

# Chapter 1 Development and Environmental Policy under Neo-Corporatism: Slow Progress toward Pluralistic Decision-Making in Japan

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## 1. Introduction

The OECD (1977) and Weidner (1989) have praised Japan for its rapid reduction of industrial pollution in the past. They noted that Japan's success was attributable to a combination of direct administrative control, a technological approach, and initiatives by local governments. The Committee on Global Environment and Economy (1991) and the Committee on Japan's Experience in the Battle against Air Pollution (1997) both pointed out that these measures and initiatives were a direct result of the growth of a fierce anti-pollution movement in Japan. This nationwide movement increased focus on environmental issues at elections and in environmental courts. Democratic and decentralized institutions enabled citizens and victims to exert political influence on local governments through elections and to bring cases to court, while civic rights and freedoms provided legal bases for organizing local protests and environmental movements against industrial pollution.

However, the very success of this administrative and technological approach created a backlash in environmental policies. Despite taking advantage of the existing consensual relationships between government officials, business leaders, and the Liberal Democratic Party (LDP), this approach was regarded as largely non-economic (OECD, 1977). In order to regain some of the economic growth lost to the recession, business leaders and the LDP tried to restrict the focus of any stringent environmental policies to a few pollutants and even to reverse existing policies. Central government officials had sufficient power and incentive to regain the initiative from local governments. Environmental concerns were themselves diluted due to the visible improvement of environmental pollution. This provided opportunities for the rolling back of stringent environmental policies. Institutions for accountable, transparent decision-making were also left unestablished, depriving citizens of both opportunities and resources to access environmental information and participate in environmental discourse.

Recent local protests against public works, as well as the increasing global awareness of environmental impacts and environmental politics, may well provide the counteractive force needed to swing the pendulum back in favor of environmental pressure. There are indeed signs of the government being forced to set stringent environmental policies in some areas. However, Miyadai (2009: 25) argues that Japan has failed to change from its authoritarian

regime toward one that attaches importance to participatory, transparent, and pluralistic decision-making. This raises the question of whether Japan's democratic and decentralized institutions can in fact render a sustainable solution to environmental problems, just as they once rendered a significant reduction in industrial pollution in Japan during the 1970s.

In this chapter, we re-examine how democratic and decentralized institutions achieved success in industrial pollution control in Japan in the 1970s. We also examine how the government tamed environmental movements and local initiatives in the aftermath of that success. Then we look at the extent to which recent local protests against public works and the globalization of environmental issues have changed environmental governance under a neo-corporatist regime.

## 2. Institutions for Democratic and Decentralized Management

### 2.1 Democratization and Decentralization before World War II

In the late nineteenth century, Japan replicated the parliamentary democracy that prevailed in Europe and the United States as a means of controlling the state under imperial rule. Citizens created strong movements for civic rights and freedoms in the 1880s. In response, the state decided to establish the National Diet in 1881 and held the first assembly in 1890. At first, voting rights were strictly limited to those taxpayers who paid higher amounts, most of whom were conservative supporters of the existing government. Later, such rights were gradually expanded to ordinary citizens, as the government broadly expanded the compulsory draft and tax base.

Freedom of business was institutionally secured. In the process of modernization and industrialization, the central government made attempts to centralize authority and resources in order to develop stronger military forces and infrastructure for industrialization. It created a postal savings system in order to mobilize nationwide savings, which were small at the household level but collectively large. It enacted the Civil Law, to ensure property rights and enforcement of contracts and liabilities; the Commercial Law, to legally stipulate the rules of commercial transaction and the establishment and activities of corporations; and bankruptcy, as a means of removing consular jurisdiction. In this sense, the economic role of the government became immense, but was limited to protect, foster, and remedy private capital (Shibagaki, 1979).

