcasting systems in the world. Moreover, because the social contacts of average citizens are relatively limited to their community and work circles in Japan, people tend to rely on information provided by the media on how to behave in various social situations (Feldman 1993). In this context, with its sheer size and single official language, the Japanese media has an enormous influence in shaping public opinions and values.

Despite its potential to stimulate discussions on the public interest in state affairs, the Japanese media has not satisfactorily fulfilled this role as generally expected by the public in the modern state. Although the freedom of speech is fully guaranteed by the Constitution, the Japanese media still has a legacy of suppression from state-sponsorship, state control and self-censorship in pre-war time (Farley 1996) and during the US's occupation period (Dower 1999). Consequently, the mainstream news media tends to constrain itself to be non-partisan, impartial and neutral (Feldman 1993). In addition, they have not provided sufficient coverage of sensitive topics such as ultra right-wing activists, religions, the Imperial family and Japan's two million former outcasts called *burakumin*⁶⁶ (Farley 1996).

⁶⁶ *Burakumin* are Japan's social minority group who used to be engaged in 'dirty' works under the term of Buddhism and Shintō such as killing animals and making leather goods during the feudal period. Although they gained the legal citizenship status equal with other Japanese in 1871, discriminations towards them continued in modern Japan. Many of them still live in socially segregated neighbourhoods (*hisabetsu buraku*) and excluded from the mainstream society. Su-lan Reber, Emily A. 1999. Buraku Mondai in Japan: historical and modern perspectives and directions for the future. *Harvard Human Rights Journal* 12 (Spring):297-360.

This self-restraint of the media has been enhanced by the existence of press clubs which exclusively control news sources and the activities of journalists. These so-called 'information cartels' have severely crippled the role of the media as an integral part of the public sphere in post-war Japan (Freeman 2003). These cartels have forced journalists to rely on information provided by the state, thus weakening the media's political audit function, limiting its agenda-setting role, marginalising non-mainstream media and homogenising news and opinions (Freeman 2003). As a result, the Japanese media has received serious criticism for its lack of diversity in coverage, even masking the reality of Japanese politics (Farley 1996; Krauss 1996; Westney 1996).

Furthermore, with the growing commercialisation of the mass media in contemporary society, Japanese media's support for businesses and its narrow scope of coverage have sometimes led commentators to dismiss the possible negative impacts of development projects and new planning legislation on the quality of life of citizens (Groth 1996; Igarashi 2003b; Igarashi and Ogawa 1993). For example, very little attention was given to Prime Minister Koizumi's *Urban Renaissance Projects* (Japan. Urban Renaissance Headquarters 2002) after the collapse of the bubble economy, although the projects further undermined the development control of metropolitan areas (Igarashi 2003b). In consequence, Japanese media has unintentionally helped the establishment to exercise the third dimension of power, as Lukes describes as follows:

is it not the supreme and most insidious exercise of power to prevent people, to whatever degree, from having grievances by shaping their perceptions, cognitions and preference in such a way that they accept their role in the existing order of things, either because they can see or imagine no alternative to it, or because they see it as natural and

unchangeable, or because they value it as divinely ordained and beneficial (Lukes 1974:24)?

Considering the potentially significant influences of the media on agenda setting in politics, this relative indifference or bias of the Japanese press towards planning matters has weakened citizens' awareness concerning the public interest in planning policy-making.

Underdeveloped policy community

Corresponding to its environment of civil society, there is no Japanese equivalent to the open 'policy community' that exists in advanced Western democracies (Nakamura 2000). A policy community here means academics, the researchers of think tanks and NPOs who have capacities to conduct research and offer policy options to the public. In Nakamura's view,

in the interest of greater policy pluralism.....the promotion of more open and transparent policy debates with a diversity of actors, wider dissemination of policy information and establishment of higher education in policy research is essential to improve the current policy-making process in Japan (Nakamura 2000: 42).

As she points out, the majority of think tanks in Japan are private profit-making institutions, and are often subsidiaries of conglomerates that conduct contract-based research for the government. As a result, their research may suffer from problems of accountability and the disclosure of information (Nakamura 2000).

Similarly, academics in Japan have played a minor role in policy-making. There has been a long tradition of political neutrality (Nakayama 1984; Nakayama 1991), or even 'aloofness from vulgarity of the state affairs' (Tsurutani 1986: 103), among Japanese academics in their research topics. Consequently, virtually no academic institutions specialised in policy research until very recently. Likewise, planning

education in Japan has also offered little with regard to the analysis of planning law and public administration as explained in Chapter 3 (Masser and Yorisaki 1994: 118-122).

On the other hand, during the pre-war period, mainstream Japanese academics, in particular those who from the Department of Law of the University of Tokyo who were regarded as presenting authoritarian views about policy-making, enjoyed high social status (Barshay 1988; Marshall 1977; Pyle 1974). Their opinions were solely focused on national economic development, and thus contributed to exclude anti-nationalistic views (Barshay 1988; Marshall 1977; Pyle 1974). Their pre-eminence in Japan's policy-making is still visible from their presence in exclusive policy advisory councils (*shingikai*)⁶⁷. Combined with the lack of debates on planning policy in the press, the absence of an open policy community has further prevented the public interest from being democratically constructed in Japan's planning policy-making.

The dominance of central bureaucracy over policy-making

With weak civil society and the underdeveloped policy community, the bureaucracy (in particular the central bureaucracy) has dominated post-war planning policy-making process in Japan. As I explained earlier, the central bureaucracy has not been insulated from influences of politicians and strong interest groups. More accurately, central bureaucracy, MPs and strong interest groups have operated in a situation of co-dependency when it comes to planning policy-making. (Igarashi and Ogawa 1993; McCormack 2001; Woodall 1996). The central bureaucracy has

⁶⁷ These will be discussed in the following section.

performed a core function in the so-called ‘iron triangle’ of Japan’s policy-making, by controlling the legislation process from the drawing up of bills (Igarashi and Ogawa 1995; Pempel 1974) to guiding the outcomes of the reports from policy advisory councils (Noguchi 1993; Pempel 1974; Tsurutani 1986).

The function of policy advisory councils are said to exist to incorporate experts’ knowledge and the views of various interested parties into legislation *in the public interest*. There were 237 national policy advisory councils in 1975 although the number was dropped to 103 in 2004 after the Central Government Reform in 2001 (Japan. Gender Equality Bureau. The Cabinet Office 2004a). However, the bureaucracies’ exclusive choice of discussion topics (Noguchi 1993; Pempel 1974), the expected role of academics in policy-making (Noguchi 1993; Tsurutani 1986), the lack of independent research staffs of advisory councils (Pempel 1974) and the fact that the council members predominantly consist of (ex) bureaucrats (Pempel 1974) and business interests, all seem to distort this intended purpose of representing *the public interest*. In fact, specific interest groups which are likely to oppose the authority’s views have been mostly excluded from or underrepresented in policy advisory councils (Harari 1990: 145).

Particularly influential policy advisory councils in post-war Japan have been the Tax Commission (*Zeisei Chōsakai*) and the Economic Council (*Keizai Shingikai*)⁶⁸. The opinions of the members of these councils have been highly influential, because of their leading positions in the fields of business and academia. For example, the members of the last Economic Council in 2000 were dominated by the presidents of

⁶⁸ The Economic Council was dissolved after the Economic Planning Agency was dismantled following the Central Government Reform in 2001. The function of the Council was divided into a number of councils and then moved under the supervision of the Cabinet Office.

large companies such as *Toyota Motors*, *Hitachi*, *Ishikawajima Harima Heavy Industries*, *Fuji Xerox*, *Nippon Life Insurance*, *Nihon Keizai Shimbun* and *Nōrinchūkin Bank (Nōrin Chuō Kinko)*. These companies usually hold large parcels of land in major cities in Japan. The Tax Commission has produced many reports which have also been in favour of industries (Johnson 1990: 49). Following their recommendations, tax rates have been revised frequently in Japan. Although the proposals from these Councils can be challenged in parliament, it has been rare that their recommendations are overruled (Johnson 1990: 50).

Restrictions on local planning regulations

While the central bureaucracy has been in charge of the strong development-oriented planning policy, local governments has only weak authority in the enactment of local planning ordinances. Growing suburban areas have experienced financial difficulties for providing life and social infrastructures for new residential developments, as national planning laws do not include any form of development charges or planning gains for new developments. As I explain fully in Chapter 7, regardless of these flaws, local governments are not allowed to enforce stricter planning controls on developments by local ordinances.

Moreover, as for municipalities that contain natural or historical assets, there are problems when they wish to protect their special environmental qualities, as national planning laws have failed to include regulations on the control of landscape and visual amenities except for the four Japanese old cultural cities and areas where designated to protect townscape under the City Planning Act⁶⁹. Although local

⁶⁹ This changed in June 2004, when the Landscape Act (*Keikan Hō*) was promulgated.

governments are also not able to protect those local community interests as the public interest by local ordinances, local authorities cannot impose voluntary development agreements on developer either. Legal cases examined in Chapter 7 show that those informal planning controls exercised by local authorities were powerless when developers resisted such agreements in court.

Poor female representation in policy-making

The most significant obstacle to incorporate women's views in Japanese planning *in the public interest* is their low level of representation in its policy decision-making processes. The ratio of female parliament members in Japan (at the House of Representatives) in 2002 was a mere 7.3 percent, compared to Sweden's 45.3 percent and the UK's 17.9 percent (Japan. Gender Equality Bureau. The Cabinet Office 2004b: 1). Similarly, the participation of female members in local assemblies was also only 7 percent in 2002 (Japan. Gender Equality Bureau. The Cabinet Office 2004b). Women's participation in national policy advisory councils and committees has progressed under the government recommendation. From about 2 percent in 1974, the share of female members in these councils reached over 28 percent in 2004 (Japan. Gender Equality Bureau. The Cabinet Office 2004a: 2).

Despite the poor level of female representation in policy-making, women have generally shown more interest in politics compared to men in Japan. For instance, the voting rate among women has been higher than among men throughout post-war years (Japan. Gender Equality Bureau. The Cabinet Office 2003: 11). Furthermore, women in fact have been very enthusiastic in participating in the activities of non-profit organisations in post-war Japan (Habe 1998; Lam 1999; LeBlanc 1999; Yamamoto 2004). A couple of surveys conducted in the 1990s suggest that 70 to 80

percent of Japan's voluntary labour force is female (Habe 1998). Considering Japanese women's interest in public affairs, there seems to be significant institutional and cultural barriers for women to voice their opinions in politics in post-war Japan.

Another constraint to include the female view in planning is that women are still underrepresented in professions that can shape the vision of public policies. For instance, the number of female researchers in Japan is still small, as its ratio was 11.6 percent in 2004 (Japan. Ministry of Education Culture Sports Science and Technology 2005: 51). Moreover, the share of female national government employees of all public employees in Japan was about 20.2 percent 1999; in comparison, this figure was 49.1 percent in the UK and 53 percent in the Philippines (Japan. Gender Equality Bureau. The Cabinet Office 2003: 12).

A further striking example of the poor presence of women in policy-making is provided by the share of females in managerial positions in national government: in Japan, this percentage was meagre 1.4 percent in 1999, which differs greatly from the UK's 17.2 percent, the Philippines' 34.8 percent and Sweden's 51 percent (Japan. Gender Equality Bureau. The Cabinet Office 2003: 12). Females are also underrepresented at managerial posts in local governments, as the ratio of female executives was 4.5 percent in prefectural governments and 5.9 percent in cabinet-order designated cities (Japan. Gender Equality Bureau. The Cabinet Office 2003: 34). These statistics clearly show the under-representation of females at strategic levels of Japan's policy administrations, which indicates that female viewpoints will not be easily integrated into planning legislation.

6.2 Planning Administration and the Public Interest

This section explores constraints that have prevented citizens' opinions, in particular those of local residents, from being represented as the public interest in Japan's planning administration. Major limitations are the values of planning professionals, the relationship between the different tiers of governments, and planners' roles in Japan's planning governance. Most importantly, there is no mechanism to guarantee citizens' views being integrated into the implementation of proposed plans. The section explains why such problems arise.

The ethics of Japanese planners

Japanese planners, unlike in the Western planning model (Campbell and Marshall 2000; Thomas and Healey 1991; Wachs 1985), are not very much mindful of the public interest as a professional code. This seems related with an identity and roles as a planner in public administrations in Japan. There are three reasons for the relative weak position of planners in Japanese administrative bodies. Those factors appear to have resulted in the underdevelopment of professional ethics in planning. First, urban and regional planning has yet to be recognised as an independent policy science. There is still a strong tradition to see planning as a part of technology-based sciences, including civil engineering, architecture, landscape design and construction. A survey conducted by the City Planning Institute of Japan (CPIJ) in 2001 shows that the final degree of 78 percent of CPIJ's members falls in these 'technology' categories (Special Editorial Committee for 50th Anniversary Special Issue of City Planning Review 2001a: 146). Furthermore, although the graduates of 'urban or

social engineering' programmes at Japanese universities⁷⁰ comprise 11.5 percent of the CPIJ's ordinary members (Special Editorial Committee for 50th Anniversary Special Issue of City Planning Review 2001b: 146), those programmes have rarely addressed administrative issues in planning implementations or the ethics of planners (Masser and Yorisaki 1994: 118-122).

Second, the career path of planners at either the central or local government is ambiguous. The Japanese government generally hires planning technocrats for jobs which are specified for civil engineers or architects, not for planners. This can be seen from the finding that only 9 percent of recent planning graduates work for either the central or local governments, whereas 37 percent work in construction and real estate and further 12 percent in think tanks and consultancies (Special Editorial Committee for 50th Anniversary Special Issue of City Planning Review 2001b: 161). In essence, the survey illustrates that planning has not been identified as an independent policy area in Japan: instead, it is viewed as a by-product of carrying out construction and development projects.

Third, as discussed in Chapter 4 and 5, Japan's planning policy-making was propelled by MITI's economic development plans. The initiatives of ministries and public companies followed the grand design of national economic development. Considering the institutional settings surrounding planning, the role of planning and planners in Japan is very different from Western models. Japanese planning has a strong orientation towards the provision of physical infrastructures in support of economic growth rather than the control of land-use by planners of the public sector. In addition, the private sector, in particular construction and real estate firms, has a

⁷⁰ These programmes are equivalent to Western planning school programmes.

strong influence on Japanese planning policy, because their employees constitute core members of Japan's planning professional bodies. In this environment, it is difficult to develop a Western planning model, where planners would execute development control *in the public interest*.

The absence of local master plans

In addition to weak development controls in Japan's planning system, there was no mandated master planning system at the prefectural and municipal levels until recently. As a result, it was very difficult for the general public to know about future land-uses and what types of developments were planned in specific sites. Land-use planning maps simply display the boundaries of the City Planning Area, the UPAs, the UCAs and different zoning areas. As zoning control has not been sophisticated enough to fully control different land-uses in Japan⁷¹, any development was allowed, as long as it complied with zoning controls and the Building Standards Act.

Furthermore, the National Land Use Plan (*kokudo riyō keikaku*) only designates five types of land uses – urban use (city planning areas), agricultural promotion, forest, national parks and natural conservation areas, which are decided by individual ministers (Sorensen 2002). In the same manner, CNDPs and other Metropolitan Region Development Plans merely present guidelines where particular types of development should be carried out. In the absence of any master planning system up to 1992, there was no proper regional and urban planning system that stipulated land-use plans, but only state-led development plans were implemented without much consultation with local residents (Watanabe 1990). Ultimately, both the state and the

⁷¹ There were only eight zoning categories until 1992.

general public have long understood urban and regional planning as meaning 'development'. In this context, planning has existed in the sphere of the national interest. The major planning decisions are the responsibility of ministries, public companies and private-public partnership companies, and are far removed from local and community interests.

Restricted local planning autonomy

In addition to the subordination of local ordinances to national planning laws, local planning administration is tightly controlled by the central government as well. Local governments have little freedom in their local planning decisions, as they are expected to perform the tasks that are delegated by central bureaucracy⁷². Most planning decisions require the approval of governors and ministers (Igarashi and Ogawa 1993). Moreover, as explained in the section of the implementation of the 1968 City Planning Act, day-to-day operations of local planning decisions are strictly controlled by means of central government's ordinances⁷³ and ministerial circulars or communications (*tsūtatsu*). Although circulars are a very simple form of administrative guidance, they are powerful enough to change or distort the original intention of the laws (Pempel 1974). Local planning officers are obliged to adhere to the technical interpretations of planning laws endorsed by these additional directives.

Besides the ministries' quasi-legal controls of local planning practices, Japan's central bureaucracy is directly able to carry out planning development projects and interfere in local planning policy through two other ways. One is through local

⁷² These tasks are called *kikan inin jimū*.

⁷³ In Japan, ordinances are categorised into cabinet (*seirei*) and ministerial (*shōrei*). The ordinances are intended to give directions how to deal with non-political and technical matters of the implementation of laws (Pempel, 1974).

branch offices (*desaki kikan*) of the central government, and the other is through special public companies (*tokushu hōjin*), as mentioned before (Samuels 1983; Steiner 1965). The existence of local branch offices is the residue of Japan's pre-war local government system, when the Home Ministry controlled local governments through appointed governors at prefectural level (Steiner 1965). The functions of local government offices often overlap with the ones of prefectures, so that the continuation of the system has resulted in the obstruction of local autonomy (Steiner 1965). Special public companies, often established for infrastructure developments, even bypass the jurisdiction of local planning controls. Again, the creation of numerous special purpose public companies has led to further undermining of local planning power.

Insufficient local funding for planning

Financial controls by central government are also a barrier for local planning autonomy. Approximately 30 percent of Japan's local government revenue has come from local tax. In 2002, local government tax and user fees for government facilities consisted of 34.4 percent and 16.3 percent of the local government revenue respectively (Japan. Ministry of Internal Affairs and Communications 2004a). Local bond and subsidies made up of the rest of the local government revenue (14.5 percent and 24.7 percent correspondingly); however their use is tightly controlled by central government (Japan. Ministry of Internal Affairs and Communications 2004a).

Subsidies (*hojokin*) to local governments can broadly be divided into two categories. The general local allocation tax (*chihō kōfu zei*) is allocated according to basic local needs and its distribution is linked with major national taxes. Therefore, there is no further control from the central government for its use (Steiner 1965). In contrast,

specific subsidies (*tokutei hojokin*) and the national treasury disbursements (*kokko shishutsukin*) are allocated to local governments to complete specific project in either the joint interest of local and national governments or only in the national interest (Steiner 1965: 284). For the fiscal year of 2002, 16.1 percent of prefectural government revenues in Japan came from the national treasury disbursements (Japan. Ministry of Internal Affairs and Communications 2004b: 5).

Japanese central government can exert a great influence on local planning matters through those specific subsidies. In fact, nearly 40 percent of the specific subsidies were allocated for physical infrastructure building projects, so called *kōkyō jigyō* (direct translation is public works) until recently. For a long time, special subsidies allocated to local governments for the construction of infrastructures were larger than subsidies for welfare benefits or for compulsory education. Although this has changed somewhat in recent years, infrastructure still represents a large share (31.9 percent in 2002) of total local government special subsidies (Japan. Ministry of Internal Affairs and Communications 2004a: 466).

The shortage of knowledge in local planning authorities

The lack of planning knowledge in local governments hinders local planning autonomy in Japan. It is widely accepted that since the TCRO in 1888, Japan's planning system has been shaped through the successive importation of Western planning techniques and ideas (Seta 2003; Watanabe 2003). Benefiting from elite-centred training programmes since Meiji era, central bureaucrats have developed professional knowledge in public administration and gave guidance to local civil servants (Burks 1985; Japan. National Personnel Authority 2003). While Japanese planning schools rarely offer courses about public management, central bureaucrats

have had more opportunities to gain advanced knowledge of public administration by studying at international graduate schools and participating in internship programmes at Western government bodies and international organisations⁷⁴.

Japan's central bureaucrats, business elites who work for profit-making think tanks and developers have continuously imported advanced planning techniques from the West. Britain's Garden Cities, New Towns, Enterprise Zones, Private Finance Initiatives (PFIs) and the US's transfer of development right (TDR) were all introduced to Japan and integrated into its planning system in certain forms, which were not necessarily the same as the original ones. These planning innovations have been handed down to local governments from the ministries through new legislation. Consequently, planners working in local government often end up merely executing these new planning techniques, under tight specifications laid down by the ministries through new laws.

In addition to the fact that the central ministries derive power from their supervising position, they can also influence local planning policy through the transfer of personnel. There is an established system in Japan in which elite central bureaucrats occupy some important posts in local governments for some years during their career paths. This exercise reinforces the vertical relationship between central and local governments and encourages local civil servants to seek advice from upper tiers of governments (Samuels 1983; Steiner 1965).

⁷⁴ Since the Meiji Restoration, Japan's elite bureaucrats have been sent to abroad to study advanced Western science and technology. This tradition has continued as the Japanese central government has established various training programme abroad for its career bureaucrats. For example, from 1966 to 2002, 1,658 bureaucrats studied in graduate schools in the USA (1,208) England (230), and other Western countries (Japan. National Personnel Authority 2004) while this type of training is not usually available to local government workers in Japan.

Moreover, it appears that the training and career path of planners in Japan is flawed: local governments are short of adequate human resources - planning professionals. One of the findings from the 2001 CPIJ survey mentioned earlier is that local government employees account for only 13.4 percent of ordinary members of the CPIJ (Special Editorial Committee for 50th Anniversary Special Issue of City Planning Review 2001a: 57). In comparison, local government employees consist of 65 percent of the corporate membership of the Britain's Royal Town Planning Institute (RTPI) in 1988 (Masser and Yorisaki 1994: 116)⁷⁵. In contrast to the weak representation of local planning officers in the CPIJ, the same 2001 CPIJ survey shows that 41.6 percent of the members of the CPIJ work in the private sector as planning consultant or developers (Special Editorial Committee for 50th Anniversary Special Issue of City Planning Review 2001a: 57). Furthermore, the survey also indicates that 57 percent of the members live in the Greater Tokyo region (ibid). These figures imply that local governments often have to rely on Tokyo-based private firms for planning policy-making, research and practices. Those profiles of Japanese planning professionals also reflect that burgeoning urban developments and regeneration in the 1960s and 1970s created a demand for planning consultants in the private sector (Ishida 1987a). However, such outsourcing of planning functions by local authorities limits the capacity of local initiatives and compromises accountability to local citizens in Japan.

⁷⁵ Although this finding is for the 1980s, the situation is likely to remain more or less the same due to the fact that local authorities still dominated 80 percent of planning posts being offered in 2000-2002 in the recent survey of the RTPI. The Royal Town Planning Institute. 2001. Report on questionnaire survey of RTPI new members - January 2000 to January 2001. London: The Royal Town Planning Institute.

Limited public participation in planning

There have been few opportunities for the public to participate in Japan's planning policy-making. First, there is still significant lack of transparency in planning processes, although the recent introduction of the master-planning system at the municipal level in 1993 and at the prefectural level in 2001, as well as the enforcement of the Law on Access to Information Held by Administrative Organs in 2001, has enhanced accessibility to planning decision-making. Before the enactment of the information disclosure law at the national level, the right to the access to information held by local authorities was only secured by local government ordinances. The first information disclosure ordinance in Japan was enacted in 1982. Subsequently, the majority of local government bodies enacted similar ordinances within the following twenty years (Miki 2001). However, despite these recent developments in information disclosure, there have been still considerable limitations for citizens to access government information in the past (See Chapter 7).

Limited accessibility to local government information lies in the procedures of these ordinances. Local authorities have often rejected requests from citizens for information disclosure about development projects, reasoning that business confidentiality (of developers and construction companies) needed to be protected or that plans were still in a process of decision-making (Matsui 1996). Until very recently, the minutes of the City Planning Councils (*toshi keikaku shingikai*) who authorise final city planning decisions have often been inaccessible to the public (Igarashi 1980; Matsui 1996). The meetings of City Planning Councils were also in principle held behind closed doors because authorities claimed that disclosure would prevent Council members from free discussion (*ibid*). As the descriptions of the

restrictions to information disclosure under the Law Concerning Access to Information Held by Administrative Organs are similar to these information disclosure ordinances, there have been concerns that the new national law would not change the current level of transparency of planning decisions in Japan.

Second, although recent government policy seems to encourage public participation in planning⁷⁶, current practices would need an adequate system to integrate public opinions into final planning decision-making. After the enactment of the 1968 City Planning Act, at least the public has been given opportunities to express its opinions on final draft plans, during a two-week public inspection period. However, as also mentioned in Chapter 5, there are mainly three problems with public participation in planning, as identified by recent research by the Policy Research Institute for Land, Infrastructure and Transport as follows (Yori and Shibata 2003: 37-41):

1. The role of local assemblies in plan preparation is not stipulated in the City Planning Act
2. Holding public hearings in plan preparation is not prescribed by the Act, and the timing of hearings is often set too late to allow for public involvements
3. The act does not stipulate how public opinions should be included into final plans

These limitations have made the impacts of public participation on final plans uncertain.

Third, the current mainstream format of citizen participation in planning, which is endorsed by the state as a model of community planning, would also need substantial adjustments to include broader views of residents. A community planning idea,

⁷⁶ Communication No. 94 (25 June, 1993) issued by Director of the Urban Bureau of The Ministry of Construction 'About basic principles of local planning' (*Shi-Chō-Son no Toshi Keikaku ni kansuru Kihon Hōshin ni tuite*) encourages municipalities to fully inform residents of future plans and ask their opinions on local plans.

which is often referred to as '*machi-zukuri* (literally, town making)', became popular among planners following the rise of citizens' movements in the late 1960s. It is considered to be based on citizens' initiatives to improve environment, local economies and social welfare, as some inner-city communities suffer from pollution, loss of business vitality or rapid changes in population. (Sorensen 2002). However, despite the positive image attached to *machi-zukuri*, there is another type of *machi-zukuri* format which is not necessarily based on active community initiatives (Evans 2002).

Since the introduction of the district plan system (*chiku keikaku*) in 1980 that was designed to promote redevelopment in inner-city areas (Evans 2002; Sorensen 2002: 308-9), the Ministry has actively authorized 'official' *machi-zukuri* bodies, called '*machi-zukuri kyōgikai* (community planning council)'. The government also used this format to reconstruct the communities which were severely damaged after the 1995 Hanshin Awaji Earthquake (Evans 2002). In many localities in Japan, citizen participation or alternative plan proposals to local planning authorities are only accepted through these official *machi-zukuri kyōgikai*⁷⁷.

However, these *machi-zukuri kyōgikai*, which are often based on 'authorised' neighbourhood associations, have not been fully as autonomous and democratic as they purported to be (Evans 2001; Garon 2003; Pyle 1971; Pyle 1973). Much in the similar way as the neighbourhood associations in pre-war times (see Chapter 3), official *machi-zukuri kyōgikai* are sometimes expected to act as if they were part of the state organisations. Following the public recognition of the power of the

⁷⁷ The government introduced the system which allows developers, NPOs and those who have the right to hold large tracts of land to propose development plans to local authorities by the amendment of the City Planning Act in 2002.

voluntary sector in the aftermath of the 1995 Hanshin Awaji Earthquake (Imada 2002), now *machi-zukuri* is widely praised and encouraged as a formula to promote citizen-based democratic community building (Hayashi and Itō 2000; Nakazawa 2003; Ueno 1995). However, immediately after the 1995 Hanshin Awaji Earthquake, the Kobe City Council set up *an official machi-zukuri kyōgikai*, in order to *counter* an alternative reconstruction plan which was proposed by autonomous resident associations in the heavily damaged *Rokkōmichi* district (Evans 2002).

Therefore, there is a caveat to a *machi-zukuri* strategy which becomes clear when one considers what ‘consensus’ has meant in Japan’s history. In the past, the Japanese elite cultivated the idea of seeing organisations, communities and even the nation as if it were a family, in order to suppress opposition to them (Garon 1997; Gluck 1985; Maruyama and Morris 1963). Within a family there should be no conflict, as every member has to obey the patriarch (Eisenstadt and Ben-Ari 1990; Upham 1987). The same rhetoric has been widely used in Japan to manage conflicts in industrial relations (Shalev 1990). If the government encourages public participation in planning without giving enough opportunities to citizens to come up with alternative proposals and express disagreement, public participation is simply reduced to a way for the government to claim that a decision is based on *a consensus*, even though the government covertly orchestrated an agreement by manipulating citizens to obey the hierarchy (or even by tacit intimidation) in the name of social harmony. Thus, the current format of *machi-zukuri* needs to be carefully assessed for its efficacy as democratic citizen participation.

The role of the City Planning Council

Finally, the role and purpose of the City Planning Council seems to be another impediment to incorporating the public interest in Japanese planning policy. As explained before, the role of local assemblies has not been stipulated by means of law. Instead, the City Planning Council, organised at the prefectural level, authorises planning decisions. With the amendment of the City Planning Act in 2000, municipalities are now able to set up their own City Planning Council. However, there are two problems associated with the authorisations of planning decisions given by the City Planning Council.

The first issue is the accountability of its members to local citizens. Japan's City Planning Council system originates from the enactment of the 1888 TCRO to carry out a road improvement project in Tokyo in the name of the local governor under the supervision of the Home Ministry (Igarashi 1980). The committee was set up and its committee members were appointed and directed by the Home Minister (Igarashi 1980). The format of the City Planning Council at prefectural level succeeded this arrangement. Until 2000, it was under the supervision of a governor, and the members were elected by the prefectural government. Under the new rule, the City Planning Council at the municipality level now only needs an approval of prefectures. However, it does not have to include representatives of residents. According to research conducted by the CPIJ in 2003, out of 246 municipalities questioned, 144 municipalities appointed residents to the City Planning Council (Study Group for the City Planning Council. The City Planning Institute of Japan. Kyūshū Branch 2004). Even so, the number of residents only ranged between one to four persons per council (ibid).

Second, there is a problem of transparency in its decision-making process. Since the 1995 Supreme Court judgement on information disclosure of the construction of *Aigawa Dam*⁷⁸ and the enactment of the national information disclosure law in 2001, the minutes of the council meetings are more open to the public than in previous periods. However, prior to this Supreme Court judgment, the court mostly dismissed requests for disclosure of council meeting minutes. Furthermore, the CPIJ's research also demonstrates that the level of information disclosure of the City Planning Council has remained insufficient. Only 6 percent of the municipalities answered that they published the minutes of the City Council meetings in print or on their web sites, further 54 percent would release the minutes only upon request (Study Group for the City Planning Council. The City Planning Institute of Japan. Kyūshū Branch 2004: 23-24). Furthermore, more than 28 percent of municipalities did not disclose the list of Council members (ibid: 22). Even the municipalities which would release the list of the Planning Council members take an action only on demand (57.7 percent) or following formal application using the information disclosure law (46.5 percent) (ibid). Because of this confidentiality and the selection of its members, there is no guarantee that City Planning Councils would check the legitimacy of planning decisions as an independent party *in the public interest*.

6.3 The Court and the Public Interest in Planning

In the West, the creation of planning laws and the development of planning administration increased the power of public authorities. Simultaneously, the exercise of planning power has increasingly become challenged by citizens - by means of public inquiries and judicial review – to assess whether government

⁷⁸ Judgment at the First Petty Bench of the Supreme Court on 27 April (Matsui 1996).

decisions comply with the public interest. By citizens' challenges to government decisions, the concept of the public interest has been continuously redefined and thus has had impacts on planning policy development in the West (Cullingworth and Nadin 2000; Haar 1959; Purdue 1999). In Japan, judicial review plays a particularly important role in this respect, as there are no other opportunities for citizens to challenge formally the legitimacy of proposed plans. However, despite its significance, the judicial review system has not influenced the existing discourse of Japanese planning. This section explains the reasons for its ineffectiveness.

6.3.1 The Judicial Review System and the Public Interest

The growth of the judicial review system in democracies

Initially, in the U.K., the 1947 Town and Country Planning Act only gave statutory rights to applicants of planning permissions to contest decisions of planning authorities. However, third parties are now able to challenge the legality of planning decisions in court by means of an application for judicial review (JAR) which assesses whether the government's practice fully satisfies (intended) statutory obligations (Purdue 1999). Later on, the statutory basis for the right to challenge planning decisions by means of judicial review was secured by Section 31 of the Supreme Court Act in 1981 in the U.K. (Purdue 1999). Judicial review in democracies has grown in the second half of the twentieth century, as it has worked as an audit of the democratic procedures of public administrations, and thus has contributed to increase the accountability of governments' actions to citizens (Ginsburg 2003; Scheltema 1997). Planning is one of public policies to be contested whether the exercises of authorities are fully *in the public interest* as required in liberal democracies.

Underdevelopment of the Japanese judicial review system

In Japan, although a judicial review system has existed since the introduction of the administrative litigation system in 1890 (Zhang 1997), it has contributed little to the re-examination of the exercise of the power of authorities until today. First, Japan's judicial review system has remained inactive compared to other democracies, as there have been few administrative litigation cases. For instance, in 1999 the number of newly filed administrative litigations cases⁷⁹ submitted to Administrative Courts in Germany and France amounted to 190,946 and 120,567 respectively (Supreme Court of Japan 2002). In contrast, the number of new administrative litigation cases filed in Japanese District Courts and High Courts in 2000 only came to 2,014 (ibid). Although the number of administrative cases has gradually increased over the last fifteen years, the paucity of administrative litigation in Japan contrasts starkly with other advanced democracies.

Second, in addition to the paucity of administrative litigation, there is a slim chance for plaintiffs to win cases against the government. In 2000, the number of judgments in which plaintiffs won or partly won at the High Court or District Courts was 338, out of a total of 1,500 administrative litigation cases (ibid). However, looking only at non-tax-related cases, the government won 93 percent of all administrative litigation cases in 1993 (Ramseyer and Rasmusen 2003: 83). With very few litigation cases and a slight chance for plaintiffs to be successful, Japanese authorities have held significant power over implementing policy which could be disadvantageous for certain groups of people (Kobayakawa 1997). As a result, the

⁷⁹ Unlike the U.K. and the U.S.A, the legal system of Japan, Germany and France does not require an application of judicial review (JAR).

judicial review system has hardly affected the discourse on the public interest in Japanese planning even in post-war years.

6.3.2 The Paucity of Administrative Litigation in Japan

There are several reasons why the number of administrative litigation cases has been very small in Japan. This section will examine a couple of reasons why this is so.

Legal culture

First of all, some claim that it is a matter of culture: Japanese citizens avoid litigation. An extreme view of this model is that the prevention of conflicts and the construction of consensus within 'traditional communities' has been very important in Japan, so that citizens are likely to consider litigation only as a last resort for conflict resolution (Kawashima 1963). This 'nonlitigiousness' of the Japanese is often cited as a reason for the efficiency of the economy, in comparison to the 'litigious' American society (Kagan 2001; Lohr 1982).

However, there is also the recognition that it may reflect Japan's intangible social control system which intends to preserve the vertical social order which originated in the feudal era (Haley 1992; Kawashima 1963; Upham 1987). Extending this line of thought, some argue that the modern state of Japan continues to govern society by purporting consensus among interested parties, within the framework of the authoritarian state (Haley 1992; Shalev 1990; Upham 1987; Vlastos 1998; Wolferen 1988). This has led to the creation of legal culture that even the most serious pollution victims of *Minamata Disease* felt ashamed of claiming their damage as they believed that their demands would destroy social harmony within the community or the nation (George 2001; Upham 1987). In fact, there was hostility

from the community towards the victims of *Minamata* (who were mostly poor fishermen's families), as many community members worked for the polluter's factory (George 2001; Upham 1987). As many other victims of pollution and unsafe medicines experienced the same stigma, Japan's legal culture has significantly contributed to the paucity of litigation.

Limited capacity of legal institutions

Another explanation for the Japanese 'nonlitigiousness' points to the institutional capacity of the legal system. While some claim that there is an institutional arrangement and social capital to settle disputes outside of court in Japan (Kawashima 1963; West 2002), there is a problem of accessibility to the overall judicial system. Japan's total number of legal professionals is still quite small for an advanced economy. In 1997, there were approximately 6,300 persons per legal professional in Japan. This contrasts strongly with approximately 290 in the United States, 710 in Britain and 740 in Germany (Japan. The Justice System Reform Council 2001). Furthermore, it must be noted that Japanese judges prefer conciliation to litigation, so that they often recommend extra-judicial review of reconciliation to litigants (Kawashima 1963). Therefore, it can be said that the supply of litigation services is insufficient in contemporary Japan.

Prolonged judicial review settlement

The shortage of lawyers, in particular those specialised in judicial review, and the absence of specific rules on the time span for judicial review, means that lawsuit proceedings of administrative cases tend to prolong to such an extent that citizens tend to avoid judicial review further. For example, in 1993, while 53 percent of all

judicial review cases of the first instance in the district courts concluded within a year, more than 11 percent of the cases took longer than three years to reach a ruling (Supreme Court of Japan 2003a). Moreover, 23 percent of the cases that failed to receive a judgement within the year were withdrawn by the plaintiffs subsequently (ibid). It takes much longer for a case to be appealed to the Supreme Court. During 2003, while 413 judicial review cases were settled in the Supreme Court, only 16 cases (3.8 percent) reach conclusion within a year from their filing to the District Court as the first instance (Supreme Court of Japan 2003b). 56.7 percent of the judicial review cases settled in the Supreme Court in 2003 took more than three years to finalise, and 19.1 percent needed more than seven years (ibid).

Accessibility to the judicial review system

Although the culture and the institutional capacity of the legal system offer good explanations for the paucity of administrative litigation in Japan, they do not fully account for the reality of its judicial review system. While the number of newly accepted judicial review cases in Japan has been around 1,000 cases each year from 1951 to up to the mid 1990s, more cases were filed in the immediate post-war years (around 2,500 cases) and certain years of the late 1960s and the 1970s during the peak of citizens' movements (Supreme Court of Japan 2002). On the contrary, the whole number of civil suits accepted in 2003 came to 1,351,510 cases, almost 400 times more than judicial review cases (Supreme Court of Japan 2003c). Therefore, although Japan's legal culture and its institutional capacity contributes to the paucity of judicial review cases, there can also be other factors that discourage judicial review in Japan.

The problems related with Japan's judicial review system have been articulated by the Consultation Group on Administrative Litigation of the Justice System Reform Council which was set up by the Koizumi Cabinet in 1999. According to the minutes of the meetings of the Consultation Group on Administrative Litigation, there are inherent problems with both the Administrative Case Litigation Law and the Administrative Litigation Procedure Act (ALPA). Central issues are classified in *Recommendations of the Justice System Reform Council – for a justice system to support Japan in the 21st century* as follows (Japan. The Justice System Reform Council 2001):

- Existence of reviewable administrative action
- Predominant status of administrative agencies over the court
- Unclear definition of exercises of authoritative power
- Strict legal standing
- Insufficient remedies against an unlawful/illegal administrative action
- Time limitation on filing suits

As will be further explained later, these defects are all detrimental to citizens seeking to challenge planning decisions.

6.3.3 Planning and Access to the Judicial Review System

This section details the central defects of the ALPA in planning litigation for Japanese citizens. As explained below, the major problem is related to various restrictions on the use of the judicial review system in planning litigation in Japan.

Narrow interpretation of reviewable administrative actions

An impediment in using the system can be referred to as ‘the ripeness of the cases’ (*soshō no seijukusei*), which is an important requirement for a plaintiff to bring any case before the court. It is especially a problem when a member of the public is disputing a planning decision, as the Japanese court’s current interpretation of ALPA is that a planning decision is not yet an administrative action. Its principle is that, unless an administrative action does not affect citizen’s rights and interests, a legal challenge against the authority’s action is invalid. Therefore, although the decisions of administrative bodies are likely to cause damage to citizen’s rights and interests after the decisions are duly exercised, the court cannot quash the (unlawful or illegal) administrative decisions, until actual effects on citizens’ legal right and interest are incurred.

For example, the Supreme Court dismissed the appeal by a group of citizens demanding the annulment of the building plan for a waste incineration facility in Tokushima City on the basis that the plan was not in compliance with Article 6 of the Cleaning Act⁸⁰. The judiciary argued that the bill for the ordinance of the construction plan of the waste incineration facility which was submitted to the local assembly did not yet constitute ‘an exercise of authoritative public power’; therefore, the act remained an internal procedure within an administrative body. The court explained why (unlawful) administrative decisions were not immediately quashed as follows:

An administrative agency’s action is based on laws whose purpose is to maintain and promote the public welfare. These actions are done by

⁸⁰ 1962b. Judgement upon the request of the annulment of the ordinance for the construction of the waste incineration facility. In *Minshū*: Supreme Court of Japan, the First Petty Bench.

legitimate administrative agencies for the matters deeply related with the public interest. Accordingly, although there is a need to execute such administrative actions effectively and efficiently, on the other hand to give remedies to citizens whose rights and interests are violated by the administrative actions, considering such special effects of administrative actions, even if they are illegal, administrative actions are presumed to be legally effective until they are revoked by legitimate administrative bodies who hold the rights to do so. The remedies for citizens whose rights and interests are injured by administrative actions will be given based on a specific stipulation not by a civil suit⁸¹.

The court has traditionally used this strict principle in most of its decisions on planning matters such as land-use zoning changes⁸², the basic plan for building a New Industrial City⁸³ and urban redevelopment projects⁸⁴.

Dominant status of administrative agencies over the court and citizens

The advantageous position of the Japanese authority against plaintiffs in the judicial review system has been the rule for a long time. The Justice System Reform Council describes it in their recommendation as follows:

As a problem inherent in the current system of administrative litigation procedures, administrative agencies are granted a predominant status (in the form of judicial non-intervention into political judgments, respect of administrative agencies' primary judgment, the central role given to revocation suits, etc.), based on trust in administrative agencies and recognition of the limits of judicial power, and, as a consequence, [*kōkoku*] appeal does not fully perform its originally intended function (Japan. The Justice System Reform Council 2001: Ch. 2, Part 9).

This strong status of Japan's public administration against citizens' legal challenge in court considerably undermined the principle of the rule of law which is stipulated by the 1946 Constitution. While Japan's Constitution lays down the high ideal of liberal

⁸¹ Ibid.

⁸² 1978b. Judgement upon the annulment of the designation of the zoning areas of Morioka City Plan. In *Minshū*: The Supreme Court of Japan, the First Petty Branch.

⁸³ 1977b. Judgement upon the request for the cancellation of the basic plan of the number eight district of Ohita New Industrial City. In *Gyōshū*: Ohita District Court, Japan.

⁸⁴ 1962a. Judgement upon the request for the annulment of the land readjustment plan. In *Minshū*: The Supreme Court of Japan, Grand Bench.

democracy, subordinating the role of the judiciary to the public administration has made redressing the governments' actions extremely difficult. This flawed interpretation of the relationship between the executive government and laws has undercut Japan's post-war justice system.

Furthermore, although often planning decisions cannot be the subject of legal challenges for its *maturity*, even after illegal administrative actions were duly exercised, the action cannot be revoked, because the court claims that it could have been cancelled at the stage of planning. For example, there is a case where an affected citizen challenged the development permission for a golf ground on the basis that it had faults in the procedure of its development permission process, including the failure not to comply with local planning agreements, the Forest Act and the National Land Use Act⁸⁵. As previously ruled at the Supreme Court⁸⁶, the court dismissed the challenge, reasoning that the plaintiff had lost legal standing after the completion of the golf ground. The court explained that the permission was simply the procedure whether the development complied with relevant laws and orders. Although the public administration wrongly issued the development permission for unlawful development, the court claimed that the permission's legal effect disappeared after the completion of the planned development. The court ruled that even if the development permission was an error, the Construction Minister or a governor could have issued an order to rectify the unlawful actions of the developer. In addition, the court also declared that even if the development permission would be

⁸⁵ 1990. Judgement upon the request for the cancellation of the development permission for a golf ground. In *Gyōshū*: Gifu District Court, Japan.

⁸⁶ 1991. Judgement upon the request for the cancellation of the development permission after the development was completed. In *Minshū*: The Supreme Court of Japan.

annulled, the law does not oblige government to issue such an order correcting the errors of the initial development permission.

Moreover, the Japanese court has traditionally rejected the right of neighbours (the third party right), which could be affected by authorised development permissions. Neighbours are generally not allowed to challenge planning permissions on the grounds that either planning decisions are not 'mature' enough to infringe their legally protected rights and interests, or neighbours do not have legal standing or sufficient interests to sue. During Japan's era of environment movements in the 1960s and the 1970s, certain environmental rights had become secured as personal rights in court mainly through civil suits. Environmental rights against nuisances such as noise, vibration, odours, the blockage of sunlight and views, ventilation, air and water pollution gradually became legally protected to a certain extent as a result of prolonged campaigns and legal challenges. The right to sunshine or day lighting (*nisshōken*)⁸⁷ is one of the most successful achievements won by environmental litigation in post-war Japan (Igarashi 1980; Sawai and Shiomi 1972). Nonetheless, when a developer is the state or a state agency, or when a plan is already authorised by the state, it remains difficult for citizens to challenge these plans, because of special privileges given to Japan's administrative agencies over citizens as stipulated in ALPA.

In the case of the Tokushima City waste incineration site, the neighbours argued that the Tokushima City Council had not conducted an environmental impact assessment, failed to consider alternative locations and did not consult with the residents,

⁸⁷ Because of Japan's weak planning controls, it is very common that high-rise buildings and low-rise residences existed side by side. The condition caused that newly erected high-rise buildings blocked sunlight towards low-rise residences. Many city residents complained about the situation after many high-rise buildings were constructed in low-rise residential areas since the early 1960s.

although the facility was likely to cause various pollutions in the neighbourhood⁸⁸. The court ruled that even though the facility would cause damage to the neighbourhood, the City Council was not obliged to comply with the desirable preceding procedures (environment impact assessment and consultation with the residents), as there was no legal enforcement stipulated by laws related to the development⁸⁹. The court concluded that, in the absence of prescribed procedures, the erection of the facility was not illegal, although the City Council was blamed for not dealing with such problems beforehand. As a consequence of such reasoning, development permissions are seldom repealed in Japan, even in the case where a development plan has serious defects⁹⁰.

Unclear definition of the exercise of authoritative power

Although the exercise of authoritative power is technically and theoretically defined in ALPA, it is unclear what exactly constitutes an exercise of authoritative power in Japan's litigation. While a quasi-legislative act like planning is often excluded from legal challenges based on the rigid understanding of the legal effects of authoritative power, its definition can be problematical when a quasi-governmental agency carries out planning-related projects. For example, the Supreme Court overturned the ruling of the Osaka High Court in the Osaka International Airport noise pollution case⁹¹, in which the High Court had acknowledged the private management of the airport

⁸⁸ 1977a. Judgement upon the case of Tokushima City waste incineration site. In *Shōmu Geppō*: Takamatsu High Court, Japan.

⁸⁹ Environmental Impact Assessment Law was enforced in 1999 in Japan.

⁹⁰ The court did not annul the unlawful development permission to the developer who did not provide adequate roads required by the City Planning Act upon the request of neighbouring residents. 1999. Judgement upon the request for the cancellation of the development permission when the development does not comply with the City Planning Act. In *Gyōshū*: Yokohama District Court, Japan.

⁹¹ 1981b. Judgement upon the injunction of night flights at Osaka International Airport. In *Minshū*: The Supreme Court of Japan, Grand Bench.

facility (see more details in Chapter 7)⁹². The private management of the airport meant that the plaintiffs could stop the flights during the night (from 21:00 to 7:00) and would have the right to sue for future damages through a civil suit. The Supreme Court concluded however that the public airport's operation in its entirety was an activity which constituted an exercise of the authoritative power. This meant that the management of the airport could not be challenged independently by a civil suit. The plaintiffs' request was dismissed on the ground that the airport's operation for public use could only be disputed by judicial review in the Supreme Court.

In contrast to the Osaka International Airport case, in the litigation of noise pollution and vibration from the Nagoya Bullet Train (*shinkansen*), the court argued that the powers of the Transport Ministry and Japan National Railway (JNR, a public company at the time of the suit) over the operation of the national railway network could be separated⁹³. Nevertheless, although the court accepted that the plaintiffs could dispute the operation of the national rail in a civil suit, the court rejected the injunction demand because the operation of bullet trains as fast and safe transport is 'highly in the public interest'. As seen here, the procedures of ALPA worked against citizens that challenged development plans or the operations of public transports, since those rulings required the plaintiffs to know beforehand whether operations of [quasi-] public companies could be named as 'an exercise of authoritative power'. Since more privatisation schemes of public utilities and facilities have progressed nowadays in Japan, it could be very unfair for the court to dismiss a plaintiff for not 'choosing' the correct form of suit.

⁹² Before this Supreme Court's judgement, the court had argued that the operation of a public airport could be separated between the management of airport facilities under the control of civil law and the public administration of aviation under the jurisdiction of public law.

⁹³ 1980. Nagoya bullet trains' noise and vibration pollution case. In *Hanrei Jihō*: Nagoya High Court, Japan.

Legal standing

The most serious obstacle to the public to use judicial review in Japan is that both ALPA and the court employ a strict definition of legal standing to sue (sufficient interest). As explained so far, Japan's planning controls are weak despite its intense urbanisation, which means that there have been many instances where new developments are likely to be detrimental to the environment. Furthermore, as Japan's planning system still lacks transparency and opportunities for citizens to object plans at the stage of public inquiries, there have been various cases where many residents, interest groups and the users of public facilities opposed final plans in court. However, the court has traditionally held the opinion that a legal right means the right protected by the stipulation under laws. The principle has led to the situation that third party rights in planning are denied.

While the court has recently relaxed these strict conditions of legal standing, the situation in Japan remains far different from the expansion of third party interests in planning of Western democracies (Barclay 2002; Deimann and Dyssli 1995; Purdue 1999). The underlying notion of this rigidity is the domination of the public sphere by the state and its bureaucracy in Japan, in which only state institutions are able to protect and promote the public interest against (selfish) private interests⁹⁴. Therefore, even if there have been serious errors in state agencies' actions in relation to *the public interest*, and even 'injury in fact (occurred)' to the right of citizens, plaintiffs' challenges to the state have often been dismissed in court, on the basis that they did not fulfil 'sufficient interests for remedies' (See more detail in Chapter 7).