The government was created as an administratively centralized but fiscally decentralized system. The central government appointed prefectural governors and city mayors to control local governments; it transferred responsibility and imposed part of the fiscal burden of implementing central policies on local councils, even without their consent. This transfer of

responsibility forced increased implementation onto local governments and widened the range of their activities, thus enhancing their administrative capacity (Iio, 2007: 67). As an example, Osaka prefectural government enacted a local ordinance on the policing of industrial plants in 1877, giving itself the authority to revoke permission for companies to operate when it deemed them to be a “nuisance.”<sup>1</sup>

Local governments also had authority to set the rate of local taxes. They did not obtain block grants or special subsidies from the central government (Jinno, 1999). This administrative and fiscal autonomy enabled several mayors to take the initiative in urban planning, health, and sanitation, as well as in the management of industrial pollution at a local level (Kuroda, 1997). Osaka and Tokyo municipalities both established local institutes of health and sanitation to conduct scientific research on the prevention of infectious disease. The knowledge base created from this helped municipalities to identify the epidemiological relationship between pollution levels and damage to health in the post-war period.

However, the foundation of these liberal democratic rights was not strong enough, and hence was vulnerable to state intervention. The constitution recognized liberal democratic rights and human rights as special privileges that were not guaranteed at all times. In the wake of expanding voting rights to all males, in 1925 the government enacted the Internal Security Law, which strictly policed the Communist party and any social groups that plotted against the government or denied private property rights. With this law, the government began to oppress protests, conflicts, and movements that were identified as rebellions against the existing regime.

This institutional arrangement made it difficult in general for people to access information on environmental issues, let alone to participate in or to receive justice regarding them. As industries caused serious pollution, anti-pollution protests were made against mining, refinery, and industrial plants. However, environmental issues were regarded as being of local and not general interest, even if a member of parliament appealed against serious damage caused by mining pollution in the National Parliament. To head off any protest, some polluters just relocated their plants or created abatement investments in the absence of any stringent government regulation (Tsuru, 1972).

## 2.2 Repression of Democratic and Decentralized Management

During World War II, state control was strengthened and expanded to all areas. The government deprived people of civic rights and freedoms, including free speech, free thought,

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<sup>1</sup> The effectiveness of this ordinance was nullified when the central government enacted the Factory Law in 1911 to protect industries from disputes (Tsuru, 1972).

and a free press. It tried to control economic activities and established special state corporations and state banks as tools for implementing state-intended policies (Noguchi, 1995). Central intervention in local government affairs also increased. The central government introduced the income tax as a means of fiscal transfer so that local governments could keep the level of public services standardized across regions. It also forced local governments to adopt standard levels of tax, to prevent intraregional competition over service levels, and forced them to obtain central government consent for issuing bonds. These fiscal restrictions deprived local governments of autonomy and encouraged them to maximize special subsidies to finance new projects and activities (Jinno, 1999).

After the war, the 1947 constitution provided a new constitutional basis for civil liberties and human rights. Article 25 states that all citizens shall have the right to maintain the minimum standards of wholesome and cultured living. Voting rights were expanded to all citizens above 20 years of age, and eligibility for election was expanded. The House of Peers was replaced by the House of Councilors, whose members were subject to general election. The Privy Council was abolished and the prime minister elected among the members of the House of Representatives. The constitution enshrines the right of access to justice. It also gives citizens participation rights, such as the right to directly elect provincial governors, mayors, and members of local councils, the right to dismiss these officials as well as major civil servants, and the right of peaceful petition for the enactment, repeal, or amendment of laws, ordinances, and regulations.

Despite all these provisions, the constitution does not fully ensure accountability, transparency, or pluralistic decision-making. This is reflected by the lack of progress on freedom of information. The government carried over ideas from the former constitution that restricted citizens' access to information (Matsui, 1996). Also, state corporations survived and complemented state activities, including public works under the national fiscal and loan program.

### 2.3. Development Patterns in the Post-war Period

In the post-war period, the central government adopted an economic development strategy that consisted of fostering specific industries and achieving balanced growth (Murakami, 1990). These two components were closely intertwined. Fostering specific industries widened the income gap and had potential to cause social instability, yet achieving balanced growth mitigated any grievances in the unselected sectors and created a middle class that consumed the products of the selected industries. Higher education and capable bureaucrats were preconditions for the effective implementation of this development strategy,

and achieving balanced growth fostered capable human capital for the bureaucracy as well as for private firms.