⁹⁴ This idea will be examined in Chapter 7 by analysing prominent planning litigation in Japan.

There are three distinctive ways in which the Japanese court dismissed judicial review cases based on reasons of legal standing. First, the court adopts the strict rule that a plaintiff should hold legal interests which are protected by the statute at the time of the execution of authorities' actions. Under this rule, so called environmental rights or personal rights are seen as merely reflex interests (*hansyateki rieki*), which are not individual rights protected under the statute; instead, they result in benefits to unanimous people as a consequence of the operations of public laws. Accordingly, the courts have tended to dismiss plaintiffs' pleas seeking for remedies related to loss of local amenities⁹⁵ and historic assets⁹⁶, inaccessibility to public facilities⁹⁷, or adversely affected built environment by zoning changes⁹⁸ caused by planning changes.

The court's attitude to the rights of citizens in relation to their local environment is clearly explained in the judgement upon the injunction of the construction of the Hanshin Expressway⁹⁹ in which a group of residents intended to stop further pollution from the addition of an express motorway to the national route as follows:

Since an individual's benefit derived from the so-called 'local environment' is not yet to be accepted as a legal interest in civil laws, the residents are not allowed to demand [the court] to protect their interests in relation to the local environment which is not directly relevant to their residences.

⁹⁵ 1974b. Judgement upon the request for the injunction of the construction of a harbour on Nagahama beach. In *Gyōshū*: Matsuyama District Court, Japan, 1978a. Hibiya Park case - environmental conservation of visual amenities of the park. In *Hanrei Jihō*: Tokyo High Court, Japan.

⁹⁶ 1983a. Iba historic site case - the standing of a local research group seeking for the conservation. In *Hanrei Jihō*: The Supreme Court of Japan, the Third Petty Bench.

⁹⁷ 1970. Judgement upon the request for the annulment and cancellation of the change of the local railway route. In *Gyōshū*: Tokyo District Court, Japan.

⁹⁸ 1978b. Judgement upon the annulment of the designation of the zoning areas of Morioka City Plan. In *Minshū*: The Supreme Court of Japan, the First Petty Branch.

⁹⁹ 1972. Hanshin Expressway case - judgement upon the injunction on the construction of the highway to prevent pollutions. In *Hanrei Jihō*: Amagasaki Branch Office, Kobe District Court, Japan.

The second way to limit the legal standing is related to the concept of ‘the ripeness of the case’ as previously explained, in which the court rejected the legal standing of neighbours who argued that development permissions¹⁰⁰ or building confirmations¹⁰¹ in their vicinities were not in compliance with the laws. Although the court accepted flaws in administrative procedures, the legal standing was not given on the ground that the plaintiffs’ rights were not yet violated by the state granting authorisation to developers. The court argued that authorisation was only to ensure whether applications complied with the relevant law¹⁰². The court believes that any errors related to illegal development plans should be corrected by appropriate public agencies so that such an act does not infringe upon the rights of third parties.

Third, the court sometimes would not accept the legal standing of citizens who request remedies and future compensation from the government *because of the public interest of the government’s act*. This means that although the court admitted that a state agency’s negligence led to serious injuries to citizens’ rights, and thus ordered the state to pay compensation for the past injury, the victims’ demands for future compensation were dismissed on the ground of *the public interest*, in which governments acts were *righteous* even with such flaws. In the case of traffic control of the National Route 43 and Hanshin Expressway, this is expressed as follows:

On the other hand, while those motorways are in highly in the public interest and considering that there is no alternative motorway available,

¹⁰⁰ 1990. Judgement upon the request for the cancellation of the development permission for a golf ground. In *Gyōshū*: Gifu District Court, Japan, 1991. Judgement upon the request for the cancellation of the development permission after the development was completed. In *Minshū*: The Supreme Court of Japan, 1999. Judgement upon the request for the cancellation of the development permission when the development does not comply with the City Planning Act. In *Gyōshū*: Yokohama District Court, Japan.

¹⁰¹ 1981a. Judgement upon the appeal for the annulment of the building confirmation by Building Standard Act. In *Gyōshū*: Tokyo High Court, Japan.

¹⁰² This means for example that building confirmation under the Building Standard Act does not have to ensure whether the building meets the requirements listed in the City Planning Act.

the plaintiffs' injuries are regarded not yet to exceed the limit of tolerance which is generally required in the life [in Japanese society] in relation to the prohibiting order [of limiting the traffic of these motorways]¹⁰³

It is clear that there are many obstructions for Japanese citizens to take the state to court to seek justice in planning-related matters. Recently, several leading judgements¹⁰⁴ have quashed governments' development permissions of environmentally harmful plans, urging the Ministry of Land, Infrastructures and Transport (MLIT) to reconsider their citizen participation strategy (Yori and Shibata 2003). This shows the potential that judicial review could make Japan's planning policy more accountable to citizens. However, the defects of Japan's judicial review system are severely hampering the mobilisation of Japan's planning discourse. Furthermore, the conditions surrounding Japan's judicial review system explain that the ideas of planning based on the developmental state regime are not easily challenged or changed, unless the principle of the rule of law is established in contemporary Japan as detailed in the following chapters.

6.4 Conclusion

The public interest has played a central role in contesting the legitimacy of planning policy in the West. However, in Japan, until recently the concept of the public interest was seldom discussed at any level of policy-making. At all levels of policy-making, there are legacies of Japan's peculiar modernisation under the developmental state model. At the legislature stage, party politics and fair elections

¹⁰³ 1986. Judgement upon the emission and noise control of the National Route 43. In *Hanrei Jihō*: Osaka High Court, Japan.

¹⁰⁴ 1994b. Judgement upon on the request for the cancellation the development permission of the elevation of the Odakyu railway junction. In *Gyōshū*: Tokyo District Court, Japan, 1997. Judgement upon the request for the cancellation of the Meguro Park project plan. In *Kakyūsai Shuyō Hanketsu Jōhō* (Lower court prominent judgements): Tokyo District Court, Japan.

have been undermined by inadequate political reforms and the US's cold war policy in Japan, which has reduced the influences of the opposition politics against the conservative hegemony. The public sphere remained underdeveloped by suppression, censorship, manipulation and propaganda promoted by the government and establishment. The open discussion about what the public interest constitutes has been carefully avoided by means of subtle social control, in particular under the disguise of Japan's tradition and culture.

Most of all, the idea of planning has been constructed by very small number of stakeholders - ministries, businesses and professionals. Other groups, notably women, have not had opportunities to voice their concerns in planning policy-making. At the administrative stage, local autonomy in planning has not been secured. The practice of information disclosure and citizen participation in planning has just started recently. Finally, the opportunity of legal challenges as the last resort to protect collective interests as the public interest has been severely restricted so far. In essence, the Japanese elite have been able to decide exclusively what the public interest should be in planning policy-making. It is only recently that the concept of public interest has come under scrutiny at various levels of planning policy-making.

Although the ideologies of planning and the public interest in Japan is hard to assess, citizens' challenges to governments' planning decisions in court since the 1960s exposed the ideas of the public interest which Japan's public administrations have relied on, as well as what the true objectives of its planning policy have been. Because planning legislation and policy statements tend to obscure the reality of the public interest in planning, it is worthwhile examining the discourse on the public interest in Japan's planning litigation. For this reason, the next chapter explores

prominent planning litigation cases, showing how the concept of the public interest has been understood in the practices of Japanese planning and how the concept has shaped Japan's planning policy which is sharply different from Western liberal states. The discrepancy between the discourse on the public interest in Western liberal democracies and Japan will reveal the roles of its planning, as well as the relationship between individuals and the state in contemporary Japan.

Chapter Seven: The Use of the Public Interest in Planning Court Cases

Reflecting the fundamentally different origins of the modern state and planning from the West, discourse on the public interest in planning have developed in a distinctive manner in Japan. This chapter examines the discourse on the public interest in Japanese planning in court by analysing leading cases in relation to its planning culture explored in Part 2. The concept of the public interest was obscure in Japan's planning policy statements such as CNDPs. Moreover, as examined in Chapter 6, the institutions which involve planning decisions in Japan were not successful in materialising the public interest as common interests. In particular, the public participation procedure in Japan failed in encouraging debate on the public interest of proposed plans. Citizens who were largely excluded from the policy-making process tried to redress the situations by filing litigation cases against governments' planning decisions. Because legal challenge in court was the only opportunities in which citizens could formally dispute the public interest in planning, planning/environment litigation is one of the most useful materials to investigate what *the state* considers about the public interest in planning *in practice* in Japan. A caveat here is that the government and the judiciary has not been completely separated in exercising power in Japan as the analysis of this chapter highlights this problem later.

The concept of the public interest, which is prescribed by planning laws and the Constitution, became a key word for Japanese citizens to challenge planning decisions and seek social justice in Japan's post-war democracy. However, the discourse on the public interest employed by the Japanese judiciary was significantly different from the interpretation by those who challenged the public administration. The Japanese judiciary regards public and private interests as the state versus

individuals, based on the legal orthodoxy developed from Meiji Japan. Therefore, the public interest was rarely interpreted as the interests of local communities or social interests in Japan's judicial review. This rigid interpretation by the court made it very difficult for Japanese citizens to dispute the public interest of planning projects through judicial review. In order to avoid the risk that a court would dismiss their claims on grounds of the absence of legal standing (see Chapter 6) in judicial review, citizens often had to use civil suits instead, to ensure that their claims are heard. Paradoxically, this strategy of resident groups resulted in further widening the discrepancy between the concepts of public and private interests in both the judicial system and political thinking in Japan.

The cases analysed in this chapter are one of the most disputed case about the public interest and planning controls in Japan (see Chapter 1). The selection is also to identify the impacts of Japan's developmental state ideologies (see Chapter 2) on the discourse on the public interest in its planning practice. Thus, I first investigate the cases which examine a relationship between economic development and the public interest. Second, I look at the planning/environment litigation which reveals Japan's authoritarian state ideology in interpreting the public interest in planning. The analysis of Chapter 6 already identified Japan's authoritarian state ideology of its planning institutions, which appears in the practise of the central-local government relationship, transparency, citizen participation. I investigate the planning litigation in which citizens challenged the fairness of the planning decision-making process, first to protect their health, and then the quality of social life in later years. Under the civil law principle, the Japanese court relies on precedents in interpreting statute provisions, and thus, major opinions in court are unlikely to change radically in the short term. This means that the introduction of new philosophies to planning policy

often accompanies the amendment or creation of statutes as was the case with pollution control in the 1970s and landscape control in the early millennium.

There are three important issues for understanding the concept of legal justice in Japan. First, the majority of statutes have been drafted by the ministry bureaucrats (Ginsburg 2001; Johnson 1995; Pempel 1974). This is partly due to the staff shortage and the lack of expertises in drafting bills on the legislators' side (Ginsburg 2001: 592). A large number of bills¹⁰⁵ were initiated by ministries with the assistance of policy advisory committees, which were also under the close supervision of the ministry bureaucrats. In the past, the vast majority of these bills were generally accepted in the parliament without much resistance under the one-party dominance in Japan. Furthermore, the interpretation of the statutes is very much under control of the central bureaucracy. In Japan, articles of statutes tend to stipulate only the basic rules, leaving the details of specific rules to be given in the form of cabinet and ministerial ordinances as well as *tsūtatsu* (communications) (Pempel 1974; Young 1984). Administrative guidance such as communications, however, does not have full-fledged legal status, and as such, it is generally excluded from judicial review in Japan (Young 1984: 933).

Second, the Constitution of Japan was drafted under the initiative of US post-war reformers. It is one of the most advanced constitutions in modern democracies, assuring the principles of civil, political and social citizenship. However, because of its 'foreign' origins and high ideals for democracy, articles of the Constitution do not sit comfortably with Japan's civil code, which has its origin in the authoritarian Meiji

¹⁰⁵ Throughout post-war years, more than 80 percent of statutes were made by cabinet proposals (Ramseyer 1993: 135).

regime. These two legal cultures sometimes competed in court. The cases discussed in this chapter also reveal the disparity between Japan's judicial orthodoxy (the developmental state) and the Constitution of Japan (the modern state) with regard to the ideas about citizenship.

Third, it is often pointed out that the rule of law is absent in Japan (Haley 1992; Johnson 1995; Ramseyer and Rosenbluth 1993; Wolferen 1988). Japan's modern laws and its court system were initiated in a time of foreign threats in the nineteenth century. The Meiji government rushed to install a legal system to overcome problems with the unequal treaties and extraterritoriality (Spaulding and University of Michigan. Center for Japanese Studies 1967). Although the Meiji elite understood the importance of laws in a modern administration, they did not fully comprehend the legitimacy of laws that could be challenged in court (Haley 1992; Spaulding and University of Michigan. Center for Japanese Studies 1967). As a consequence, laws exist in Japan to rule people and society but the principle of reviewing the accountability of the actions of law-making and law-enforcing institutions was not properly introduced into modern Japan (Haley 1992; Wolferen 1988).

The goal of this chapter is to examine planning litigation, and analyse how conflicts over the public interest have been resolved in two different political and legal cultures in post-war Japan. Section 7.1 looks at citizens' challenges to the discourse of Japanese planning for capitalist development. The cases deal with the conflict between development projects and human rights in relation to the concept of legally protected interests. Section 7.2 investigates the dimension of the authoritarian state in planning culture in Japan. The analysis focuses on the relationship between central and local government as well as the government and civil society in Japan's

planning policy-making. Section 7.3 discusses the role of the court in Japanese planning in comparison to British planning, in particular regarding the introduction of new planning philosophies. Section 7.4 summarises the court's interpretations of the public interest in planning and discusses their impacts on Japanese planning development in the past.

7.1 The Dominance of Development Priorities in Legal Cases

One of the most significant features of the Japanese planning system is its strong orientation towards economic development. Although Japan's City Planning Act is supposed to protect safety, public health and amenity, Japanese planning laws are fundamentally weak in satisfying even minimal requirements of protecting the quality of life against externalities of the market in land-use. National level planning laws and ministerial guidance, which binds actual planning practices at local levels, are mainly designed to promote economic development (see Chapter 5 and 6). As a consequence, there exists underlying contradiction between the national planning framework and the basic principles of the City Planning Act regarding the implementation of development control on the local environment. Moreover, property rights, in particular the right to develop land, is strongly protected by the civil code, which originated in the Meiji administration to collect land tax. As explained in Chapter 3, land tax represented the major source of revenue for the Meiji government to support industrialisation. The right to develop land was further reinforced by the agrarian land reform, which was carried out during the US occupation period.

Because of the strong rights to develop land and the legally binding national planning framework to promote economic development, the development control under the

City Planning Act was further undermined to accommodate large-scale developments that were considered to serve 'the public interest'. Facing health threats and environmental hazards, Japanese citizens disputed the legitimacy of planning decisions that seemed to be in contradiction with the objectives of the City Planning Act, or violate basic human rights that are guaranteed under the Constitution of Japan. In this process, the public interest in the Japanese planning system was examined against the ideology of the developmental state.

Noise pollution of the Osaka International Airport Case

The judgement upon noise pollution of *the Osaka International Airport* is one of the most cited cases about the public interest in infrastructure planning in Japan. *The Osaka International Airport* (now the *Itami Airport*, used for mostly domestic flights) started as a small local airport for single-engine planes in 1936. It was enlarged further during the early post-war years for US military use. After the right to control aviation finally returned to the Japanese government in 1958, the Transport Ministry decided to turn the *Osaka Airport* into an international airport and started to consult with local governments. While business communities in Osaka and Kobe were enthusiastic about building an international airport in Kansai region, residents in the area strongly opposed to the proposed plan because of its smaller-than-standard size (304 ha)¹⁰⁶ and the proximity to residential areas (Tsuru 1999)¹⁰⁷. The protest was fierce. When the voting for the airport expansion was held in Itami City

¹⁰⁶ The airport has only two short runways (1,828 and 3,000 metre-long against a standard 4,000 metre-long runway) for jet planes. When jet planes use an inland airport as in the case of the former *Osaka International Airport*, its recommended size for noise protection should be an area size of 6,400 hectares (Tsuru 1999: 109).

¹⁰⁷ *The Osaka International Airport* is located in the rapidly developed suburban communities of Itami, Ikeda and Toyonaka cities.

assembly on 5th April 1962, as many as 900 policemen had to protect the assembly building against protesting citizens (Tsuru 1999: 108).

Once the international airport started operating, over 42,000 households were exposed to noise at the level of 85 WECPNL¹⁰⁸ (Tsuru 1999: 109), which was considered to be very close to the tolerance limit (Igarashi 1988). Testimony¹⁰⁹ submitted by Terai Hisayoshi, the Civil Aviation Bureau Chief of the Transport Ministry, to the Transport Committee of the House of Representatives in 1974 further revealed that 179,000 households were exposed to noise levels of more than 75 WECPNL¹¹⁰. At a residence occupied by one of the plaintiffs, the noise level reached between 100 and 110 phons¹¹¹ (more than 95 WECPNL), when jumbo jets started using the B runway of the airport from the 5th of February 1970 onwards¹¹². In March 1970, according to evidence submitted to the Supreme Court, the number of airplanes which took off and landed at *the Osaka International Airport* amounted to 367 (including 165 jet planes) on the day of examination.

After negotiations with the government failed, 264 residents filed a civil suit in the Osaka District Court in 1969 (Gresser, Fujikura, and Morishima 1981: 164). They tried to halt night flights based on personal and environmental rights and to obtain

¹⁰⁸ WECPNL = Weighted Equivalent Continuous Perceived Noise Level (as defined by the International Civil Aviation Organization).

¹⁰⁹ The National Diet Library of Japan. 2004. *The 9th sitting on 26 February 1974, the debate of the Transport Committee, the 72nd Diet session, the House of Representative of Japan* [Full-text database]. The National Diet Library of Japan., 1974 [cited 2 July 2004]. Available from <http://kokkai.ndl.go.jp/SENTAKU/syugiin/072/0290/main.html>.

¹¹⁰ The current limit of environmental standard for aircraft noise in Japan must be under 70 WECPNL in (exclusively) residential areas, and 75 WECPNL in mixed-use residential areas as defined by Environmental Agency in 1993.

¹¹¹ Phon = a unit of measurement of noise level used in Japan until November 1993. 100 to 110 phons of noise is equivalent to 100 to 110 dB (decibel = a unit of sound pressure level), which represent a sound level ranging from the sound of a chain saw to the sound of a rock drill or a car horn. Prolonged exposure to a noise level of over 90dB is considered to be damaging to auditory nerves.

¹¹² 1981b. Judgement upon the injunction of night flights at Osaka International Airport. In *Minshū*: The Supreme Court of Japan, Grand Bench.

compensation for damage in the past as well as in the future. The judgment of the Osaka District Court ¹¹³(27th Feb 1974) partly accepted the first two issues, but entirely dismissed compensation for future damage. A year later, the judgment of the Osaka High Court ¹¹⁴ (27th November 1975) accepted nearly all claims of the residents. The government appealed to the Supreme Court in 1976. In this suit, the principle of ‘the public interest’ was examined in relation to the state’s planning decision against the plaintiffs’ human rights.

The Supreme Court ruling, which was finally handed down in 1981, contained the following four main points. First, it rejected the request for injunction to prevent all night flights at a public airport by means of a civil suit. Second, it admitted that the erection of the airport had been illegal, and that the mode of its usage created a risk to cause a certain level of damage to the users and third parties. Third, it dismissed compensation for the plaintiffs who had moved into the area after aircraft pollution problems had already been extensively reported. Finally, it rejected compensation for future damage on grounds of difficulties in assessing the degree of damage, although the ruling acknowledged that continuing use of the defective airport was illegal.

The ruling of the Supreme Court was severely criticised. The most serious criticism was that the court rejected the legal standing of the plaintiffs to request the injunction of night flights by means of a civil suit (*tōjisha soshō*), because the court believed that the operation of the airport constituted the exercise of ‘authoritative power’ (See Chapter 6). Therefore, the case should have been challenged by means of judicial

¹¹³ 1969. Judgement upon the injunction of night flights at Osaka International Airport. In *Minshū*: The Osaka District Court, Japan.

¹¹⁴ 1974a. Judgement upon the injunction of night flights at Osaka International Airport. In *Minshū*: The Osaka High Court, Japan.

review of administrative acts such as an ‘appeal-type suit (*kōkoku soshō*)’. However, the Supreme Court did not clarify whether the plaintiffs could bring this case in the form of judicial review. The Supreme Court further claimed that, by giving an order to the Transport Ministry (to stop night flights), the High Court ruling was in violation of the doctrine of the separation of the three branches of the state powers as stipulated in the Constitution. The Supreme Court argued that since there were other countermeasures against noise pollution, it must be at the Transport Minister’s discretion to decide which one(s) the Ministry would use against the pollution. For this reason, the Supreme Court overruled the Osaka High Court’s judgement.

The further controversial point in this ruling was the court’s interpretation of the public interest in relation to the plaintiffs’ rights and the illegality of the action of the state. The plaintiffs argued that the operation of night flights at the airport was illegal, because it violated personal and environmental rights based on Articles 13 and 25 of the Constitution that guarantee ‘the right to life, liberty, and the pursuit of happiness’ and ‘the right to maintain minimum standards of wholesome and cultural living’ respectively. However, the ruling of the Supreme Court did not examine this matter and simply maintained that the illegality of the airport operation must be assessed in relation to the public interest based on the following premise:

.. while the damage experienced by the appellants exceeds the tolerance limit in social life in general [in Japan], considering the public interest of this airport, even when the damage exceeds such limit, [the court must assess the case] on the condition that the victims have to endure a certain higher level of tolerance due to its public necessity.....

Nevertheless, the Supreme Court acknowledged serious errors in the planning of the airport, which was too small for the massive use of jet planes and too close to residential areas in the absence of effective countermeasures for noise pollution.

Moreover, the Court admitted that there was an imbalance between the benefits that the residents in the neighbourhood received from the airport and the damage caused by its operation; this danger was too large to justify the claim that the existence of the airport was in the public interest.

Although the Supreme Court acknowledged the illegality of the airport operation and thus ordered the state to compensate the victims for past damage, Judges Kurimoto Kazuo, Fujisaki Banri, Motoyama Tōru and Yokoi Daizō expressed an opinion different from the majority of Judges:

Incidentally, when projects carried out on behalf of the state cause injuries to third parties, injuries beyond the tolerance limit alone do not make the projects illegal although such claims can be valid in application to private business in general. The tolerance limit must be considered according to the nature and content of the public interest (*kōkyōsei*) of the state's project. When the state's project in question is in the public interest to a high extent, the tolerance limit must be raised accordingly. When injuries to third parties caused by the state's project that is highly in the public interest are non-property injuries, such as psychological pain or obstructions to life as the Osaka High Court judgement in this case acknowledged, it would be appropriate to conclude that the demand for compensation for such damage must not be allowed in principle because the damage is considered to be within the tolerance limit. Only when injuries are serious enough to have caused physical damage can the conclusion be upheld that these injuries have exceeded the tolerance limit. After all, the modern state has various responsibilities in the achievement of many objectives for the public; in order to achieve these objectives, the state itself carries out projects when it deems necessary. As citizens benefit from these state projects either directly or indirectly, in comparison with the benefits citizens receive as said, it would be inevitable that citizens are requested to accept certain levels of sacrifice caused by the state's projects which are highly in the public interest (underlined by the author).

As this minority opinion suggests, even in a serious noise pollution case as the *Osaka International Airport*, Japanese citizens can be expected to accept severe infringements of their human rights, sometimes even without compensation, in the name of the public interest. Then, how was the concept of the public interest

(*kōkyōsei*) interpreted in the noise pollution case of the *Osaka International Airport*?

The ruling explained as follows:

..the public interest (*kōkyōsei*) or the necessity of the public benefit (*kōeki jyōno hitsuyōsei*) claimed in this case is the necessity of high-speed public transport by aircraft. In modern society, considering an increasing demand for speedy movement, especially in the area of economic activities, it is obvious that air transport is highly in the public interest. Moreover, as this airport occupies an important position in both domestic and international air routes, it is apparent that the public demand for its use is very high. The High Court ruling did not deny this fact.

It is clear that the public interest in this case equalled the demand for air transport, especially for economic development, and failed to include the large number of residents that were affected by severe noise pollution. In contrast, the demand by citizens for peaceful nights and compensation was considered as a private interest.

As a result of political intervention, the stoppage of night flights was accomplished and the monetary value of compensation to the victims was raised from 700 million Yen to 1.3 billion Yen in an 'amicable settlement' outside of court¹¹⁵ (Tsuru 1999: 113). After the settlement, various countermeasures to the noise pollution of *the Osaka International Airport* were taken, including subsidies to the residents to soundproof their homes and the relocation of severely affected residents to other areas. The efforts to reduce the severe aircraft noise at *the Osaka International Airport* culminated in the construction of a new international airport, the Kansai International Airport (opened in 1994), which is located on a manmade island off the Osaka Bay and therefore considerably free from noise pollution problems. In this sense, the litigation of *the Osaka International Airport* contributed to prompt the

¹¹⁵ The victims originally asked 5.5 billion Yen (Tsuru 1999: 113).

government to take more serious precautions against environmental hazards in infrastructure planning.

Despite its positive impact on future planning in Japan, *the Osaka International Airport case* negated the advancement of the discourse on the public interest in Japanese planning for rigorously safeguarding citizens' human rights. First, the ruling demonstrated the serious defect of Japan's legal authority against the principle of the rule of law in the modern state. The Constitution of Japan declares the role of the judiciary as follows:

Article 76.3: All judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws.

Article 81: The Supreme Court is the court of the last resort with power to determine the constitutionality of any law, order, regulation or official act.

As confirmed here, the court must be independent from other branches of state powers to ensure social justice in the modern state. Without a mechanism to challenge the acts of the state's law-making and law-enforcing institutions by means of judicial controls in reviewing their compliance with principles of legal rules, the state would simply become an absolute state (Haley 1992: 40-41). Judicial independence does not mean that the court must not interfere with the executive power as the judges of *the Osaka International Airport case* argued. On the contrary, the Japanese court is vested with powers to remedy the errors of the state's actions. The rule of law in the modern state is only maintained by guaranteeing citizens' rights to challenge the legitimacy of existing law, order, regulation and official acts in court (Bellamy 2005; Clark 1999; Shklar 1987). Therefore, considering the importance of the rule of law to protect citizens from arbitrary state power in the modern state (Bellamy 2005; Wolferen 1988: Ch.8), the ruling of *the Osaka*

International Airport case may represent a serious violation of the Constitution, by maintaining the judiciary's non-intervention principle to the executive power.

Second, the ruling rejected the legal standing of the plaintiffs on the grounds that the form of litigation was incorrect. As explained in Chapter 6, because the legal standing of third parties in judicial review was often rejected in Japan, the plaintiffs chose to file a civil suit to secure their legal standing against injuries. By denying the legal standing of the plaintiffs simply because of the technical reason as stated, the Supreme Court ruling of *the Osaka International Airport case* sounded like a warning to Japanese citizens who brought similar injunction suits during this period (Tsuru 1999: 112). The Supreme Court judgement discouraged Japanese citizens from challenging the state's actions.

Third, the Supreme Court ruling dismissed the pressing opportunity to interrogate the public interest in planning in relation to Articles 13 and 25 of the Constitution, which embrace citizenship rights in a modern democracy. In this context, what the public interest stands for must be equated to a principle for materialising fair society, not simply equal to the state's interests. The public interest in the modern state must be determined through due process, if many interests conflict with each other in public policy-making. While the plaintiffs claimed that noise pollution surrounding *the Osaka International Airport* violated their personal and environmental rights, the extent of the injuries endured by the plaintiffs can be described as a serious threat to public health and safety. As the modern planning system in the West initially emerged to protect public health in the public interest (Hall 1996a; McAuslan 1975), the ignorance of the Supreme Court on the protection of public health can be seen as an antithesis to modern planning development.

Finally, by adhering to the theory of tolerance limits, the Supreme Court belittled the concept of the public interest. The theory of tolerance limits was proposed by Professor Nomura Yoshihiro, who argues that injuries by pollution must be assessed by weighing various factors and balancing competing interests surrounding pollution cases, irrespective of the intention or fault on the side of polluters (Ogano 1995: 116-7). This theory was helpful for pollution victims to overcome the burden of proving faults or negligence of polluters, as it had been difficult under the Japanese civil code to make polluters liable without proof of their negligence, at least until the establishment of the doctrine of no-fault liability (*mukashitsu sekinin*) in Japan's environmental litigation in the late 1960s¹¹⁶.

However, the theory of tolerance limits has a serious flaw when it is applied to matters involving the public interest of governments' projects. As the minor opinion of the Supreme Court judges of *the Osaka International Airport case* reveals, the public interest of governments' projects could be misused without serious examination of competing interests in disputed cases. Governments could simply claim that the objectives of their projects are highly in the public interest so that inconvenient outcomes caused by the projects might be dismissed. If only the state can decide what the public interest should be about a disputed case without giving affected parties an appropriate opportunity of consultation nor granting them a right to challenge the government decisions, the concept of the public interest becomes a void notion in a modern democracy. As a result, tolerance limits can easily be raised according to the degree of 'the public interest' which governments consider 'appropriate'. In this sense, the theory of tolerance limits can no longer be a valid

¹¹⁶ See the discussion of *Osaka Alkali case* in Chapter 3.

doctrine to promote public welfare in planning. Therefore, there is a need to establish concrete principles to examine what the public interest in planning is in relation to laws and the Constitution, and set out rules about how to define the public interest in future planning in Japan and who are entitled to participate in planning policy-making.

The Hanshin Expressway and the National Route 43 Case

Environmental citizen movements in the 1960s and the 1970s and subsequent environmental litigation resulted in the enforcement of the 1968 City Planning Act, creation of new environmental laws and changes in legal theory to protect pollution victims. However, despite these developments and increased awareness of citizen's rights about the environment, the court's definition of the public interest in planning/environmental litigation has hardly changed in post-war Japan. The 1995 Supreme Court's ruling of the air and noise pollution case of *the Hanshin Expressway (HE) and the National Route (NR) 43* reflected the same interpretation of the meaning of the public interest as in *the Osaka International Airport case*, imposing 'tolerance' upon the victims by dismissing the residents' rights to pursue a 'healthy and pleasant living environment'.

In the early 1970s, a resident group living in an area within 85 metres from the NR43 suffered from a level of noise pollution with a median value of around 70 to 80 phons. (dB)¹¹⁷, vibration and air pollution, all as a result of more than 90,000 vehicles using this route. When the state started to construct the HE and connect it to the NR 43 in the form of an elevated motorway in October 1971, a resident group

¹¹⁷ This noise level (70-80dB) ranges from the sound of telephone rings and vacuum cleaner to the sound in computer printing room and an alarm clock at two feet.

applied to the Kobe District Court for an injunction to prevent the construction of the HE¹¹⁸. The residents cited their personal and environmental rights as grounds for the request. Although the court did not accept that residents had the right to ask for the protection of their 'local environment' (See Chapter 6), it did acknowledge their rights to protection against unlawful disturbance to their 'residential environment', including sunlight, ventilation, quietness, view, clean air, privacy and comfortableness. Although the court rejected the injunction request from the residents, it ordered the Hanshin Expressway Public Corporation (HEPC) not to aggravate the residential environment further by limiting the number of vehicles using the HE and the NR 43 to less than 150,000 per day and to monitor noise levels that exceeded environmental standards.

Nevertheless, the pollution levels caused by the HE and NR remained far higher than the designated environmental standards. As a consequence, the resident group sued the state and the HEPC in 1986, demanding compensation for damage and an injunction to restrain an excessive use of the routes, claiming that the motorways destroyed the local environment (destruction of the townscape) and the residents' healthy and pleasant life by causing sleep deprivation, a disruption of normal life or damage to mental health. The Osaka High Court acknowledged the damage to residents who lived within 20 metres from the motorways as well as to those who experienced noise levels exceeding the tolerance limit. While the High Court ordered the defendants to pay compensation for past damage, it rejected any future compensation. Also, the injunction request was denied based on the argument that

¹¹⁸ 1972. Hanshin Expressway case - judgement upon the injunction on the construction of the highway to prevent pollutions. In *Hanrei Jihō*: Amagasaski Branch Office, Kobe District Court, Japan.

‘the motorways are highly in the public interest’¹¹⁹ (See Chapter 6). The case went to the Supreme Court to seek an injunction to prevent an excessive use of the routes. The residents insisted that there was a serious misjudgement in the interpretation of the public interest by the High Court, arguing as follows:

In short, without defining the density of NOx to affect human health, the High Court judged that the air pollution caused by exhaust gas from the motorways in this case was not serious enough to be considered as affecting the residents’ health, and thus, the appellants’ damage caused by noise, exhaust gas and so on from these motorways were judged as mere obstruction for normal life. Furthermore, although the appellants did not request to stop the use of the motorways completely, the High Court ruled that with an increase in the number of vehicles using these motorways, its growing demand made the motorways to be in the public interest. However, the High Court ruling which dismissed the injunction request for excessive use arguing that there was no alternative motorway, contained a misinterpretation of the statutes about the assessment of the tolerance limit by not complying with the due process of collecting adequate proof and examining past cases, as well as making the error of judgements without sufficient reasons¹²⁰.

Despite those counterarguments, the Supreme Court upheld the decision of the High Court and dismissed the plaintiff’s appeal for the injunction, arguing as follows:

The High Court acknowledged the infringement that the traffic noises have penetrated into the [appellants’] living spaces almost all day, thus having disrupted the appellants’ sleep, conversations, telephone conversations, pleasure of having a happy home, television and radio reception, as well as created the situation where the accumulation of the factors above has affected their mental health. The High Court also accepted that the residents who live within 20 metres from the motorways have suffered from additional nuisances such as dirt on the washing caused by floating particles from automobile exhaust gas. On the other hand, the High Court also lawfully recognised that the motorways have contributed significantly to interregional transport, mainly in the logistics of industrial materials, and its contribution has risen further along with an increase in both car ownership and the share of car transport in domestic passenger and freight transport. On balance, the High Court judged that while the extent of the appellants’ present and

¹¹⁹ 1986. Judgement upon the emission and noise control of the National Route 43. In *Hanrei Jihō*: Osaka High Court, Japan.

¹²⁰ 1992c. Judgement upon the emission and noise control of the National Route 43 and Hanshin Expressway. In *Minshū*: The Supreme Court of Japan, the Second Petty Bench.

future damage represented a disruption of their normal life, considering the motorways' irreplaceable great benefit not only to the residents and businesses alongside the motorways but also to interregional transport and industrial economic activities both in quality and quantity, there is no serious illegality about not accepting the appellants' request for the injunction¹²¹.

The Supreme Court did not satisfactorily assess the motorway's impact on public health¹²² and the possibility of reduced traffic by considering an alternative route. It again failed to recognise that citizens' rights to health and safety constitute a part of the public interest in planning policy.

The legal standing of third parties in planning

As described in Chapter 6, it is extremely difficult for neighbouring residents (third parties in judicial review) to challenge the legality of the state's development projects, even when it is recognised that such developments would cause injuries to citizens. The civil cases reviewed above also demonstrate that unless neighbouring residents had injuries of physical health, the state's planning projects are unlikely to be quashed or significantly altered because of 'the public interest' of these projects. Even when the public administration's action is considered to be a tort, such action cannot be revoked since the 'public (the state)' interest is superior to 'private (individual)' interests. The problem with this logic is that residents' rights are not considered as a part of the public interests, but simply treated as private interests.

¹²¹ Ibid.

¹²² The Environmental Impact Assessment Act (EIA) was only promulgated in 1997, making Japan the last developed country to implement the statute on EIA. The Law for PRTR (Pollutant Release and Transfer Register) and Promotion of Chemical Management was enacted in 1999. As a consequence, there were insufficient evidences during the trial about the relation between automobile gas emissions and human health. The Law Concerning Reporting, etc. of Releases to the Environment of Specific Chemical Substances and Promoting Improvements in Their Management known as Pollutant Release and Transfer Register (PRTR) Act (2000).

This leads to the question what kind of ‘private interests’ could be legally protected against ‘the public interest’, which appears to be dominated by the state in Japan. *The Authorisation of the Japan National Railway Project Case* (1978), in which nearby residents challenged the legitimacy of the development authorisation of a bullet train route, indicates the answer. The Supreme Court dismissed the challenge of third party residents who claimed that the development project contradicted the purpose of the Land Expropriation Act (*Tochi Shūyō Hō*), as follows:

The Land Expropriation Act was enacted with Article 1 stipulating its aim as ‘to balance the promotion of the public interest against private property rights and thus contribute to appropriate and rational national land use’, responding to the aim of the Constitution’s Article 29, Clause 3, which stipulates ‘Private property may be taken for public use upon just compensation therefore’. Since the procedure of land expropriation based on this act is the system that balances the promotion of the public interest through implementing projects against the private property rights of land owners and related parties within the area of planned project, individual interests that this act aims to protect are construed solely as property rights and property-related benefits of land owners and related parties. However... in this case, since there is no dispute that the plaintiffs do not hold any right in relation to the property where the project is planned, the authorisation of the project would not cause any change on the legal status of the plaintiffs.

Furthermore, the aim of Article 20, Clause 3 of the Land Expropriation Act, which stipulates that ‘the project plan must contribute to appropriate and rational land-use’ as a precondition of project authorisation, must be construed in such a way as to oblige administrative agencies to judge whether the land is going to be utilised appropriately and rationally from the viewpoint of the national economy, by balancing the disadvantages of the property owners holding land etc. within the designated area for the project and the related parties in relation to the public interest to be realised by the project through land expropriation etc. As for environmental protection, since the Act does not have a clause stipulating its scope, extent, method and so on, it is not appropriate to argue that Article 20, Clause 3 of the Land Expropriation Act also intends to protect individual and specific environmental benefits of citizens living nearby the project (underlined by the author)¹²³.

¹²³ 1976. Judgement upon the request for the cancellation of the authorisation of the development project - the legal standing of the residents nearby. In *Gyōshū*: Tokyo District Court, Japan.

The Japanese court historically confined its interpretation of ‘legally protected interests’ in planning developments to economic property rights. Although the Japanese court hardly accepted the legal interests of third parties in planning, it was exceptionally willing to accept the legal standing of third parties when the injuries are directly connected with the loss of economic benefits. This is typically represented in cases where hotels or inns located in historic towns were successfully granted injunctions to restrain the construction of tall buildings in their vicinities, since the courts acknowledge that these tall buildings would obstruct the views from the plaintiffs’ properties, and were likely to cause negative impacts on the revenues of the plaintiffs’ businesses¹²⁴.

Third parties had difficulties not only in challenging governments’ development projects, which are automatically regarded to be in the public interest on most occasions, but also in overturning the private sector’s developments that obtained authorisation such as development permissions and building confirmations. Even when authorised development plans do not comply with regulations, Japanese courts rarely quashed granted authorisations, or ordered developers/ administrative bodies to adjust these unlawful developments on third party’s requests (see Chapter 6). Only recently have the Supreme Court begun recognising the rights of a third party to challenge authorised developments in cases where the third party is likely to be exposed to considerable dangers such as landslide¹²⁵ with the completion of such developments.

¹²⁴ 1961. Sarugakyō Hot Spring (*Onsen*) case. In *Hanrei Times (The Law Times Report)*: Tokyo High Court, Japan, 1973c. Kyoto Okazaki Yurakusō case. In *Hanrei Jihō*: Kyoto District Court, Japan.

¹²⁵ 1994d. Judgement upon the request for the cancellation of the development permission in the area where there is a danger of landslide: the legal standing of third party. In *Minshū*: The Supreme Court of Japan, the Third Petty Bench.

Apart from these exceptions, the court maintained that neither the City Planning Act nor the Building Standard Act is meant to protect 'specific individual interests', but rather to safeguard 'the public interest in a general and abstract sense'¹²⁶. For example, the Yokohama District Court denied the legal standing of neighbouring residents who requested to quash a development permission of a large-scale residential development that did not provide adequate roads¹²⁷ adjacent to the planned development area, as stipulated in the City Planning Act. The residents based their complaint on this illegal aspect of the development and the lack of safety concerns. The court set aside the flaws in the development permission resulted from the public agency's negligence, but argued that the claimed safety concerns were not significant enough to quash the development permission as follows:

After all, the relevant laws in this case remain to protect life-concerned interests of the residents living within the planned development area, and thus, it must not be construed as to protect the individual interests of the neighbouring residents living outside the development area¹²⁸.

The same logic can also be seen in the case of illegal building confirmation on farmland under the Building Standard Act without obtaining development permission under the City Planning Act and the Nature Conservation Ordinance¹²⁹ (see Chapter 6). The legal standing of neighbouring residents who requested the annulment of the

¹²⁶ See the quote from 1978c. Judgement upon the request of cancellation of development permission from neighbouring residents. In *Gyōshū*: Yokohama District Court, Japan.

¹²⁷ The Building Standard Act requires four metre wide roads for this development. However, there was 240 metre-long roads which did not comply with the stipulation by the Act in this development plan.

¹²⁸ 1999. Judgement upon the request for the cancellation of the development permission when the development does not comply with the City Planning Act. In *Gyōshū*: Yokohama District Court, Japan.

¹²⁹ This is one of the major legal contradiction in Japanese planning regulation. Planning-related authorisations are given by different administrative bodies and are not necessarily linked to each other. 1969. Judgement upon the injunction of night flights at Osaka International Airport. In *Minshū*: The Osaka District Court, Japan.

illegal building confirmation for safety and environment reasons was rejected; the judiciary reasoned that the construction of the building had already been completed.

As seen in the cases above, the Japanese court rarely revokes flawed planning authorisation upon third party requests. Then, how has the court interpreted the public interest stipulated by planning statutes in relation to the neighbourhood? When neighbouring residents challenged a local government's permission to construct a 180 hectare residential development, of which more than 72 percent was to be implemented in the urbanisation control area (UCA) and was located adjacent to a nature reserve, the 1982 Yokohama District Court ruling defined legally protected interests under the City Planning Act as follows:

The City Planning Act aims for 'planning cities' appropriate developments and well-ordered maintenance, thus contributing to the balanced national land development and the promotion of the public welfare (Article 1)'. In order to accomplish these aims, [the Act obliges the state to] lay down city planning, and therefore the basic principle of city planning is 'to make rational land-use under appropriate controls in order to secure healthy and cultural urban life and functional urban activities while designing the good harmony with agriculture and fishery (Article 2)'. 'Healthy and cultural urban life' quoted here must not be interpreted as private interests of individuals and specific benefits of a healthy and cultural urban life for urban dwellers, but as a part of the public interest, which is the appropriate development and well-ordered maintenance of cities as the Act aims for, and 'healthy and cultural urban life' must be seen as a general and abstract benefit.

Hence, as the provision of development permissions in Article 29 of the City Planning Act sees the fulfilment of the public interest as the appropriate development and well-ordered maintenance of cities, a healthy and cultural urban life and functional urban activities, it is right to construe that the Act does not directly intend to protect the rights or specific benefits of residents who live in the vicinity of the planned development area (underlined by the author)¹³⁰.

¹³⁰ 1978c. Judgement upon the request of cancellation of development permission from neighbouring residents. In *Gyōshū*: Yokohama District Court, Japan.

As can be seen from those cases, the Japanese court insisted that the rights of neighbouring residents who were affected by development were to be treated as 'private interests'; as such, they were not legally protected unless the residents were likely to undergo economic loss or life-threatening dangers from the developments. Furthermore, although Article 1 of the Building Standard Act stipulates that its aim is 'to protect citizens' life, health and property', and Article 2 of the City Planning Act 'to secure a healthy and cultural urban life and functional urban activities, while designing the good harmony with agriculture and fishery', Japan's administration and the court placed economic utility and monetary value of development above citizens' safety and environmental concerns in actual planning practices. While the role of planning is clearly stipulated in these statutes to include protection of the quality of life, the court has not interpreted that citizens are eligible to defend such concerns in planning policy-making in the name of the public interest.

7.2 The Legal Dimension of the Authoritarian State

Another distinctive feature of planning in Japan is its authoritarian nature. First, Japan's planning decision-making system and its administration operates within a highly hierarchical order between different levels of governments. Occasionally, local governments may take initiatives in planning policies to meet local needs. This could be due to strong political leadership in local governments or due to urgency for local planners to deal with crises such as rapid population growth/decline, financial crisis or acute environmental degradation. However, when local planning policies conflict with the ones by the central government, it becomes clear which government has the final say. While central bureaucracy maintains the principle of local autonomy with regard to planning at the municipality level (Japan. Ministry of Land

Infrastructure and Transport 2003b), the major court rulings have been contradicting this principle. The cases in this section demonstrate the ease with which developers can quash local government's planning initiatives in court in cases where local development control tools are stricter than the national planning codes or when they appear to overshadow the power of higher authorities.

Second, as already referred to, both Japan's public administration and the court often rejected citizens' claims to the right to access planning information as well as to participate in planning decision-making. The reason why even unlawful developments were granted permission in Japan was ultimately found in the absence of effective planning enforcement as well as the lack of adequate information disclosure and consultation with local residents about proposed plans. The transparency of the planning decision-making procedure was not only undermined by the public administration but also by the judiciary. The court's reluctance to admit the public access to planning information ended up strengthening of the authoritarian planning culture in Japan.

Finally, in addition to the technical obstacles in Japan's judicial review system as explained in Chapter 6, the Japanese court does not provide judicial remedies to persons who suffer injuries due to illegal acts of administrative bodies. At best, the court nullifies such acts (Fuke 1989). Under the principle of legal institution's non-intervention into public administration's acts, the court fails to exercise its power by means of mandatory injunctions and mandamus¹³¹. Nor does the court order relevant administrative bodies to take specific actions to remedy their errors (Fuke 1989).

¹³¹ [Latin "we command"] A writ issued by a superior court to compel a lower court or a government officer to perform mandatory or purely ministerial duties correctly. P.973. Garner, Bryan A., and Henry Campbell Black. 1999. *Black's law dictionary*. 7th ed. St. Paul, Minn.: West Group.

Under this doctrine of non-intervention, the role of the court remains insignificant when it comes to enabling changes in existing planning practices.

7.2.1 Local ordinances and national laws

Limited local autonomy in planning in Japan is evident in the prohibition of local planning ordinances from setting codes stricter than national laws. At least until the 1960s, the government, the court and academics in Japan maintained that national laws should have precedence over local ordinances when regulating the same matter (*kokuhō sensei*)¹³². The theory was construed that national laws set the highest standard of regulations, so that local government must not create ordinances laying down stricter standards than national laws (*uwanose*) or additional rules to regulate other dimensions of the same objective of the national laws (*yokodashi*).

This theory had to be relaxed when the parliament was slow to enact effective environmental laws in the 1960s, when pollution problems had surfaced. Facing fierce protests by resident groups against new developments, many local governments created planning guidelines to protect their citizens from severe environmental hazards. In 1975, the Supreme Court ruled that local government could enact ordinances with stricter rules than national laws about public safety regulation, and the control of marches and mass demonstrations¹³³. In this judgment, the Supreme Court ruled that the illegality of local ordinances against national laws must be assessed with the intentions, objectives, contents and effects of both the law

¹³² This doctrine is derived from the word of Article 92 'Regulations concerning organisation and operations of local public entities shall be fixed by law in accordance with the principle of local autonomy' and article 94 'enact their own regulation within law' of the Constitution of Japan as well as Article 14 of the Local Government Act 'as far as not against laws and ordinances'.

¹³³ 1973a. Judgement upon the violation of the Road Safety Act and the Tokushima City Ordinance concerning marches and mass demonstrations. In *Keishū*: The Supreme Court of Japan, Grand Bench.

and the ordinances and whether there were inconsistencies and conflicts between them to regulate the same issues. Since this ruling, the right of local governments to install ordinances has been strengthened and the court seems to have at least accepted the trend towards more local autonomy of planning regulations.

Takarazuka City Pachinko Parlour Ordinance Case

This general trend notwithstanding, it cannot be said that a sufficient level of local autonomy in planning control has been established. For example, on 9th July 2002, the Supreme Court dismissed the legal standing of Takarazuka City Council to seek an injunction of the construction of a pachinko parlour. The issue was about the Takarazuka City Ordinance, which regulates the construction of pachinko parlours¹³⁴, amusement centres and love hotels¹³⁵, containing stricter codes than the Act Concerning the Control and Improvement of Entertainment Businesses (the Entertainment Business Act, *Fūei Hō*). The judgement undermined the development of planning ordinances as an effective tool to meet local needs such as promoting pleasant residential environment.

Takarazuka City is known as one of Japan's oldest garden suburbs and attracts many tourists, which explains why the City Council is keen to protect its pleasant living environment. The 1983 Takarazuka City Ordinance No. 13 Concerning the Construction of Pachinko Parlours, Amusement Centres and Love Hotels, etc. was

¹³⁴ Pachinko is a popular gambling game in Japan combining slot machine and pinball. A pachinko parlour is a gambling premise and often decorated with bright colours and neon as well as with loud music. Japan-guide.com. 2005. *Pachinko* [cited 5 July 2005]. Available from <http://www.japan-guide.com/e/e2065.html>.

¹³⁵ Love hotels (also known as boutique or fashion hotels) and motels (located on the roadside or the interchange of motorways) in Japan do have a particular type of clients, mainly couples to spend hours or nights. In many cases, the entrance area and the reception is shielded by smoke screen glass so that a couple arriving there, in particular by car, can use these hotels in a very discrete manner. These hotels are often designed in notorious kitsch styles (to attract the young population) and are thus in many cases not in harmony with their local environment.

enacted to protect the city's features from the adult entertainment businesses. Simultaneously, the Entertaining Business Act was amended in 1984 to control the locations of entertainment businesses nationally by concentrating these businesses in areas designated by prefectural ordinances under the requirement of the Act. In Japan, municipal governments cannot create additional zoning categories other than those defined by the City Planning Act. Furthermore, changing zoning areas is such a time-consuming process that the Council enacted ordinances to control the location of adult entertainment businesses in a number of zoning areas, in addition to the nationally designated areas for adult entertainment business premises.

A company owning a premise in the city's quasi-industrial area, which was virtually used as a residential area, planned to build a pachinko parlour and asked the Council for development permission. The Council rejected the proposal based on its ordinance's provision regulating adult entertainment business premises in areas close to schools, libraries, nurseries (within 100 metres' distance) and hospitals and clinics (within 70 metres' distance). However, the company obtained a building confirmation after complaining to the City's Building Examination Committee and subsequently started the construction of the pachinko parlour. The Council sued the company, trying to halt the construction on the grounds that it was in violation of the City's local ordinance.

Both the District and the High Court rulings rejected the Council's request for the injunction as follows:

... The Entertainment Business Acts, with its 1984 amendment, set the highest and uniform standard for regulating locations of adult entertainment businesses across the nation. Although the protection of local public morals and living environment in response to local needs essentially falls under the responsibilities of a municipal government, a

municipality must not use a local ordinance to enforce controls that are stricter than the Business Entertainment Act and the prefecture's ordinance for this purpose¹³⁶.

The case also left questions unanswered about the proper legal enforcement measures of planning controls, since there is no effective administrative enforcement system which can penalise illegal developments under any planning statute and ordinance.

The Council expressed its concern about this issue in court as follows:

In reality, when an individual does not undertake responsibilities required by regulations and ordinances, and an administrative body cannot carry out such obligations in his/her place in the public interest either, it is not unreasonable to expect that an administrative body would ask the court for the enforcement of such responsibilities [of the individual]. If, on the contrary, an administrative body leaves the matter unattended and thus fails to meet the responsibilities of the public administration, it seems to be against the public interest¹³⁷.

The Supreme Court ruled that the Council did not have legal standing to obstruct the construction, as there is no provision that allows the state and the local administrative body to enforce an injunction. In early 2007, the Supreme Court ordered Takarazuka City Council to pay £2.3 million (480 million Yen) to the pachinko parlour developer in compensation for the delayed construction (Asahi.com 2007).

Despite the endorsement by the central government for local autonomy in Japanese planning system, this judgement shows that its strong hierarchical order of laws does not allow local governments to decide independently on the future of local environment¹³⁸. In this ruling, the duties of local assemblies in making ordinances in the public interest were not seriously considered.

¹³⁶ 1994a. The case of the Takarazuka City Local Ordinance regulating the construction of pachinko parlours etc. In *The Supreme Court Database*: Kobe District Court, Japan.

¹³⁷ Ibid.

¹³⁸ This ruling can be compared with the Britain's recent regulations about gambling and the extension of business hours of pubs. In both cases, local authorities control giving license to such premises considering social and community impact. For example, the Britain's Gambling Reviewing Body

In addition to this, the City Planning Act should also be in compliance with higher national planning laws, which mostly aim for national economic development (see Chapter 5). Not only are the functions of local ordinances scrutinised at the judicial level, but also they are firmly controlled by the central bureaucracy at both the legislative and the administrative levels. Japanese central bureaucracy maintained control over the content of local ordinances by means of administrative guidance such as ministerial communications and comments (Chiba 1984; Igarashi and Ogawa 1993). For example, the central government issued a ministerial communication regarding vibration control, which prohibited local ordinances from setting higher standards than national laws. Also, the state showed strong disapproval of setting stricter pollution controls with ordinances (Chiba 1984). While the central government has no legal power to intervene in the content of local ordinances under the principle of local autonomy stipulated in the Constitution, ministerial communications in effect control local ordinances. Many academics regard this practice compromises local autonomy to the same extent as the allocation of subsidies and the authorisation of issuing local bonds do (Chiba 1984; Samuels 1983; Steiner 1965; Takeshita 1987). With all these limitations on planning ordinances, it seems very hard for local planning authorities to use legally binding planning tools to ensure that land-use is in line with local interests.

advised that 'Under our proposals, local authorities will be responsible for licensing premises. They will apply the normal planning rules in terms of suitability of location etc and opening hours. We recommend 1) local authorities have the power to institute a blanket ban on all or particular types of, gambling in specific area; 2) in determining whether the location for gambling premises is appropriate the local authority have regard to the character of the locality and the use to which nearby buildings are put.' Great Britain. Department for Culture Media and Sport. Gambling Review Body. 2006. *Gambling Review Report* HMSO, July 2001 [cited 22 March 2006]. Available from http://www.culture.gov.uk/global/publications/archive_2001/gamb_rev_report.htm. pp. 4-5.

7.2.2 Planning agreements and national laws

The operational difficulties of local planning ordinances and problems with the effectiveness of enforcements under these ordinances led many local administrative bodies to resort to the use of *kaihatsu shidō yōkō* (voluntary development agreement) in an attempt to control or mitigate development impacts on the local environment and public finance. In such development agreements, local authorities requested developers to: 1) offer financial contributions to councils for the construction of public facilities such as schools and nurseries; 2) limit the number of housing units in the planned areas to be within the capacity of the water supply system; 3) improve residential environments through the provision of roads and parks; 4) solve potential nuisance problems expected from proposed developments (Japan. City Planning Division of Kishiwada City Council 1979: 37). When developers were not willing to accept such development agreements, local authorities often pressurised them by refusing building confirmation or halted the provision of water supply and garbage collection to proposed developments.

These development agreements virtually acted to fill the void of ineffective development control under the City Planning Act. In fact, a 1983 survey by the Construction Ministry and the Home Ministry found that almost one-third of more than 1,000 local government bodies used residential land development guidance agreements (*takuchi kaihatsu shidō yōkō*) (Igarashi and Ogawa 1993: 158). The survey also found that the vast majority of the local administrative bodies were very content with these development agreements (Igarashi and Ogawa 1993: 158). This indicates that, to a certain extent, planning as development control in the public

interest operated outside the statutory framework at the local government level in Japan.

Nonetheless, the weak legal status of development agreements creates potential problems in the judicial review system, if developers refuse to accept such planning obligations requested by a non-statutory agreement. Indeed, developers took cases to court, protesting against the required compliance with these development agreements, in particular when local planning authorities threatened with the use of enforcement tools. Although the Japanese court was not totally against the use of development agreements, the practices were interpreted to be only acceptable as far as local authorities asked developers for ‘voluntary cooperation’ in complying with planning agreements¹³⁹. Therefore, local authorities that threatened reluctant developers with certain punishment tools are likely to lose in court, even when local planning authorities exercised their power *in the public interest*.

Musashino City Residential Developmental Guideline Case

The case of Musashino City, a suburb of Tokyo, well illustrates the limitations of a development agreement as an effective planning tool. Facing overwhelming housing growth and accompanying financial difficulties, Musashino City Council formed the Musashino Residential Development Guidelines (*takuchi kaihatsu shidō yōkō*), requesting developers to provide public facilities and contribute to the expenses of the council to cover additional costs generated by large scale housing development. In the cited litigation, based on the guidelines, the Council requested the developer to share the cost of new schools which would be necessary following the developer’s

¹³⁹ 1983c. The pros and cons of collecting development charge under a voluntary planning agreement (*Yōkō ni motozuku Kaihatsu Kyōryoku-Kin no Kyōhi*). In *Jurist, an extra issue*: Sakai Branch Office, Osaka District Court, Japan.

construction of a high-rise apartment. The developer gained a building confirmation without obtaining the required planning approval from the City, and subsequently started its construction. The Council refused to provide water and sewer services to this building. The case settled out of court in 1974 and the developer agreed to share the cost for schools.

The same developer brought a second case to court in February 1977. In a similar fashion as before, the construction had started without meeting the requirements of the guidelines. Again, the Council refused to supply water to the building and its tenants who had moved in after the completion of its construction¹⁴⁰. As a result of this lawsuit, the mayor was prosecuted for violation of the Water Supply Act (*Suidō Hō*) in 1978. The Supreme Court concluded that the mayor was guilty in 1988, dismissing his appeal¹⁴¹. The third case in Musashino City took place in May 1977. Another developer, who had already provided land for a park, roads, amusement equipment in the park and a water tank for fire prevention as required by the guidelines for the construction of an apartment block, was not willing to share the cost for new schools with the Council. After being threatened by the Council that it would stop the water supply, the developer saw no alternative but to pay partial cost for new schools. In 1988, the developer brought the case to court, asking the Council for the return of his contribution. After the appeal, the 1993 Supreme Court ruling acknowledged the necessity of its residential development guidelines as follows:

In Musashino City, the construction of high-rise apartments has rapidly increased since 1969. As a result, not only have problems of sun light

¹⁴⁰ The developer had managed to provide the tenants with water from the annex building until the Council started to supply water to the building eight months after the first tenant had moved in.

¹⁴¹ 1985. The appeal of the mayor of Musashino City about the rejection of water supply under the voluntary planning agreement (*Musashino Shichō Kyūsui Kyōhi Jiken Jōkokushin*). In *Hanrei Times* (*The Law Times Report*): The Supreme Court of Japan.

blockage, deteriorated TV aerial reception and noises from building construction arisen, but it has also caused a shortage of schools, nurseries and traffic safety facilities, thus pressurising the local finance in providing these services. To protect the local environment against the sudden growth of residential developments and high-rise apartment construction, the Council formed *the Musashino Residential Development Guidelines* in 1971 after consultation with the local assembly in order to mitigate the impact of sizeable housing developments on the city's finance¹⁴².

However, the Supreme Court ruled that the Council's act of enforcing the voluntary development agreement by means of a punishment tool was illegal. The judgement concluded as follows:

The administrative guidance based on *kaihatsu shidō yōkō* is intended to protect the local environment from excessive developments and is therefore supported by the majority of residents in Musashino City. However, the act [of the Council forcing the developer to share the cost for schools using a punishment tool] is an unlawful exercise of the authoritative power exceeding the limitation of the administrative guidance, which must have asked for the donation out of the developer's voluntary will¹⁴³.

This ruling was in line with ministerial communications from the Construction Ministry and the Home Ministry issued in the 1980s¹⁴⁴, which were intended to redress *undue* development controls by local planning authorities under development agreements (Igarashi and Ogawa 1993; Takeshita 1987). The 1983 communication from Administrative Vice-Minister of the Construction Ministry instructed local governments as follows:

¹⁴² 1988. Judgement upon the request of the return of the development charge for *Musashino City* educational facilities. In *Hanrei Times (The Law Times Report)*: The Supreme Court of Japan, the First Petty Branch.

¹⁴³ Ibid.

¹⁴⁴ Japan. Administrative Vice Minister of the Construction Ministry. 1983. *Takuchi Kaihatsu Shidō Yōkō nikansuru Sochi Hōshin nituite* (To Governors of Prefectures and Mayors of Specially Designated Cities: The guiding principles of the measures on residential land development administrative guidance agreements). Tokyo: Japan. Ministry of Construction, Japan. Director General of Planning Bureau, the Construction Ministry, and Japan. Chief of Home Ministry's Secretariat. 1982. *Takuchi Kaihatsu Shidō Yōkōtō no Unyō nituite* (On the operation of residential development guidance agreements, etc.), edited by Governors of Prefectures and Mayors of Specially Designated Cities. Tokyo: Japan. Ministry of Construction.

[Local governments] should rectify excessive development controls with development agreements and administrative guidance in responding to citizen's demand for affordable and quality housing under the current economic condition of slow income growth and an increase in residential development cost¹⁴⁵.

This communication criticised the punishment practices of development agreements such as rejecting utility services to unapproved developments (Igarashi and Ogawa 1993: 162-7). With strong emphasis on the hierarchy of planning laws and public administrations, local governments cannot exercise adequate autonomy in planning policy, even when local public administrations simply respond to their citizens' needs or *the public interest*.

7.2.3 Transparency and participation in planning

In addition to the issue of local autonomy in planning, Japanese planning decision procedures considerably lack adequate transparency as prerequisite of citizen participation in planning. Freedom of access to planning decisions is not guaranteed by the City Planning Act or other planning laws. Moreover, legal justice did not secure the transparency of decision-making process in planning in a sufficient manner in the past. While the court often rejected requests for disclosures of planning-related information for reasons of privacy and businesses' confidentiality, the most controversial logic for denying access to government information is the inappropriateness of the disclosure because the government is still in the process of [final] decision-making. The argument is that publishing provisional plans and other related raw materials could prevent the government from making fair and efficient decisions.

¹⁴⁵ Japan. Administrative Vice Minister of the Construction Ministry (1983) cited by Igarashi and Ogawa (1993: 163).

For example, based on the 1988 Kyoto Prefecture Information Disclosure Ordinance (*Kyoto-fu Jyōhō Kōkai Jyōrei*), a citizen's ombudsman group requested the Kyoto Prefectural Government to disclose information from a *kyōgikai* (policy advisory committee) regarding possible dam sites at Kamo River in Kyoto. After being rejected by the Kyoto Prefectural Government, the ombudsman group took the case to the Kyoto District Court. The District Court acknowledged the importance of the ordinance and ordered the prefecture to release the information unless there was apparent and significant dangers resulting from the disclosure¹⁴⁶ (Matsui 1996: 126-7). However, the Osaka High Court upheld the view of the Kyoto prefecture, claiming that if the information for tentative plans was published, the raw evidence would cause confusion and misunderstanding among citizens¹⁴⁷. The ombudsman group argued that the reasons for withholding information in the decision-making process should be clear and concrete, since the rejection of the disclosure of government information was against both the Constitution and the ordinance. However, upholding the High Court's opinion, the Supreme Court later dismissed the challenge of the ombudsman group¹⁴⁸.

In recent years, legal challenges for governmental information disclosure by citizen groups led to the publication of previously suppressed planning information¹⁴⁹.

¹⁴⁶ Kyoto District Court, 27 March 1991.

¹⁴⁷ Osaka High Court, 23 March 1993.

¹⁴⁸ 1993. Judgement upon the request for information disclosure of possible dam sites. In *Hanrei Times (The Law Times Report)*: The Supreme Court of Japan, the Second Petty Bench.

¹⁴⁹ The suppressed minutes of the City Planning Council meeting about the authorisation of building an incinerator facility were ordered to be disclosed as a result of the litigation. 1983b. Judgement upon the request of information disclosure of the minutes of a City Planning Council meeting (*Saitama-ken Jōhō Kōkai Jōrei Soshō Hanketsu*). In *Hanrei Times (The Law Times Report)*: Urawa District Court, Japan.

The report on land values of the city's planned development area had been withheld for reasons of privacy of individual properties. The High Court quashed the city council's rejection of the disclosure. 1992b. Judgement upon legitimacy of suppression of the report on land values of the planned

However, the major setback of transparency in planning is that the City Planning Act still makes the disclosure of planning information and citizen participation non-mandatory. Furthermore, ministerial communications even discouraged citizen participation during the 1980s, when local planning authorities employed development agreements to control rapid residential developments (Igarashi and Ogawa 1993; Takeshita 1987). The 1983 Executive Communication from the Construction Ministry asked local planning authorities to reconsider development agreements, which instructed developers to consult with neighbourhood residents when developers planned large-scale residential developments. The 1983 Executive Communication instructed local planning authorities as follows:

When developers plan to build high and middle-rise apartment, councils' requests to developers for consultation with neighbouring residents under *kaihatsu shidō yōkō* is understood to intend to prevent conflicts between developers and neighbouring residents about matters such as sunlight blockage. Nonetheless, local governments' requests to developers to disclose building plans beforehand, to hold meetings with neighbouring residents when problems are expected, and even to submit a written approval from neighbouring residents for the proposed plans, is regarded as inappropriate, since these requirements would restrict developers from exercising their rights [to develop] and cause the delay of construction¹⁵⁰ (quoted by Igarashi and Ogawa 1993: 164).

The court generally did not accept the rights of third parties [residents] to be informed of and consulted about development plans under the City Planning Act. The 1978 judgment on the request for the cancellation of the development

development area by Nagano City Council. In *Hanrei Times (The Law Times Report)*: Tokyo High Court, Japan.

Citizens in Gifu requested the disclosure of the suppressed environmental assessment report on a road construction plan after the plan was endorsed. The Supreme Court ordered the road agency to disclose the information. 2003. Kunitachi high-rise apartment case: appeal. In *The Supreme Court of Japan Database*: Tokyo High Court, Japan.

¹⁵⁰ Japan. Administrative Vice Minister of the Construction Ministry. 1983. *Takuchi Kaihatsu Shidō Yōkō nikansuru Sochi Hōshin nituite* (To Governors of Prefectures and Mayors of Specially Designated Cities: The guiding principles of the measures on residential land development administrative guidance agreements). Tokyo: Japan. Ministry of Construction.

permission, to which the majority of neighbourhood associations opposed, refused the right of the neighbourhood to be informed about nearby developments as follows:

Although the plaintiffs claim rights and interests of receiving materials and information on the development, there is no legal ground to accept such rights and also no room to construe that the City Planning Act protects such rights and interests¹⁵¹.

Although this ruling was made well before the Law Concerning Access to Information Held by Administrative Organs came into effect (Law No.42 of 1999, enacted on 1st April 2001, the Information Disclosure Act hereafter), the full disclosure of development plans based on the City Planning Act and other planning laws has not yet been compulsory. Furthermore, although the Information Disclosure Act obliges national governmental agencies to disclose information upon request, the Ministry of Land, Infrastructure and Transport (MLIT) can still withhold planning-related information on the grounds that it is still in the process of decision-making. Article 5.5 of the *Examination Standard of Access to Information Held by the Ministry of Land, Infrastructure and Transport* defines the MLIT's deliberation and examination of materials as an exception of disclosure as follows:

Materials of discussion and examination etc.

[They are] Internal or liaison materials held by national organs, independent administrative agencies and local governments for deliberation, examination and negotiation, which may contain risks to obstruct candid opinion exchanges and neutrality of decision-makings unfairly, to cause unnecessary confusion among Japanese citizens, to result in advantages or disadvantages of certain people¹⁵².

¹⁵¹ 1978c. Judgement upon the request of cancellation of development permission from neighbouring residents. In *Gyōshū*: Yokohama District Court, Japan.

¹⁵² Japan. Chief of the Ministry's Secretariat of Land Infrastructure and Transport. 2004. *Jyōhō Kōkai nikakawaru Kokudo Kōtsūshō Shinsa Kijun* (The examination standard of access to information held by the Ministry of Land, Infrastructure and Transport). In *The Examination Standard of Law Concerning Access to Information Held by Administrative Organs*. Tokyo: Japan. the Ministry of Land, Infrastructure and Transport.

Many commentators, resident groups and environmental campaigners expressed their frustration at the inaccessibility to governmental information at the administrative level. They often referred to the reluctance of officials as a legacy of a feudal doctrine, called '*shirasimubekarazu, yorashimubeshi* (The masses must not be informed, but make them dependent on the ruler)'. This dictum originated from the Chinese classic, *The Analects*, written around 500 B.C. by Confucius (*Kon Zi*), which remains essential to understand morals, culture and politics in contemporary East Asian countries (Confucius and Dawson 2000). This attitude to divide the ruler and the ruled still seems to obstruct the transparency and citizen participation in planning in Japan.

7.3 The Role of the Court in Japanese Planning

Legal justice is crucial to ensure that the public interest is materialised in planning practice. Modern planning systems in the West developed to incorporate new ideas such as amenity and social citizenship as 'material consideration' in the public interest, mobilised by the public's protests through social movements, challenges in the plan-making process such as public inquiries and public examination, and finally by the legal justice system (McAuslan 1975; Purdue 1999; Taylor 1998). Citizen participation in planning is only fully secured when there are opportunities for the public to formally challenge the legitimacy of plan formation and the development control process (Barlow 1995). In this sense, the independence of the court from other governmental organisations is crucial to ensure that the public interest in planning is adequately examined through due process. The development of the judicial review system and the expansion of third party rights in modern planning require the impartiality of the court in responding to this task.

Despite the increasing demand for independence of the court from other state functions to safeguard citizens' rights as the public interest, the Japanese court was extremely reluctant to intervene in the decision-making of other state organs. The Supreme Court made it clear that the court could not order a governmental agency to remedy errors committed by the authority in the case of *the Osaka International Airport*. This non-interventionist attitude of the court towards administrative decisions contributed little to changing the concept of the public interest in Japanese planning system. This is particularly true concerning the introduction of new values, such as the preservation of historical assets, townscape and open spaces – amenity and social life - which comprise the quality of life.

While amenity and social life is central themes of modern planning in the West, the Japanese court did not play a significant role in advancing these elements as the public interest in planning. As discussed before, the Japanese court came to accept the legal standing of third parties when developments are likely to have an impact on economic benefits or may affects the safety of life. The court started to acknowledge accumulating effects of hazardous developments on the long-term health of residents in affected communities as in *the Osaka International Airport* and *Hanshin Expressway Pollution* cases, so that victims received compensation. There are a small number of cases in which the loss of amenity due to developments was recognised as damage to 'third party' residents, enabling them to obtain either injunctions of such developments or compensation for past damage. However, these cases are still exceptional in Japan.

One of these entitlements is the right to sunlight. A series of civil suits seeking injunctions of high-rise developments that were blocking sunlight to neighbouring

residences in the 1960 and the 1970s resulted in an amendment of the codes of the Building Standard Act to regulate building construction obstructing sunlight in 1976 (Igarashi 1980; Sawai and Shiomi 1972). Another case is the substantial obstruction of views from residences due to the construction of buildings next door. Although so-called *chōbōken* (a right to a view) is yet to be established, a handful of claims led to injunction or compensation at lower courts, citing economic losses such as falling property values or business losses (Igarashi 2003a: 24-25).

Despite these contributions of the litigation to the progress of planning and environmental policy in Japan, there is a pitfall in the interpretation of the public interest in the past planning litigation. While the underlying cause of infringements of a right to sunlight and a right to a view is related to uncoordinated land-use in Japan, the court only acknowledged the violation of *individual* human rights. All the judgments accepting third party rights in Japan's planning/environment litigation were based on the following ideas. The acts of defendants infringed on personal rights, because the impacts of the developments exceeded the tolerance limit of the plaintiffs, so that the acts were considered as wrongful (tort). To protect *collective* interests such as amenity and social life, citizens resorted to proclaim environmental right as an extension of personal right in litigation in Japan. Consequently, all these citizens' claims for common concerns ended up being considered as private interests in contrast to the public (state) interest in court. The limitation of this interpretation is that the court does not regard the state's failure to protect common interests such as the environment as an infringement of the public interest in planning. Japanese legal theory still considers the interests shared by the general public as reflex interests. Reflex interest is considered as a privilege which certain individuals happen to benefit because of the government's actions. It is not regarded as a legal entitlement,

rather treated as benevolence from the authority in Japan. Thus, the government can take away such a privilege from individuals anytime without any compensation (Gresser, Fujikura, and Morishima 1981: 133). Reflex interests are the mirror images of the public interest and are not perceived or protected as legal interests in Japan.

Whereas planning systems in the West developed through the protection of nature and the built environment as the public (common) interest, the interpretation of legal theories in Japanese planning led to quite opposite outcomes: the judiciary either defended the public interest as a national interest or safeguarded individual human rights as private interests. Under the current judicial review system in Japan, legal claims for amenity and social life, which is irrelevant to the property right of plaintiffs, will be principally dismissed for reasons of absence of the legal standing, except in the cases discussed above where *individual rights* are violated.

A further contradictory issue in planning litigation in Japan is that the court avoided giving any judgement on qualitative values such as local amenity. The judiciary claimed that it was not in a position to quash planning decisions made by other administrative agencies in the name of environmental right, as planning agencies did not recognise this right to be a part of the public interest. Even though the environment, and in particular amenity, is not satisfactorily protected in Japanese statutes, citizens in the communities and even local administrations do not have powers to challenge the legitimacy of developments that are likely to impact on their local environment. The following cases in Kunitachi City indicate the inadequacy of Japanese legal doctrines to protect amenity/social life and improve accessibility of the local built environment *in the public interest*.

7.3.1 The Community right in Kunitachi City

Kunitachi Pedestrian Bridge Case

The typical attitude of Japanese judiciary toward amenity/social life is reflected in *the Kunitachi Pedestrian Bridge Case*. In 1974, a resident group in Kunitachi City sought a cancellation of the contract to construct a pedestrian bridge over the beautifully tree-lined University Avenue, which has been selected as one of *The 100 New Tokyo Views* by the Bureau of Citizens and Cultural Affairs of the Tokyo Metropolitan Government since 1982. The campaigners challenged the development in view of safety and accessibility for the elderly and school children, as both a school and a day centre were located near this bridge. The plaintiffs also used environmental right, in particular visual amenity, which would be threatened by the construction of the pedestrian bridge. However, the court dismissed the plaintiffs' plea as follows:

The plaintiffs' claim that they used a level crossing at University Avenue before the completion of the pedestrian bridge is a mere reflex interest accompanying the use of the road as a public good. Thus, even if residents are now obliged to cross the road using the pedestrian bridge, we cannot infer that the plaintiffs' rights or legally protected interests are harmed.

Not only the construction of a pedestrian bridge like this but all public policy must be decided by comprehensively examining costs and benefits of policy-making decisions on grounds of the public interest. When implementing policy, it is very hard to obtain everyone's approval and support so that it is inevitable that some people will experience disadvantages and inconvenience or feel displeased by the implementation of certain public policy. However, if disadvantaged groups of people would be able to obstruct the enforcement of such policy with judicial tools in the name of environmental right, it is obvious that the function of administrative agencies would be paralysed; thus, administrative agencies would be forced to abandon the plans and

make the existing condition remain, which would result in harming the public interest¹⁵³.

The court also dismissed the plaintiffs' claim that the pedestrian bridge would immediately lead to growth in traffic volume and the speed of vehicles using this road, thus increasing the risk of traffic accidents as well as air pollution. The court rejected the plaintiffs' challenge citing the absence of their legal standing.

Kunitachi City Urban Design Control Ordinance Case

The Tokyo High Court's ruling of 27th October 2004 on the residents' request to dismantle a high-rise apartment which violated the code of *the Kunitachi City Urban Design Control Ordinance* reaffirmed the judiciary's view on residents' legal interest in the amenity and social life of localities. This ruling is very important to assess the effectiveness of the newly promulgated the Landscape Act (*Keikan Hō*) in June 2004 (effective from December 2004). In response to a citizen group campaigning to protect the city's aesthetic surroundings, the Tokyo District Court had ruled the high-rise apartment to be illegal, being twice as tall as the maximum height of the building standard (20 metre) as designated by the local ordinance, even though the building met the codes of the Building Standard Act and the City Planning Act¹⁵⁴. The District Court ordered the developer to remove the part of the building that exceeded the height limit. The High Court overruled the watershed judgement of the Tokyo District Court, reasoning as follows:

[An] attractive townscape must be fully protected and maintained by appropriate policy measures for present and future, as it creates the quality of national and local environment; thus beautiful townscape/landscape is a common asset, bringing benefit to the national and local population. However, it is impossible to conclude that individuals or

¹⁵³ 1973b. Kunitachi pedestrian bridge case. In *Hanrei Jihō*: Tokyo High Court, Japan.

¹⁵⁴ 2001. Kunitachi high-rise apartment case. In *Hanrei Jihō*: Tokyo District Court, Japan.

local residents hold specific legal rights or interests to enjoy attractive townscape/landscape based on civil law. Nonetheless, in case a view from particular places has specific importance and thus the benefits from this view are socially and objectively accepted as a legal interest in one's life, the interest must be legally protected.

However, there is no current statute to accept an individuals' right to enjoy an attractive townscape/landscape; this standpoint is the same as in the Landscape Act. While the Landscape Act defines the basic principles and responsibilities of the national government and others in devising the system for the formation of landscape master plans and landscape planning areas, the controls to shape beautiful landscapes in landscape districts and the support [to local administrations] through the Organisation for Landscape Management, there is no provision to stipulate an individual's right to enjoy attractive landscape.

As the formation and conservation of beautiful landscape is closely related with national and regional nature, history, culture, livelihood and economic activities, it must be the role of the public administration to implement balanced policies based on professional and comprehensive standpoints under citizen participation. Without making good use of the systems above, accepting the individual's rights or legal interests of particular residents who share the same opinion about the valuation of the specific landscape may create the danger of obstructing the formation and conservation of socially balanced good landscape¹⁵⁵.

Again, this statement reveals the perception of 'public' and 'private' as the nation-state versus individuals. Despite such an opinion, in fact, almost all 70,000 Kunitachi City residents were opposed to the development, including the local assembly and the mayor (Igarashi 2003a). The resident group appealed to the Supreme Court. However, the Supreme Court upheld the High court's ruling which confirmed that even a local government is not entitled to protect amenity within its administrative area under the new law and ordinances¹⁵⁶.

It is reminiscent of the case where the court did not accept the legal standing of *the Kyoto Buddhism Association*, who sued a developer that was planning to construct a

¹⁵⁵ 2003. Kunitachi high-rise apartment case: appeal. In *The Supreme Court of Japan Database: Tokyo High Court, Japan*.

¹⁵⁶ 2005. Judgement upon the request of the alteration of the Kunitachi high-rise apartment building. In *The Supreme Court of Japan Database: The Supreme Court of Japan, the First Petty Bench*.

60 metre-high hotel in the old capital city of Kyoto on grounds of religious, historical and cultural environmental rights (landscape right)¹⁵⁷. This development only became possible when the state introduced the Comprehensive Design System (*Sōgō Sekkei Seido*) in 1980, which allowed the deregulation of height control (45 metre in this case) of planned buildings in exchange for the provision of (small) open space surrounding the buildings. Another high-profile case about amenity is that of users of *Hibiya Park*, a large park in central Tokyo, who took a legal action against a developer that was planning a 120 metre-high office building at the south of the Park, claiming their right to use the park, personal and environmental right, the right to sunlight and safety in case of disasters¹⁵⁸. All these legal challenges were initiated by citizens aiming to protect the prominent townscape/landscape in Japan, which has not been sufficiently safeguarded under its planning laws. As explained in this chapter, public administrations in Japan are not obliged to inform and consult citizens about proposed plans, nor do local ordinances and guidance have adequate enforcement power to make developers comply with planning controls. Despite these defects in planning policy implementation, the public was not granted an opportunity to dispute the legitimacy of flawed developments in court in the name of the public interest in Japan.

7.4 Conclusion

Japan's planning litigation discussed in this chapter suggests the strong orientation in Japanese planning towards capitalist development supported by the state. As a result,

¹⁵⁷ 1992a. The case of Kyoto Buddhism Association - judgement upon the request for an injunction of the building construction destructive to historical cityscape. In *Hanrei Jihō*: Kyoto District Court, Japan.

¹⁵⁸ 1978a. Hibiya Park case - environmental conservation of visual amenities of the park. In *Hanrei Jihō*: Tokyo High Court, Japan.

even though the purpose of the City Planning Act is to promote 'rational' land use, the actual practices of the Japanese planning administration and the court rulings were far from protecting the environment and responding social concerns as the prime objectives of planning policy. Instead, the Japanese court confined legally protected interests in planning to the economic interest that properties can bring about. Under this ideology of seeing economic benefits as the foremost importance in planning, the public interest or 'rational land use' in planning was equated with the promotion of economic growth in the cited litigation. Accordingly, even minimal development controls were often ignored by developers. The rulings discussed in this chapter show that the rights to safety, amenity and social life were easily sacrificed when there were opportunities for economic gains by planned developments.

Moreover, the Japanese court firmly upheld the view that decisions by the state could not be easily repealed or challenged by citizens in the name of the public interest, even when there were flaws in the governments' actions. With the legacy of the sovereign Emperor from pre-war times, Japan's judicial system did not function very well when it judged whether to protect citizenship rights against the illegal acts and errors of administrative power *in the public interest*. As the public interest in planning in a modern democracy was only secured and progressed with citizens' rights to challenge administrative decisions, the non-intervention principle adopted by the Japanese court towards other state functions severely restricted potential changes in the discourse on the public interest in its planning. Western planning history shows that the public interest is not a rigid concept, but changes over time, reflecting the demands of the public (Friedmann 1973; McAuslan 1980; Purdue 1999; Taylor 1998). The court is the last public domain for citizens to contest the

public interest (fairness and legitimacy) of planning decisions under the rule of law. Therefore, undermining the power of the court diminishes the role of the public interest as a vehicle for changes in planning policy.

Although local governments are supposed to protect the public interest within their administrative areas, when it comes to development control, their power is limited despite the principle of local autonomy in Japan. Various practical difficulties surround the formation of effective planning ordinances under the current legal system, which forced local planning authorities to rely on voluntary planning agreements. However, non-statutory planning agreements proved to be too vulnerable when developers challenged such obligations in court. It should be stressed that the City Planning Council also undermines local planning power by taking over the role of local assemblies in planning decisions. This means that all three branches of the government of Japan failed to recognise that the public interest in planning should be accountable to local citizens.

Academics in the legal field criticised the strong vertical relationships that exist between central and local administration in Japan regarding the making of rules (Chiba 1984; Harano 1984; Igarashi and Ogawa 1993; Kusumoto 1984; Steiner 1965; Takeshita 1984). The criticisms are centred on three issues. First, there is a view that the national government should only define minimum standards of planning controls under laws, not set maximum standards to local governments in planning, environment and social policy in order to promote the public interest (Harano 1984; Igarashi and Ogawa 1993). Second, there is contradiction in the attitude of the central bureaucracy and the judiciary regarding the use of voluntary planning agreements by local governments, both in theory and in practice (Kusumoto

1984). Although both institutions accepted the legitimacy of planning agreements when they were deemed necessary, penalty codes against violations of these planning agreements were seen to be illegal as detailed in this chapter. If the use of enforcement tools under planning agreements is unlawful, the planning agreement itself should be considered illegitimate as well (Kusumoto 1984). Finally, there is an argument that the influence of central bureaucracy on the contents of local ordinances and planning agreements through the means of administrative guidance, as well as the court's opinions to support these practices, are against Chapter Eight of the Constitution, which guarantees local self government¹⁵⁹ (Chiba 1984; Young 1984).

Weak local autonomy in Japan is an obstacle to transforming the concept of the public interest into a more accountable and democratic one to citizens in the community. Many academics argue that Western history shows a strong relation between the progress of urbanisation and democracy (Boyer 1978; Castells 1977; Giddens 1985; Jones 1976; Tilly and Tilly 1975). In the nineteenth century, prior to national government policies, city administrations initiated democratic reforms and implemented planning policies in response to demands from local citizens (Hall 1996a; Sutcliffe 1980; Sutcliffe 1981). Also, social movements flourished in cities in the twentieth century (Castells 1977; Giugni, McAdam, and Tilly 1999) so that they brought changes in planning policies in the West (Hall 1980; Simmie 1974; Taylor 1998). Japan is not an exception to this process. Citizen movements demanding pollution control and welfare provision in the 1960s and the 1970s

¹⁵⁹ The relevant articles of the Constitution are as follows:

Article 94: Local public entities shall have the right to manage their property, affairs and administration and enact their own regulations within law.

resulted in shifting environmental and planning policies at the local and subsequently the national level (McKean 1977; McKean 1981; Steiner, Krauss, and Flanagan 1980). Similar to the West, the initiatives for planning changes were taken by progressive city administrations, as discussed in this Chapter and in Chapter 5 (McKean 1977; Steiner, Krauss, and Flanagan 1980). However, the Japanese court was very slow to respond to these demands and changes.

The rulings discussed in this chapter reveal continued rejection of transparency and citizen participation in planning by both the public administration and the court in Japan, even in the twenty-first century. In the contemporary modern state, democracy or democratic policy-making cannot be secured only through elections. With the growing role of planning and the increasing influence of state power on the lives of citizens, it is inevitable for the state to disclose future land-use plans and relevant materials to the public, and then consult with stakeholders in order to ensure that planning decisions are accountable to the public. The significantly limited access to government information and opportunities of citizen participation in planning in Japan is against the principle of the public interest of the modern liberal democracy.

A further problematic issue is that the Japanese legal doctrine hardly accepted the public interest as a shared interest in the community or society as a whole. The court rulings here made it obvious that the public interest in planning was strictly the domain of Japanese governmental organisations. Within this rigid perception, the public was only represented and protected by the (central) state. Citizens' interests were rarely seen as a part of the public interest in court, even though the number of

the affected citizens and the extent of the effect by the disputed planning cases were considerable¹⁶⁰.

Although Japan's environmental litigation significantly contributed to change environmental policies and raise awareness about the importance of protecting human rights and the environment in development in the past, the strategy adopted by citizens to protect their interests (or community interest as in the cases in Kunitachi City) as environmental right had a double effect. While this tactic was intended to obtain a fair hearing, it ended up fixating the image of citizens' rights versus the state's interest as private versus public. These two interests were never integrated in Japan's intellectual history either by the left (liberals and social democrats) or the right (conservatives and nationalists) in political thought (Oguma 2002). Therefore, this 'rights' approach has serious limitations when it is used to protect amenity and social life. The rigid dichotomy between the public (the state) and the private (people) in the discourse in Japanese planning litigation made it almost impossible to advance the public interest as a collective concern for society.

Compared to the continuous redefinition in the concept of the public interest in Western planning history, the discourse on the public interest in Japanese planning is extraordinary rigid. It seems that both the current interpretation of the public interest

¹⁶⁰ There was a case in Japan suggesting that the public interest could also include third parties' interest in judicial review when such individual interests (not to be disturbed by noises from airplanes) deserved to be legally protected in addition to the general public interest. In this case, local citizens demanded the cancellation of a new air transport route licence at the Niigata Airport on grounds of excessive noise pollution. In the ruling, although the Supreme Court dismissed the neighbours' plea, the Court did express the view that the residents' rights should be included in the public interest, as their rights should not be affected by serious noise from airplanes. However, this is a rare example of where individuals' rights are seen to constitute a part of the public interest, as the Supreme Court has not used this interpretation widely in subsequent cases such as in the Hanshin Expressway judgement in 1995. 1982. The legal standing of the neighbours surrounding the Niigata Airport - judgement on the cancellation of new air transport route licenses. In *Minshū*: The Supreme Court, the Second Petty Bench.

and the characteristics of planning are hardly different from the nineteenth century. The major reason for this rigidity of the public interest in Japanese planning is that its values and the interrelation of its institutions, in particular governmental institutions, have not been seriously challenged, and have therefore remained largely unreformed. Planning history in the West suggests that, in order for Japanese planning to change, the public sphere should be activated through lively open-minded arguments and the formation of autonomous civil associations. It also requires more extensive disclosure of government information, guarantee of citizen participation and open opportunities for legal challenges. Finally, the most important lesson from the West is that the meaning of the public interest in planning must be continuously challenged, deconstructed and re-invented.

Chapter Eight: Conclusions

This conclusion chapter summarises the findings of the previous chapters and then suggests that Japan's planning development in the past failed in producing good quality of life because of its rigid concept of the public interest. Section 8.1 describes the scope of the thesis and its limitations. Section 8.2 analyses Japan's planning culture through the four dimensions of the public/private dichotomy. Section 8.3 examines the role of the public interest in Japan's planning practice. Then, Section 8.4 draws out recommendations on future planning development in Japan in relation to the public interest discourse. In Section 8.5, I summarise the contributions of this research to improve current planning practices, in particular, of late comers to modernisation.

8.1 Scope and Limitations of the Thesis

This thesis has been a journey to discover how the ideas of the public interest have shaped Japan's planning culture. The thesis follows modern planning development in Japan, and finds out its impacts on the quality of life in relation to the built environment. As detailed in Chapter 3, Japan's policy-makers, bureaucrats, architects and planning professionals eagerly studied other countries' planning systems from its inception (Ishida 1987a; Watanabe 2003). They have continued to import design and planning tools from Western liberal democracies¹⁶¹. Nonetheless, the consequences of implementing these planning schemes appear to be quite unsatisfactory, even disastrous as in the case of the growth-pole economic

¹⁶¹ See Special Issue: Importation of Urban Planning System in Japan. *City Planning Review* (2003), Vol. 52, No. 1.

development in early post-war years¹⁶², and public-private partnership projects during the bubble economy¹⁶³ (see Chapter 5). My interest in Japan's planning started from this puzzle. Why have the nation and its people who have worked quite hard to catch up with planning innovations failed to achieve quality of life that matches the nation's affluence? What are the obstacles for the Japanese to obtain the good built environment when their liberal, political, and social citizenship are fully supported by Japan's very progressive Constitution?

To me, the public interest has been a guide to discover the little known process of Japan's planning policy-making and the ideologies of its planning institutions. As explained in Chapter 5, some Japanese citizens defied the nation's planning policy in the 1960s and 1970s to protect their environmental and personal rights through vigorous social movements. Chapter 7 showed that Japanese citizens engaged in long bitter battles in court, challenging the state's discourse of the public interest in planning to protect a minimum standard of 'cultural living'. The state's responses to these conflicts revealed its ideologies of the public interest and how this shaped its planning policy.

As the nature of this inquiry relied on a broad historical analysis spanning over three centuries, some might argue that the analysis is too contextual and not specific enough. It can also be argued that the definition of 'planning' employed in this thesis is not accurate, as it is deliberately broad. However, I believe that the definition of planning of a country, or 'planning culture' as it is called by John

¹⁶² The growth-pole economic development strategy was first inspired by the US's New Deal programme such as Hoover Dam construction in order to secure electric power. Britain's Barlow Report (Royal Commission on the Distribution of the Industrial Population: 1939) was also influential on Japan's national spatial planning.

¹⁶³ Japan's government and developers also implemented *minkatsu* projects by introducing public-private partnership schemes used in the urban regenerations of the US and British cities.

Friedmann (Friedmann 2005), is determined by the ideas of the public interest in planning. I also treated the public interest as if it were a black box. The concept of the public interest is also hard to pin down and constantly changes. In this research, I focused on describing how people constructed this concept and deployed it in planning policy-making in Japan.

8.2 The Development of Planning Culture in Japan

The section discusses *what forces have determined the way that the public interest in Japanese planning has been historically constructed, especially in relation to the market, the public sphere, social life and domestic life*. These four aspects of ‘public’ concepts introduced in Chapter 2, have influenced the ideologies of the public interest in Japanese planning over the course of its modernisation. The analysis explains well why Japan’s planning culture developed to such a position.

The state and the market

As explained in Chapter 3 the way the relationship between the state and the market evolved in Meiji Japan had crucial impacts on the concept of the public interest in its planning policy. The primary role of the developmental state in relation to planning was to build infrastructures, and renew the built environment in order to catch up with ‘modernisation’. The requirement for constructing Western-style buildings and industrial infrastructures in the process of modernisation created an enormous demand for construction works. Through this process, the construction industry grew quickly, and became one of the largest business sectors in post-war Japan

¹⁶⁴(Foreign Press Center Japan 2006; *Keizai Kōhō Center* 2003; Levy 1993; Woodall 1996). Chapter 5 well depicted that other businesses such as civil engineering, architecture, surveyors, finance, insurance, advertisement and real estate all benefited from the development and renewal of the built environment (Buntrock 2002). A strong alliance between these sectors and the government created a distinctive planning culture in Japan.

This alliance has also influenced the ideologies of Japan's planning professionals. As explained in Chapter 6, the majority of Japan's planning professionals had an affiliation with developers. Especially, professionals such as civil engineers and architects, gained profit from an increase in development projects, in particular from generously funded government projects (Buntrock 2002). Accordingly, those professionals became strong interest groups in Japan's planning policy-making. This patron-client relationship between the state and professionals/developers also defined the role of Japanese planning towards the market. Its prime role also became to support economic development, not to control it.

The way in which Japan's construction sector emerged determined the subsequent relationship between the state and the industry in planning. The liaison is inevitably clientelistic, connecting politicians, bureaucrats and businessmen for the same interest – building something new. Chapter 5 described this process, in which the sector became a hotbed of corruption (Levy 1993; Schlesinger 1997; Woodall 1996), often involving the criminal underworld as an agent to materialise construction

¹⁶⁴ The share of the construction industry in Japan's GDP output consisted of 11.3 percent in 1980 and 10.4 percent in 1990, declining to 6.2 percent in 2004 (Foreign Press Center Japan 2006: 82). The GDP share of Japan's construction industry is distinctive compared to the other advanced economies: 4.8 percent in the US (1999), 5.0 percent in the UK (2000) and 4.5 percent in France (1999). Furthermore, the industry still employs 6.2 million people, representing 9.8 percent of the working population in 2002 (*Keizai Kōhō Center*, 2003: 42 and 113).

projects (Hill 2003a; Kaplan and Dubro 2003) through out its post-war period. Tanaka Kakuei, who ruled Japan's post-war politics as 'shadow shogun' even a decade after his conviction, epitomises the reality of Japan's planning which has been consumed by the greed of the most powerful. This regime long claimed that big construction projects were in the public interest because they created jobs, and enhanced economic development. The cosy relationship between the state institutions and these industries formed a formidable 'growth machine' as 'construction state' in post-war Japan (Babb 2000; Kerr 2001; McCormack 2001; Schlesinger 1997; Woodall 1996).

Farmers, many of whom newly became landowners as a result of SCAP's land reform, also benefited from less development controls. They have had an incentive to change in land-use from farming to residential or industrial use in the rapid urbanisation process because incomes from farming in Japan have been low (Dore 1984: Ch.9). Since many farmers only hold a small size of farmland, the agricultural productivity has been at a low level in Japan (Dore 1984: Ch.9). As explained in Chapter 5, the state was also keen to reduce the 'unproductive' agricultural sector in favour of the industrial economy in the 1960s (Watanabe 1988). As 70 percent of the whole population lived in rural areas, and nearly half of the working population engaged in the agricultural sector immediately after the war (Japan. Statistics Bureau 2006), 'the freedom of land-use' won the support of the majority as it was seen to improve chances for social betterment. Since strong property rights became well-entrenched in early post-war Japan, development controls could hardly be in *the public interest* in Japanese planning policy-making.

The public sphere as a political community

Contrary to planning histories in Western Europe and the USA, the development of Japanese planning has not been strongly related to an open political community. A political community for planning exists in contemporary Japan; however it is extremely confined within the circle of the state bureaucracy, politicians and businesses as explained in Chapter 5 and 6. Participation in Japan's planning policy-making is not open to all stakeholders (Igarashi and Ogawa 1993; Miyamoto 1998). First of all, an autonomous civil society, which has represented an integral part of the public sphere in Western liberal states, was absent in Japan's planning policy-making. In the history of Western planning, civil society, in particular non-profit organisations, contributed a great deal to improve the conditions of working class housing, to create amenities and to preserve the environment (see Chapter 2). These associations have shaped the direction of planning policy in Western liberal economies (Cherry 1996; Pennington 2000). However, as explained in Chapter 6, the planning governance in Japan has prevented autonomous civil associations from exerting a strong influence on planning policy-making. In addition, even civil society itself was mobilised by the state's initiatives during pre-war times (see Chapter 3), this tendency still remains in post-war Japan (see Chapter 6).

Indeed, civil society organisations, in particular neighbourhood organisations, were important in supporting the totalitarian regime in pre-war Japan in order to promote 'thrift and diligence' for the nation's prosperity (see Chapter 3). Japan's civil society associations were often deployed by the central bureaucracy to 'educate' local citizens and guide desirable outcomes for the authority in pre-war times (Garon 1994; Garon 1997; Garon 2003; Pyle 1973; Smith 1978). Furthermore, business

associations still account for 40 percent of all associational establishments in contemporary Japan (Tsujinaka 2003: 114). From its history of civil society development, the characteristics of many civil organisations in Japan are often conservative, hierarchical and development-oriented (Garon 2003; Pekkanen 2003). As a result, civil society organisations sometimes worked as if they were the lower level of government agencies in Japan (Pekkanen 2003).

In addition to the problem of the autonomy of civil associations, a Japanese individual also tends to assimilate his/her identity into the national identity. Japan's construction of the nationhood towards modernisation has made it difficult to separate an identity of a Japanese individual from the nation. This is the reason why Japanese people were easily manipulated by the discourse of 'national polity' (see Chapter 3) and *nihonjinron* (see Chapter 5) which exaggerate cultural/racial homogeneity of the Japanese, persuading them to act in the same manner. Maruyama Masao, a politics professor famed for his *Theory and Psychology of Ultra Nationalism* (1946), analysed how the state succeeded in penetrating the private sphere - everyday life of Japanese people, and mobilised it for the nation during the pre-war period through grassroots organisations (Maruyama 1963a; Maruyama 1963c). Maruyama maintains the view of traditional liberal political thought which perceives the private sphere as the forefront of individuals' moral and religious conscience against the state's intrusion of individual liberty (Benhabib 1998: 86). In pre-war Japan, however, civil society worked for the authorities to control the autonomy of the private sphere as detailed in Chapter 3.

Second, while the public sphere is often activated by free exchanges of opinions led by leading intellectuals, academics, researchers, journalists and professionals, this

role of the public sphere as enhancing lively arguments about politics and policy-making is indeed very weak in Japan as detailed in Chapter 6. The harsh oppression of Japan's academia and media in pre-war times (see Chapter 3) as well as the censorship and the anti-communist purge in the late US occupation period (see Chapter 4) have had a pervasive influence on the subsequent development of the public sphere in Japan. As a result, the state almost dictated policy-making without consulting ordinary citizens up to the late 1960s.

Furthermore, with weakening influences of the left in academia since the 1970s (Barshay 2004; Kersten and Williams 2006; Koschmann 1993), the principle that intellectuals should be politically and ideologically impartial, thus value-free seems to be established in contemporary Japan. However, the intellectuals of policy advisory committees who are supposed to steer public debates in policy-making did not function as an independent body to reflect a wide range of opinions in Japanese society, as they were carefully selected not to oppose the government's proposals (see Chapter 6). In addition, the academic discourse of post-modernism detailed in Chapter 5 has also contributed the development of cultural relativism such as *nihonjinron*, which has ended up justifying the current planning condition in Japan as the culturally *preferred* form by its citizens (Buck 2000; Jinnai 1994). The problematic nature of its intellectual discourse has undermined the development of an open political community in Japan, which could have proposed variable policy choices to the public.

Moreover, the distinctive characteristics of planning professionals and academics have also shaped the discourse of Japanese planning. Due to its inception, planning in Japan was seldom considered to be a part of social science to mediate different

interests in the built environment. It was regarded as technology to materialise the construction of 'new' development and art to demonstrate 'modernity' (Coaldrake 1996; Smith 1978). Accordingly, there was no particular training for planners to study planning as a political process (Masser and Yorisaki 1994). Professional endeavours were concentrated on how to build or renew spaces and provide infrastructures efficiently (see Chapter 3 and 5).

In contrast, impacts caused by rapid urbanisation were addressed by mainstream social scientists in Japan, in particular economists whom the central government appointed to policy advisory committees such as the Economic Council (*Keizai Shingikai*). However, again, their policy suggestions tended to focus on how to promote overall 'economic efficiency' while minimising cost to the state and businesses as explained in Chapter 4 and 5. Many of them did not deal seriously with articulating the human costs of spatial development. As seen in Chapter 5, it was typical that many economists claimed that the deregulation of planning controls was *in the public interest* to remove *economic inefficiencies* in land-use (Iwata and Hatta 1997; *Tochi Mondai Kondankai* 1983). However, the policy recommendations from these elite academics often resulted in regressive effects on citizens' lives. These effects are represented by rampant environmental problems, the lack of affordable housing, poor urban design and the shortage of green spaces (Ishida 1987a; Sorensen 2002). Because Japan's planning policy community has been underdeveloped and controlled by the state and the market to stimulate open policy debate (Nakamura 2000; Tsurutani 1986), the public interest as a representation of collective concerns for citizens has hardly been articulated in the policy-making process.

The public realm as social life

As explained in Chapter 2, the public realm as 'social life' in the built environment has been an important agenda in Western planning histories. In particular, since the nineteenth century, there has been an emphasis on the creation of ample open space for social life (Van Rooijen 2000; Worpole 2000). Furthermore, Western planners have come to recognise that the liveability of cities has depended on the provision of these social spaces where people spontaneously interact (Jacobs 1972; Larkham 1996; Tibbalds 1992; Worpole 2000). Although there has been a tendency to link public space with economic competitiveness, the growth of urban tourism, and the economic development by culture in recent years (Madanipour 2003: 224-227), its importance has been increasingly stressed as an indicator of the success of planning in relation to social capital building (Putnam 2000: 19). As a consequence, the representation of 'public' in the built environment has increased in weight in contemporary planning in the West.

In contrast, one of the most distinctive notions of modern Japanese cities is the failure to recognise social life as the public realm. There have been a number of places to offer such functions in old cities and towns in Japan. Historic Japanese cities had many temples with beautiful gardens, shrines and attractive high streets near these religious institutions. Although there were no squares in traditional Japanese cities as in Western cities, spaces near religious facilities and riversides offered the functions of socialisation and entertainment for citizens in the old days (Cybriwsky 1998; Jinnai 1994; Jinnai 2001; Kerr 2001). However, Japan's modern planning has continuously erased those sociable spaces for citizens.

The reason why social life has not been recognised as the public realm in Japan's planning system is again due to the beginning of its modern planning and the concept of 'public' as detailed in Chapter 2 and 3. When modern city planning was imported to Japan in the early Meiji period, planning was a tool to demonstrate to the world that the city was a showcase of the modern state (Cybriwsky 1998; Fujimori 1990; Smith 1978). This intention is quite visible in Western-style buildings built in the Meiji period. As a result, the government's investments to create 'public' spaces were mostly concentrated on the high city in Tokyo, while investments in the low city tended to be neglected in pre-war Japan (Cybriwsky 1998). While the blurred boundaries between public and private in the use of space were characteristics of pre-Meiji Japan, the modern state drew a distinction of 'public' and 'private' realm of spaces as *the authority* and *individuals*. Even though spaces are provided for the public in contemporary Japan, the metaphors that architects represent in these spaces often reflect 'the nation' and not the people (Coaldrake 1996; Stewart 1987). When public spaces are not so important for the authorities, these spaces are simply utilitarian in contemporary Japan (Shelton 1998: 168). This is an impact of Japan's modernisation in which the state absorbed its society.

Gendered public domain

The weak feminist consciousness in Japan has also been a significant influence on the development of its planning system. As examined in Chapter 2, the contributions of feminist critiques to planning development in the West are two-fold. First of all, the female philanthropists' initiatives for the working class housing reform in nineteenth century British and American industrial cities considerably influenced their planning culture, which valued the quality of living environment as a part of

social citizenship (Meller 2004). Second, feminist critiques and social movements from the late 1960s challenged the elite-male-defined objectives of planning policy in the West (Garber and Turner 1995; Sandercock and Forsyth 2000; Young 1990) so that feminism succeeded in infusing an alternative concept of the public interest. These factors are surprisingly underdeveloped in Japan's planning debates (see Chapter 6). The absence of feminist critiques in analysing existing planning policies appears to be important in explaining why the idea of citizenship as the public interest has rarely been an agenda in Japan's planning policy-making.

The reason why feminism has not developed well in Japan is that women have struggled to build an identity other than the traditional gender role in order to challenge oppressions. As examined in Chapter 2 and 3, the Japanese authority considered the domestic domain (family) as the public (state) domain, to pursue 'modernisation' as a national project (Nolte and Hastings 1991). A family was an important unit for the nation, as it was a place to nurture the old, educate children as a future generation, and reproduce moral values which the authority endorsed (Garon 1993a; Garon 1994; Pyle 1973). Thus, the Japanese authorities valued women's role as far as their activities served the goals which the elite defined (Fujiwara-Fanselow and Kameda 1994; Garon 1994; Garon 1997; Long 1996; Takeda 2005).

The way in which Japanese authority cultivated women's role has striking resemblance with its careful construction of an identity of the Japanese as a homogeneous unit. To understand this rhetoric, Benedict Anderson's account of a nation-state as 'an imagined community' is helpful (Anderson 1991). The Meiji oligarchy reinforced this logic as 'a nation as an imagined family' (Maruyama 1963d). In this context, the Imperial Family has played a significant role as an icon

conveying that the whole nation is a patriarchal family headed by the emperor. All Japanese (subjects) were the babies of the father, the emperor¹⁶⁵. In such an extreme metaphor, each member has to perform a given role in Japanese society (family), and conflicts should be peacefully resolved by the patriarchy rule, not by law and order. It implies the fusion of 'public (state and patriarchy)' and 'private (individual and female)', in which the private is eternally obedient to the public. This patriarchy rule has been applied to all social relations in modern Japan – in families, economy, education and politics. Wives, daughters, employees, students, and citizens, are all expected to follow what their superiors have decided for their minors' best interest. This construction of the power structure in Japanese society prevented diverse views of planning from being discussed *in the public interest*.

8.3. The Role of the Public Interest in Japanese Planning

This section summarises *what the roles of the public interest have been in the development of Japanese planning*. The discussion also analyses *why Japanese planning has failed to produce good quality of life although the government has continued to import planning tools from the West and the national income has been one of the highest in the world*. It also gives an account *why the idea of the public interest in Japanese planning has rarely been contested*.

Planning and the market

As seen in the history of modern Britain, the primary role of the public interest in the planning of the leading industrial economies was to remedy externalities of the

¹⁶⁵ A recent argument of a female emperor in Japan represents this issue. While the current first princes do not have male children as a future heir, the establishment has been reluctant to change the law to accept a female emperor so far.

laissez-faire approach in the nineteenth century (see Chapter 1 and 2). Public health problems in nineteenth century Western industrial cities exposed the limitations of the free market economy, so that the government had to intervene in the land-use of individual properties in order to prevent health hazards in the public interest. However, Japan's problems with its economy did not emanate from the progress of the industrial economy, but rose from the *underdeveloped economy*. This consciousness of being a latecomer to industrialisation formed a strong ideology in Japan, seeing economic development as the public interest in its planning policy.

The developmental state culture in planning was further reinforced in the process of the globalisation of the Japanese economy in the 1980s (see Chapter 5). The government started to attract new high-technology service industries to former industrial sites of major cities and new science parks known as 'technopolises'. From 1980, MITI designated 26 regions where research and development was encouraged (Steffensen 1995). However, what the new planning initiatives since the 1980s successfully promoted was the consumption of spaces - shopping, leisure and recreation. In the previous era, the spatial environment was necessary mainly for manufacturing production and the reproduction of the population. On the other hand, after the 1980s, the spatial environment itself became an object of desire and consumption in the name of 'new urban culture' (Clammer 1997; McCormack 2001). Although the government promoted those planning projects to improve 'the quality of life' *in the public interest*, the initiatives ended in disaster both in urban and rural Japan.

Not only has this cultural hegemony in planning been maintained and protected by the discourse of international politics and lobbying of interest groups, Japan's public

administrations and judiciary have succeeded in defying citizens' challenges to account for *the public interest* against the externalities of the market, by misinterpreting the rule of law principle (see Chapter 6 and 7). Accordingly, the planning ideology of the developmental state is unlikely to disappear in contemporary Japan.

Democracy and the public sphere

The conceptualisation of the public interest in modern planning also signifies the transformation of the public sphere of Western liberal democracies (see Chapter 1 and 2). The nineteenth century housing reform initiatives in Western industrial cities were strongly linked with the rise of political and social citizenship of the working classes during this period (Ashworth 1954; Jones 1976). Intense labour movements in European cities threatened the foundations of the bourgeoisie public sphere and resulted in giving the masses opportunities to participate in parliamentary politics in later years (Geary 1981; Hinton 1983; Jones 1976). The working class housing reform was the middle classes' attempt to 'amend the moral of the working classes', by improving their living conditions in deteriorated neighbourhoods (Ashworth 1954; Fraser 1984; Hall 1996a; Thane 1996; Ward 1989). Therefore, the emergence of modern planning in the West can be interpreted as the diversification of the public sphere of a political community.

Japan's Meiji elite well understood the dynamics of the industrial economy and its impact on society from their trips to nineteenth century European cities as examined in Chapter 2 and 3. The Meiji elite considered that Japan was not able to afford mass democracy, because the nation had to strengthen its military first by state-led economic development in order to survive in a hostile world (Pyle 1974). Therefore,

they strove to suppress political liberalism and created the myth of national unity in order to prevent the expansion of a political community (see Chapter 2 and 3). Such oppression and manipulation of citizens resulted in the absence of autonomous civil society and individuals unless it served the state or the elite interest.

The marginalisation and circumscription of civil society in Japan impeded the development of the public sphere as an open political community. Up to the early 1970s, citizens' movements in Japan demonstrated that Japanese civil society was able to act for social justice and fairness as detailed in Chapter 5. In fact, citizen movements partly succeeded in promoting the quality of life agenda through media campaigns and litigation. Nevertheless, their success was short-lived.

The conservatives and their circles often criticised such locally based initiatives and local politics that sympathised with such movements by labelling them as local egotism against the nation's 'public interest' (Avenell 2006; Lesbirel 1998; Smith 2000). Accordingly, the public interest ended up being reduced to the national interest in the political discourse as well as in legal justice as examined in Chapter 7. In this context, whereas in Western liberal democracies what the public interest represents could be an instrument for civil society, or individuals, to challenge the legitimacy and fairness of governments' planning decisions, the public interest in Japan has been used to justify the governments' judgments in its planning policy. Accordingly, the public interest in Japan exists to bar citizens from objecting to planning decisions and helps to reproduce 'authoritarian values' in planning.

Creating social life

Whereas Western planners have increasingly recognised social life as an integral part of planning in the public interest, Japanese planners have fundamentally lacked this understanding. Many Japanese planners sensed that social life was an essential part of planning through the observation of overseas regeneration projects, but they did not grasp the meaning of social life and how they could incorporate this factor into planning policy. Indeed, land-use planning and community development was the first policy arena where direct political participation appeared in the UK (Croft and Beresford 1996). Although many criticized the effectiveness of citizen participation in planning policy-making (Croft and Beresford 1996; Pennington 2000; Rydin 1999), citizen participation is unquestionably important for contemporary planners in liberal democracies to know how the public considers social life in space. Whilst the quality of social life in relation to spatial use is likely the most debated theme in public consultation, the absence of the social life concept as the public interest in Japan's planning culture resulted in the poor presentation of sociability in its public space and landscape.

The absence of social life concept in Japan's planning policy originated from the inception of Japanese modern planning system. Planning professionals and architects as leading members of Japanese society worshiped modernisation, seen as necessary to make progress towards one of the Great Powers. Japanese bureaucrats and professionals emphasised the importance of efficiency, rationality and technology in planning policy. However, Japan's planning values are not thoroughly grounded in modernism, on which Western planning drew in the past. As detailed in Chapter 2, the idea of modernism in Western planning cannot be separated from

citizenship that guarantees political liberalism, democracy and equality (Gehl 1996a; Gehl and Gemzæe 1996b; Mitchell 2003). Most of all, the modernism in planning was a departure from the absolute state and religious values in the nineteenth century (Brain 1997; Worpole 1992; Worpole 2000). On the other hand, the Japanese establishment genuinely feared the impact of modernisation and industrialisation on Japanese 'traditional' values (see Chapter 2 and 3). As a result, the Japanese elite continually promoted its 'authentic tradition' inside and outside Japan (Vlastos 1998).

To accomplish this task, the Japanese government has used public spaces and its nature to enhance the imagery of the nationhood, as detailed in Chapter 3. First, the authority reinvented a number of historic sites to symbolise the Imperial Family and Shintō which in fact had not been the centre of Japanese culture in the previous era (Fujitani 1993; Ito 1998). Second, the authority gave emphasis to Japanese folklore, which linked to rural nature, as representation of national beauty (against modern thus immoral urban culture). Accordingly, the nation's elite supported the works of nationalist naturalists, artists and literatures (Gavin 2000; Hashimoto 1998; Robertson 1998; Scheiner 1998). This tradition still continues in contemporary Japan. For example, the Japan External Trade Organization (JETRO) has issued its publication *Japanese Lifestyles* to promote Japanese culture abroad. Its 1999 edition featured an interview with a Japanese actress titled '*Japan – A Blend of Changing Customs and Unchanged Values*' (Japan External Trade Organization 1999: 84-85). The message here is that Japan's (authentic national) value has continued even though the social environment has changed.

Despite this ideal imagery of Japan's scenery advocated by traditionalists (Gavin 2000; Hashimoto 1998), changes in landscapes and the physical renewal of the built

environment have never stopped in modern Japan. As detailed in Chapter 3 and 5, prominent Japanese architects, who frequently boasted of Japan's cultural distinctiveness in their works, often caused the destruction of landscapes and old neighbourhoods (Buntrock 2002; Kerr 2001; Knabe and Noennig 1999; Popham 1985; Stewart 1987). The chaotic built environment in modern Japan partly illustrates its elite's two-faced attitude towards modernisation.

The insensibility of Japanese architects' views to the existing environment started to show worrying signs in the 1970s, when Japan joined the top league of industrialised economies (see Chapter 5). The affluence of the nation and the freedom of land-use gave Japanese architects new justification to experiment with post-modern architecture corresponding to the post-Fordism era. Their sense of superiority is also based on middle- and high-brow Japanese architectural culture that has been supported by both the government and industries since the Meiji period (Buck 2000; Knabe and Noennig 1999). Because there is no organisation like Britain's CABE (Commission for Architecture and the Built Environment) in Japan to control urban design and no statutory public consultation requirement for architects, many new buildings that are alien to the surrounding environment have been built in modern Japan (Knabe and Noennig 1999; Nute 2004).

Feminist critiques to planning

Although feminist critiques have transformed existing norms of the public interest in modern planning in the West (Friedmann 1996; Greed 1994; Milroy and Andrew 1988; Sandercock and Forsyth 2000), feminist theories have had little impact on the public interest discourse in Japanese planning. Since the late 1960s, the concept of the public interest in planning and its professionals have faced strong criticism and

resistance from citizens in the West, because the rational planning model advocated by planning professionals did not create communities where people would like to live and enjoy life (see Chapter 1 and 2). Feminist campaigners, a newly emerged social movement in the post-modern and multiculturalists' era, rejected the existing planning neutrality and the public interest as being exclusively 'white, male, and middle-class' (Liggett 1996; Milroy 1996; Ritzdorf 1996). Despite its sweeping influences on modern planning and other public policy discourse in the West, feminist and post-modern ideas introduced to Japan neither changed the scope of citizen participation in planning nor did they encourage planners to include different voices in planning in the public interest (see Chapter 5 and 6).

This difference again seems to derive from Japan's distinction between the public and private domains that differs from the West as explained in Chapter 2. Due to the construction of public/private dichotomies in Japan, women's (as well as men's) behaviours, either in the public or the private realm have been severely constrained by the state or elite defined ideal of women (and the Japanese) as seen in the discourse of national polity (see Chapter 2) and *nihonjinron* (see Chapter 5). This strict identity of women also affected the development of planning and other policy-making in Japan. First, middle class women in pre-war Japan dedicated themselves to promoting the nation's development (Garon 1993a; Garon 1994; Pyle 1973), so that even they sometimes ended up oppressing the minorities (Garon 1993a) and ignoring the most deprived women (e.g. miners, factory workers and prostitutes who were locked up by their employers) in the industrial society (Shin 2004:28-32). Unlike Western counterparts, Japanese middle class women did not infuse an idea of citizenship in the management of spaces in the pre-war period.

During the post-war period, however, a number of women's groups in Japan have been very active in grassroots social movements (see Chapter 6) such as the promotion of peace (Yamamoto 2004), food safety and the protection of the environment (Lam 1999; LeBlanc 1999). Nonetheless, constrained by the state-defined gender identity, many campaigners do not see their activities as feminist, instead claiming motherhood as a cause to participate in such social movements (Etō 2005: 316-318; Yamamoto 2004: 193-194). There has been a sense of inhibition among Japanese women to express their opinions in public as individual citizens (Yamamoto 2004: 194), as they themselves tend to believe that women are 'second class citizens' and thus are not likely to be heard if they do not use the identity of a mother for taking such 'political' actions (Etō 2005: 318). This has prevented diverse concerns from being discussed as a planning agenda in post-war Japan.

Furthermore, post-modernism which is often associated with the rise of feminism in the West (Marchand and Parpart 1994; Nicholson 1989) has had an adverse effect on the promotion of feminist planning agenda in Japan. Some point out that modernism is still important for feminist development in resisting oppression from authorities and promoting equality amongst members of a society (Fainstein 1996; Hewitt 1996; Young 1990). However, by embracing diversities and pluralism, post-modernism has sometimes weakened the notion of universal citizenship represented by equal access to the public sphere (Hewitt 1996).

Indeed, post-modernism in Japan offered a diversity of consumption and life style choices for women (Clammer 1997; Iida 2002), but also embraced the existing gender role of Japanese women as 'a choice' as detailed in Chapter 5. Nevertheless, in reality, Japanese women do not actively 'choose' the traditional role of women,

but they play the role because other choices are extremely constrained and unattractive, as they would have to sacrifice a great deal of their private life if they were to join the male-defined public life, either in works or politics. As a result, more women preferred being a full-time housewife to being a full-time worker in the 1980s and 1990s compared to previous period¹⁶⁶ (Ueno 1994: 32). Thus, the idea of post-modernism in Japan has inadvertently contributed to the rise of neo-traditionalism among Japanese women, thereby ended up obstructing significant changes from happening to the discourse of the public interest in its planning policy.

Accordingly, Japan's post-modernism and feminism has failed to challenge the existing values of its planning policy based on strong 'scientific' rationality. As explained in Chapter 3, Japan's planning policy is a product of being modern (technology) with being traditional (the authoritarian state). Japan's planning policy has developed replacing the public interest (politics in planning) with 'scientific neutrality'. However, how this 'neutrality' has been constructed is questionable, as Japanese science has not been challenged by the Enlightenment up to now (Nakayama 1984). Moreover, 'scientific neutrality' in planning policy has been exclusively defined by elite males in Japan. While feminist critiques in the West attacked the same gender-blind scientific neutrality and the male-defined public sphere in modern planning policy (Fainstein 1996; Ritzdorf 1996), this is not the case in Japan.

¹⁶⁶ In Ueno's own research, 60 percent of those being questioned answered that they wanted to be a full-time housewife (Ueno 1994: 32).

8.4 Recommendations on Japan's Planning Development

This section discuss how governments, businesses, planning professionals and citizens can use the public interest as a tool to promote good quality of life through planning policy in Japan. First, the relationship between the state and the market in Japanese planning needs to be re-examined *in the public interest* since the collapse of the bubble economy proves that the market can be a destructive force to the environment and people's lives. Planning institutions in modern Japan have evolved based on the deep-set ideology of economic growth. This ideology has been further strengthened by the interests of their members, who have wished to expand their professional clout in the process of Japan's modernisation. These institutional climates of Japan's planning have had a deep imprint on Japan's planning culture, even after the environment surrounding those institutions entirely changed. Japan became an economic superpower in the 1980s so that its economy does not need big construction projects anymore to enhance development. To re-evaluate the relationship between the state and the market in planning, promoting transparency and citizen participation in planning decision-making is essential. Moreover, there is a need to educate Japanese planners about the impacts of development planning and planners' professional responsibilities to society.

Second, although both Japanese bureaucracy and academics now seriously address citizen participation as *machi-zukuri* (town-making), its effectiveness needs to be carefully evaluated. Making 'a consensus' in planning seems to appeal to Japanese minds as it is similar to the Japanese style management of *ringi* (round meeting). However, considering the history of Japanese civil society, the state-led citizen participation programme in planning would create the risk that civil society might

lose its autonomy (Evans 2002). The history of Japan shows that the existence of civil society itself does not produce a democratic society. Civil society has its limits, as Japan's civil society organisations actively supported the brutal totalitarian regime in the past for 'modernisation' and justified the invasion of its Asian neighbours. To ensure that proposed planning policies are *in the public interest*, all stakeholders should be given enough opportunities to discuss whether government proposals would satisfy their needs. The stakeholders of proposed plans should be entitled to challenge government policies if necessary. The government is required to explain why its proposals are the best to serve the public interest and how such policies are accountable to stakeholders. Otherwise *machi-zukuri* could turn out to be a mere device to disguise 'a consensus' and authorise the prescribed plans.

A recent scandal surrounding *the Town Meeting* system in Japan well illustrates the limitation of public participation in the Japanese style. *The Town Meeting* system was introduced in 2001 under the initiative of Koizumi cabinet to encourage citizen participation in the making of key national government policies such as education, pension reform, environment and regional planning issues. High officials and ministers were invited to town halls all over the country to discuss issues across the board and answer questions from the public. Each town meeting cost 11 million Yen (£50,000) of taxpayers' money (McCurry 2006). The scandal revealed that questions 'from the public' at twenty-five town meetings were 'sham' as local governments paid those sixty-five questioners to ask 'particular' questions to the officials under requests from ministry bureaucrats to 'guide' discussions (ibid). This incident strongly suggests that the format of citizen participation in Japan needs more extensive debate.

Third, Japanese local governments have been able to exercise little power over local planning decisions as the analysis of Chapter 7 revealed. Despite SCAP's reforms to promote local autonomy, planning still *de facto* falls under the jurisdiction of central government. Even though local governments have certain latitude to decide on their own visions for the localities, final planning decisions are designed to bypass local assemblies (see Chapter 6). Planning decisions are still to be authorised by the exclusive [Prefectural] City Planning Council that is appointed by the prefectural government, although since 2000 municipal governments can form their own City Planning Council. This institutional arrangement made it difficult for local citizens to participate in planning policy-making and influence its outcomes. As a result, local interests have not been well incorporated into the public interest through either formal or informal politics in planning. The analysis of Chapter 7 shows that local planning should be the responsibility of local governments to make planning policy more accountable to local citizens.

Fourth, although some claim that people's activities or minds define public spaces (Hidaka and Tanaka 2001), many reckon that the Japanese sense of beauty, whether it is traditional townscapes, gardens, lifestyle or products, is defined by order, simplicity, perfection and harmony with the environment (Ekuan 1998; Karan 2005: 89-93; Moeran 1996). The government's ignorance of 'social life' as the public realm has ended up eliminating the beautiful, but practical townscape of old towns and failing to provide sufficient open spaces in contemporary Japan. It resulted in the poor urban design, which does not offer quality of life to Japanese citizens *in the public interest*.

To encourage debate about social life in spaces, the role of intellectuals, academics and professionals are crucial. As analysed in Chapter 3 and 6, planning education in Japan is still confined to rational science; it considerably lacks the studies of planning as politics, democracy and a tool to protect quality of life as a part of social citizenship. Moreover, the majority of Japan's local governments and NPOs have not succeeded in attracting human capital to offer alternative planning policy choices to citizens (see Chapter 6). To overcome these obstacles, local autonomy and governments' support to autonomous civil organisations (e.g. tax breaks, education and grants) are vital. Cities and villages cannot thrive without recognition of social life as the public interest.

Fifth, while Western feminists often describe the boundary between the public and private domains as the state/ market /civil society and families (Benhabib 1998; Landes 1998; Lister 2002), this division is different in Japan (Molony 2005; Nolte and Hastings 1991). While Japan's modern state also prevented women from participating in the political domain during pre-war times, the state almost subsumed the family and private domain in the past to mobilise its citizens for the national goal (see Chapter 2 and 3). Because its legacy still pervades contemporary Japan (Garon 2003), it appears to be harder for Japanese women compared to their Western counterparts to oppose planning policy as the state domain.

Certainly, many social movements emerged because some groups realised that they were being exploited and oppressed in a society (Tarrow 1998: 14; Young 1990: 39). Japan's political history detailed in this thesis (Chapter 3, 4 and 5) shows that awareness of being deprived, and grievance against such injustice, has played a significant role to mobilise policy discourse. In this context, the minorities in Japan,

burakumin and Japanese-Koreans¹⁶⁷ have been well conscious of being oppressed in Japanese society. Thus, it is not a coincidence that these minorities in Japan succeeded to a certain extent in mobilising their interests in planning policy-making in post-war Japan.

It was minorities' grievance of being unfairly marginalised for a long time that mobilised them in solidarity to improve their quality of life in post-war Japan. *Burakumin* swiftly organised *Buraku Liberation League (BLL)* to improve their social standing in affiliation with JCP and JSP in early post-war years (Su-lan Reber 1999; Upham 1987: Ch.3). *Burakumin's* campaigns materialised in the enactment of the Special Measures Law for *Dōwa* (assimilation) Projects (SML) in 1969 to promote *burakumin's* access to favourable loans, education, good community facilities such as day care and public housing in their communities (Upham 1993b: 328-329). On the other hand, Korean residents in Japan have been excluded from participating in policy-making because of their citizenship status as 'foreigners'. However, they were able to represent their ethnic identity and solidarity in the reconstruction of a multi-cultural community in Nagata Ward of Kobe where the damage of the 1995 Hanshin-Awaji Earthquake was very severe (Okabe 1999).

In contrast, Japanese women were not very successful in incorporating their own agenda in planning because their 'wifist and maternalist' participation fronts led women's concerns to be co-opted and subordinated into the mainstream (male-defined) interests (LeBlanc 1999; Liddle and Nakajima 2000; Uno 1993). For Japanese women, the public interest in planning seems to be given to them by the

¹⁶⁷ Koreans were forced to work in Japan during Japan's colonisation in 1910-45. At the end of the war, approximately 500,000 to 600,000 Koreans remained in Japan. Many of their descendants (estimated 1 percent of Japan's population) still live in Japan while still holding Korean citizenship. Fukuoka, Yasunori. 1996. Koreans in Japan: past and present. *Saitama University Review* 31 (1):1-15.

state and the patriarchy for 'the right' actions. The challenge for Japanese women is how to defy the state-defined roles of women and have their own individual opinions included in the public interest in planning decisions.

Sixth, the flawed rule of law in Japan has prevented the public interest from being articulated as social justice. The obvious defect of Japan's legal system of planning is that there is no instrument to ensure government agencies are accountable to their citizens as examined in Chapter 7. As there are no formal opportunities for citizens to challenge proposed plans before implementation, the state has rarely been forced to change its original plans. There has also been little prospect for citizens to override planning decisions in court. Furthermore, the transparency of planning decisions was not secured until recently. Without an effective judicial review and public inquiry system in planning, the Japanese government have virtually eliminated all entitlements of citizens to challenge the legitimacy of planning decisions. The absence of such an important mechanism to redefine the public interest has undermined the influence from civil society on planning policy-making in Japan. It has resulted in weakening the advancement of citizenship – quality of life – to be promoted by planning policy in contemporary Japan. Therefore, the legal framework of planning should be reformed to allow citizens to challenge government decisions in public inquiries and judicial review if necessary.

8.5 The Thesis's Contribution to Planning Studies

Japan's experiences in planning development in the course of modernisation are important lessons for developing countries that seek to promote economic independence and democracy at the same time. One implication of Japan's history of planning policy is that the state can effectively lead industrialisation, providing

basic infrastructures through long-term economic planning and government finance programmes as explained in Part 2. In addition, Japanese private companies built extensive railway networks in the metropolitan areas, by combining profits from their residential and retail developments alongside the rail routes. Japanese governments' leadership in infrastructure building succeeded in materialising the dense public transport networks, and thus managed to keep the vitality, safety and sustainability of its city life. The second implication is that the distribution of political resources in planning to less privileged groups and regions can be a successful policy to reduce economic inequality within a state (Calder 1988; Garon and Mochizuki 1993b; Upham 1993a), although this was unintentional in Japan (SCAP's land reform empowered the previously marginalised farmers as detailed in Chapter 4).

However, the negative impacts of Japan's strong developmentalism in planning are quite obvious, as revealed in its rampant environmental problems and chaotic landscape (see Chapter 5). In addition to this, elite-led planning is set to fail, as it has hardly incorporated the public interest as a collective interest of all stakeholders. The thesis also illustrates that local autonomy is necessary to materialise democratic planning. Furthermore, the empowerment of the politically weak, in particular women, in planning policy-making is crucial to accomplish fair planning outcomes.

Japan's experiences also suggest that public participation, which has been a popular device for democratic planning in both theory and practice (DeSario and Langton 1987; Forester 1989; Healey 1996; Terao 1999), is not sufficient to bring the best policy outcome. A latecomer to modernisation like Japan still does not have strong liberalism as established in the West. Authoritarian culture as seen in its gender

relationship pervades in every aspect of Japanese society, and such hegemony will not easily evaporate without continuous efforts of citizens.

Japan's planning history indicates that a fair construction of the public interest is essential to implement 'good' planning. To achieve this, the vitalisation of public and social life outside the state is crucial. Academics and the mass media should play a leading role to explore ideas of the public interest other than the one being endorsed by the state and the establishment. Planning values in Japan, which are exclusively constructed by male planning professionals, economists, business elites and bureaucrats, need to be challenged. The hierarchical relationship between central and local governments, men and women, professionals and non-professionals, the state and individuals should be redressed. Real freedom of speech is only obtained by celebrating differences among social groups and accepting the diversity of opinions. There is no true consensus if the public interest is constructed as scientific neutrality, community or national consensus by suppressing alternative ideas.

Moreover, Japan's experiences illuminates two critical factors explaining *why it has been difficult to change the status-quo in planning development*, although they are rarely addressed by planning academics. First, institutions, in particular the legal and regulatory framework, are important to secure the public interest in the market economy (Stiglitz 2002: 139). In modern liberal economies, property, especially homeownership, has become the foundation of society. However, it inherently accompanies many risks. For example, individuals' financial commitments accompanied by homeownership made the government regulate building standards, the practices of housing loan companies and insurance firms. Stiglitz insists that the

expansion of the market economy requires the vast development of state supervision and regulations, to secure fair competition and law-abiding behaviour in the market (Stiglitz 2002: 139).

In this context, the Japanese governments have been too occupied with maximising economic output through planning (see Part 2), rather than regulating the ‘product’ (the built environment). Japanese home-owners and consumers recently discovered that some of the newly built high-rise apartments and hotels did not comply with the minimum construction standards for an earthquake of magnitude 5 (Pulvers 2006; Shimizu 2006). This is a real threat to the public, considering that Japan is an earthquake-prone country. Inspectors overlooked this fault since they examined false construction data. The damage to the buyers of these properties was not covered by the insurance, as the 1995 Product Liability Law is still underdeveloped in Japan. Back in 1995, many residents in Kobe lost their properties because of the earthquake. Furthermore, many of them ended up paying two mortgages later since Japanese insurances usually do not cover damage against natural disasters. These risks in the market are not simply individual risks, because the state has the responsibility to protect citizens against illegal conducts in the market and minimise social risks.

In a highly urbanised society, the state has to limit certain individual liberties *in the public interest*. In the modern state, individual homes cannot exist independently, as they should be served collectively by various public services and need to be highly regulated because of the high density in cities. Urbanisation increases social risks, where an individual’s careless behaviour might cause damage to other people. Urban living also requires various restrictions on the freedom of individual behaviour and properties, as nuisance might deprive neighbours of their right to enjoy life. Japan,

as a latecomer to modernisation, has tended to overlook the externalities of the market economy, as the state only concentrated on the growth of the economy.

Second, in addition to the significance of regulatory rules in the market economy, Japan's planning history also demonstrates the importance of the rule of law to secure citizenship rights in liberal democracies *in the public interest*. The analysis of Chapter 7 shows that building a fair judicial framework is essential to achieve democratic planning outcomes in non-Western states which have not established the solid rule of law principle. The principle of the rule of law in the modern state developed from limiting despotism: the power of the monarchy under *rule by law* (Clark 1999; Henderson 1980: 119; Shklar 1987). Derived from this origin, the rule of law in contemporary liberal democracies assumes that political leaders or public administrations might make mistakes, so that citizens should be given the right to seek remedies in court if they believe that the judgment of the government perverts the objectives of the law (Clark 1999; Shklar 1987).

The rule of law doctrine in modern society also functions to maintain the balance of powers within the state between the legislature, the executive and judicial branches (Bellamy 2005). The analysis of planning litigation in Japan examined in Chapter 7 shows that the rule of law principle has been ignored as judges rather acted to justify decisions made by the governments when citizens challenged them. As explained in Chapter 6 and 7, Japanese judges have often taken a position not to intervene in governments' policy decisions or political questions in judicial review, claiming that the court should not have power over the parliament and the public administration (Henderson 1968; Hook and McCormack 2001; Stockwin 1982: Ch. 10). However,

by applying this rule, the court has limited the role of law to simply an order of the government rather than a tool to ensure justice in society.

It is ironic that Japan possesses one of the most advanced constitutions in the world in terms of the protection of human rights. The 1946 Constitution of Japan also emphasises the independence of the court by a newly introduced judicial review function, considering the history of the pre-war totalitarian regime. Many plaintiffs of Japan's planning litigation referred to the public interest declared under the Constitution to defend their rights to pursue a minimum living standard, which has not been fully protected by Japanese planning laws (see Chapter 7). Almost all judges in Japanese court have dismissed references to the public interest of the Constitution and planning laws as a pure abstract notion, thus not relevant to planning litigation. As many scholars have pointed out, the Constitution's articles on the standard of welfare have been mostly neglected or interpreted very lightly by Japanese judges (Henderson 1968; Stockwin 1982: Ch.10). As a result, the rule of law and constitutional rule has not contributed very much to advance the public interest as citizenship rights in Japanese planning governance.

Although the public interest was once abandoned in Western planning policy-making for the question of its efficacy (Dahl 1961; Pennington 2000; Reade 1987), the idea of 'public' representing democracy, participation, sociability and equality has thrived and even revived as an important principle in planning theories lately (Campbell and Marshall 2000; Gehl and Gemzæe 1996b; Taylor 1994). The resilience of the public interest seems to represent its capacity; citizens can make planning more accountable and democratic for everyone affected by mobilising the discourse of the public interest. A comparison with Western histories illustrates that Japan's planning

culture of the developmental state could change, if the elite-defined ideologies of the public interest are contested in all arenas of policy processes: legislature, public administration and the judicial system.

Appendix 1: List of Foreign Words

<i>Amakudari</i>	Literally the descendant from the heaven; describing the behaviour of ministry bureaucrats moving to public/private companies for a second career and receiving high salaries
<i>Atarashii kōkyōsei</i>	New publicness
<i>Bakufu</i>	Shogunal government
<i>Bunmei Kaika</i>	Civilisation and Enlightenment
<i>Burakumin</i>	[Japan's] social outcast
<i>Chihō kairyō undō</i>	Local Improvement Movement
<i>Chihō kōfu zei</i>	The general local allocation tax
<i>Chiso Kaisei</i>	The 1873 Land Tax Revision
<i>Chian Keisatsu Hō</i>	The 1900 Public Peace Police Law
<i>Chian Iji Hō</i>	The 1925 Peace Preservation Act
<i>Chiku keikaku</i>	District plan
<i>Chōbōken</i>	Right to a view
<i>Chōnai-kai</i>	Neighbourhood associations
<i>Chōzen shugi</i>	The supreme principles of justice and the public interest
<i>Dai san sector hōjin</i>	Private-public partnership company
<i>Danjo Koyō Kikai Kintō Hō</i>	The Equal Employment Opportunity Act
<i>Desaki kikan</i>	Local branch offices of central government
<i>Dōro Hō</i>	Road Act
<i>Dōwa</i>	Assimilation
<i>Fūei Hō</i>	The Entertainment Business Act
<i>Fuhen futō</i>	Impartial and non-partisan
<i>Fukoku Kyōhei</i>	Enrich the county, Strengthen the military

<i>Gikan</i>	Technical official
<i>Ginza Renga-Gai</i>	The Ginza Brick Quarter
<i>Hanshateki rieki</i>	Reflex interests (distinguished from legal interests in Japan)
<i>Hanshin Kōsoku Dōro Kōdan</i>	The Hanshin Superhighway Corporation
<i>Hibiya Kanchō Shūchū Keikaku</i>	The centralisation of the Government Office District in Hibiya
<i>Hikokumin</i>	Unpatriotic Japanese
<i>Hisabetsu buraku</i>	Socially segregated neighbourhoods where burakumin live
<i>Hojokin</i>	Subsidy
<i>Honne</i>	Informal, private and real
<i>Ichoku sō chūryū</i>	100 million Japanese all belong to the middle-class
<i>Ippan no machinami</i>	Regular town
<i>Jiageya</i>	Land shark
<i>Jichi-kai</i>	Neighbourhood associations
<i>Jieitai</i>	The Self Defence Force
<i>Jimukan</i>	Administrative official
<i>Jinmin</i>	People
<i>Jinryō no kaoku</i>	Regular houses
<i>Jūmin undō</i>	Residents' movement
<i>Jūtaku Kinyū Kōko</i>	The Housing Loan Corporation; HLC
<i>Jyōhō Kōkai Jyōrei</i>	Information Disclosure Ordinance
<i>Jiyūtō</i>	The Liberal Party
<i>Kaihatsu shidō yōkō</i>	Voluntary development agreement
<i>Kan</i>	Officialdom
<i>Kanson minpi</i>	Respect for authority and disdain for the masses

<i>Keikan Hō</i>	The Landscape Act
<i>Keizai Shingi-chō Keikaku-bu</i>	The predecessor of the Economic Planning Agency
<i>Keizai Shingikai</i>	The Economic Council
<i>Kenchiku Kijun Hō</i>	The Construction Standard Act
<i>Kikan inin jimu</i>	Agency-delegated function
<i>Kichinyado</i>	Doss-house
<i>Kisei kanwa</i>	Deregulation
<i>Kō</i>	Public; official
<i>Kōchi Seiri Hō</i>	Cultivable Land Reorganisation Act
<i>Kōchōkai</i>	Public hearing
<i>Kōdan</i>	Public companies
<i>Kōen</i>	Park; public / official gardens
<i>Kōgai Taisaku Kihon Hō</i>	The Pollution Control Basic Act
<i>Kokko shishutsukin</i>	The national treasury disbursement
<i>Kōkoku [soshō]</i>	Appeal
<i>Kokudo keikaku</i>	National land planning
<i>Kokudo Riyō Keikaku</i>	The National Land Use Plan
<i>Kokudo Riyō Keikaku Hō</i>	The National Land Use Planning Act
<i>Kokudo Sōgō Kaihatsu Hō</i>	The Comprehensive National Land Development Act
<i>Kokuhō sensenron</i>	The superiority of national laws over local ordinances
<i>Kokumin</i>	Citizen, the Japanese people
<i>Kokutai</i>	National polity
<i>Kōkyo hōsō</i>	Public broadcasting
<i>Kōkyō kūkan</i>	Public space
<i>Kōkyō jigyō</i>	Public works or public enterprise, in particular infrastructure building projects

<i>Kōkyō no fukushi</i>	The public welfare
<i>Kōkyō no rieki</i>	The public interest
<i>Kōkyō-sei</i>	The nature of publicness
<i>Kōmin-kan</i>	Community hall
<i>Kon Zi</i>	Confucius
<i>Kōshū denwa</i>	Pay phone
<i>Kyōiku chokugo</i>	The Imperial Rescript
<i>Kyōgikai</i>	Policy advisory committee
<i>Machiya</i>	Japan's traditional wooden house
<i>Machi-zukuri</i>	Literally town making; meaning community planning
<i>Machi-zukuri kyōgikai</i>	Community planning council
<i>Messhi hōkō</i>	Literally sacrifice of self in service to the public (the lord); a slogan calling for selfless loyalty to the state or one's employer
<i>Mimaikin</i>	Sympathy payments
<i>Mini kaihatsu</i>	Small-scale development
<i>Minkatsu</i> (<i>Minkan katsuryoku no katsuyō</i>)	Utilising the ability of private enterprises
<i>Minsei iin</i>	Volunteer community welfare officer
<i>Mitsubishi Marunouchi Office-Gai</i>	Mitsubishi Red-Brick Street (First Street, London)
<i>Miyako</i>	City of culture
<i>Mukashitsu sekinin</i>	No-fault liability
<i>Nihon Dōro Kōdan</i>	The Japan Highway Public Corporation
<i>Nihonjinron</i>	The theories on Japanese uniqueness
<i>Nihon Hōsō Kyōkai (NHK)</i>	Japan Broadcasting Corporation
<i>Nihon Jūtaku Kōdan</i>	The Japan Housing Corporation; JHC
<i>Nihon Kaihatsu Ginkō</i>	The Japan Development Bank

<i>Nippon Keizai Dantai Rengōkai</i> (<i>Nippon Keidanren</i>)	Japan Business Federation
<i>Nihon Kenchiku Gakkai</i>	The Architectural Institute of Japan
<i>Nihon Kirisutokyō Fujin Kyōfūkai</i>	Women's Christian Temperance Union
<i>Nihon Shakai Seisaku Gakkai</i>	Japanese Social Policy Association
<i>Nihon Toshi Keikaku Gakkai</i>	The City Planning Institute of Japan; CPIJ
<i>Nihon Toshi Seibi Kōdan</i>	The Housing and Urban Development Corporation
<i>Nisshōken</i>	The right to sunlight
<i>Nōkyō</i>	Agricultural Cooperatives
<i>Nōrin Chuō Kinko (Nōrin Chūkin)</i>	Nōrinchūkin Bank; the central financial institution for agricultural, forestry and fishing co-operatives
<i>Oyabun-kobun</i>	Father-child
<i>Ōyake</i>	Public; the great house of the emperor
<i>Rinchō</i>	The Provisional Administrative Reform Committee
<i>Ringi</i>	Round meeting
<i>Ryōmin</i>	<i>Good people</i>
<i>Ryōsai kenbo</i>	Good wife, wise mother
<i>Saku</i>	Strategies
<i>Samurai</i>	Warrior
<i>Seikatsu Taikoku</i>	Making Japan a great place to live
<i>Seikatsu Taikoku Gokanen Keikaku</i>	The Five-Year Plan for Making Japan a Great Place to Live
<i>Seirei</i>	Cabinet ordinance
<i>Sei [ji]</i>	Politics
<i>Seisaku</i>	Policy
<i>Senbiki</i>	Literally line-drawing; making the boundary within the City Planning Area

<i>Sensai Fukkōin</i>	The War Damage Rehabilitation Agency of Japan; WDRA
<i>Shakai</i>	Society
<i>Shakai Minshutō</i>	The Social Democratic Party
<i>Shimin</i>	Citizen
<i>Shiminken</i>	Citizenship [rights]
<i>Shiminteki kōkyōsei</i>	Citizens' publicness
<i>Shimin undō</i>	Citizens' movement
<i>Shimin undōka</i>	NGO/NPO activist
<i>Shingikai</i>	Policy advisory committee
<i>Shinkansen</i>	Bullet train
<i>Shin Chōki Keizai Keikaku</i>	The New Long-Run Economic Plan
<i>Shirasimubekarazu, yorashimubeshi</i>	The masses must not be informed, but make them dependent on the ruler
<i>Shiraji chiiki</i>	Blank zoning area
<i>Shishi</i>	Men of spirit
<i>Shitamachi</i>	Japan's working class neighbourhoods
<i>Shōgun</i>	The emperor's military deputy
<i>Shōkō Chūkin</i>	Special corporation for helping small businesses
<i>Shomin</i>	Little people
<i>Shōrei</i>	Ministerial ordinances
<i>Shotoku Baizō Keikaku</i>	The Plan to Double Individual Income
<i>Shufu Rengōkai</i>	The Housewives' Federation
<i>Shūkai oyobi Kessha Hō</i>	The Law on Associations and Meetings
<i>Shutoken Seibi Hō</i>	The National Capital Region Development Act
<i>Shuto Kōsōku Dōro Kōdan</i>	The Tokyo Expressway Public Corporation
<i>Sōgō Kaihatsu no Kōsō</i>	The Idea of Comprehensive Development

<i>Sōgō Sekkei Seido</i>	The Comprehensive Design System
<i>Sonnō jyōi</i>	Honour the emperor, expel the barbarians
<i>Soshō no seijukusei</i>	The ripeness of the cases
<i>Suidō Hō</i>	The Water Supply Act
<i>[Takuchi] Kaihatsu shidō yōkō</i>	municipal governments' voluntary development control agreements with [estate] developers
<i>Tatemaie</i>	Official, public, principle or surface
<i>Teito</i>	Imperial capital
<i>Tochi shihon shugi</i>	Land-based capitalism
<i>Tochi Kukaku Seiri Hō</i>	Land Readjustment Act
<i>Tochi Shūyō Hō</i>	The Land Expropriation Act
<i>Tōjisha soshō</i>	Civil suit
<i>Tokkō</i>	The Special Higher Police
<i>Tokushu hōjin</i>	Special public companies
<i>Tokushu Ian Shisetsu</i>	The Recreation and Amusement Association; special official brothels for the US soldiers
<i>Tokutei Chiiki Sōgō Kaihatsu Keikaku</i>	Special Area Comprehensive Development Plans
<i>Tokutei hojokin</i>	Specific subsidy
<i>Tokyo Shi-Ku Kaisei Jōrei</i>	Tokyo City-Ward Reform Ordinance; TCRO
<i>Toshi keikaku shingikai</i>	City Planning Council
<i>Toshi Saikaihatsu Hō</i>	The Urban Redevelopment Law
<i>Toshi sanpō</i>	Three laws on urban development
<i>Tsūtatsu</i>	Ministerial circulars; communication
<i>Tokushu hōjin</i>	Special public company
<i>Tokutei hojokin</i>	Specific subsidies
<i>Uwanose</i>	Top-up, strengthening standards

<i>Wa</i>	Harmony
<i>Wakon Yōsai</i>	Japanese spirit, Western technology
<i>Yokodashi</i>	Additional requirements
<i>Yonzensō</i>	The Fourth Comprehensive National Development Plan
<i>Yoron</i>	The public opinion
<i>Yūaikai</i>	Friendship Society
<i>Yūbinkyoku</i>	The post office
<i>Yūen</i>	Pleasure ground / amusement park
<i>Zaisei Tōyūshi</i>	The Fiscal Investment and Loan Programme; FLIP
<i>Zeisei Chōsakai</i>	The Tax Commission
<i>Zenkoku Sōgō Kaihatsu Keikaku</i>	The Comprehensive National Development Plan; CNDP

Appendix 2: List of Acronyms

ALPA	The Administrative Litigation Procedure Act
ANA	All Nippon Airways
BLL	Buraku Liberation League
CABE	Commission for Architecture and the Built Environment
CNDP	The Comprehensive National Development Plan
CPA	City Planning Areas
CPIJ	The City Planning Institute of Japan
FAR	Floor area ratios
FLIP	The Fiscal Investment and Loan Programme
FRG	The Federal Republic of Germany
HE	The Hanshin Expressway
HLC	The Housing Loan Corporation
JAPIC	The Japan Project-Industry Council
JAR	Application for judicial review
JCP	Japan Communist Party
JETRO	The Japan External Trade Organization
JHC	The Japan Housing Corporation
JNR	The Japan National Railway
JSP	Japanese Socialist Party
LDP	Liberal Democratic Party
LTPC	Local Town Planning Committee
MITI	The Ministry of International Trade and Industry
MLIT	The Ministry of Land, Infrastructures and Transport
MOF	The Ministry of Finance
MP	Member of the parliament

NHK	Nihon Hōsō Kyōkai (Japan Broadcasting Corporation)
NPO	Non-profit organisation
NR	The National Route
NTT	The Nippon Telegraph and Telephone Public Corporation
PFI	Private Finance Initiatives
RTPI	Royal Town Planning Institute
SCAP	The Supreme Command[er] for the Allied Powers
SII	The U.S.-Japan Structural Impediment Initiative
SML	The Special Measures Law for Dōwa (assimilation) Projects
TCRO	Tokyo City-Ward Reform Ordinance
TDR	Transfer of development right
UCA	Urbanisation Control Area
UPA	Urbanisation Promotion Area
WDRA	The War Damage Rehabilitation Agency of Japan
WECPNL	Weighted Equivalent Continuous Perceived Noise Level

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