During this time, the Japanese government mostly employed contest-based competition in fostering specific industries (World Bank, 1993). The Ministry of Trade and Industry (MITI) identified long-term-cost-diminishing industries and permitted the allocation of scarce foreign exchange to the import of foreign technologies. It also prompted specific industries to merge their plants and to scrap small but superfluous capacity that caused “excessive” competition, in order to enhance competitiveness in the international market after trade liberalization. In the process, MITI established the Industrial Rationalization Council in 1949 to mediate—prior to any ministerial decision—between conflicting interests among the major stakeholders at issue, namely, the government, business, and trade unions. The Ministry of Finance employed economic instruments and gave administrative guidance to foster industries, including directed credit and tax privileges. State development banks chose projects mostly on economic criteria, employing rigorous credit evaluations to select among applicants, and the government selected sectors and firms for tax privileges in accordance with laws and regulations.

Balanced growth was pursued to distribute the fruits of economic growth nationwide and to avoid the excess concentration of business in a limited number of cities (especially Tokyo). Several times, the central government made comprehensive development plans to attract industries to locate nationwide and to develop economic infrastructure nationwide. It designated several cities and areas as special promotion zones and offered tax privileges to promote investment there. In response, local governments in the designated areas competed to attract investment by developing land and economic infrastructure, and by offering tax privileges such as the exemption or reduction of corporate tax and property tax. They also competed for subsidies from the central government as a source of developing local economic infrastructure. The LDP pushed this regional redistribution strategy as a way to retain seats in the upper and lower houses. Together with mayors and prefectural governors, LDP members of parliament exercised their influence over ministries to increase subsidies to their jurisdictions.

Balanced growth strategies helped develop electricity provision nationwide, a network of transportation, and wider diffusion of irrigated agriculture, all of which in turn helped to increase production capacity and productivity. However, this strategy did not always succeed in persuading industrial plants to locate in certain areas. Some local governments in remote areas have gained few plants even if they developed land and economic infrastructure in advance. Unregulated land speculation meant increased expenditure for purchasing land and

left them burdened with a huge amount of debt while generating little in the way of jobs and fiscal revenue, and often creating intense conflict within the local community. The typical case is Mutsu-Ogawara industrial complex that was expected to house petrochemical, iron and steel industries, and nuclear power plants (Funabashi, Hasegawa and Iijima, 1998).

Even where local governments succeeded in inviting industrial plants, the local area often suffered from serious pollution. In many cases, despite prior concerns about adverse environmental impacts, local elites eventually accepted the location of large industrial plants and complexes in their area. Some prefectural governments made ordinances that required firms to report facilities that might have harmful effects on the environment, and made assessments and concluded voluntary agreements that required firms to control pollution. Others did nothing to prevent pollution. Residents were excluded from the decision-making process and thus had no way of knowing what had happened.

A typical example of this was the petrochemical industrial complex in Yokkaichi. Local air and water became polluted soon after several industrial plants started operations in the 1960s. They directly discharged heavily contaminated effluent to the nearby bay, which led to the massive death of fish and other aquatic life. Upon complaints from fishermen, the Coast Guard policed the effluent day and night, but this administrative guidance had a limited effect on reducing water pollution due to the lack of sufficient laws and regulations (the water pollution control law in effect at the time had a loose ambient standard). The extensive policing and on-site inspections of the Coast Guard encouraged some industrial plants to install wastewater treatment facilities, but because of the inaction of the MITI, other firms did nothing (Tajiri 1972). The industrial complexes also increased emissions of sulfur dioxide (SO<sub>2</sub>) and suspended particulate matter (SPM) as they expanded production. An increasing number of people suffered from asthma. Meanwhile, no government institutions were able to reduce emissions because of a lack of authority and resources for policing and inspecting the plants.

In sum, governments paid too much attention to policies that aimed to foster specific industries and achieve balanced growth, and were unwilling to give sanctions and force pollution reduction at the cost of economic activities.

### 3. Industrial Pollution Control

#### 3.1 Rising Environmental Movements

The existence of democratic and decentralized institutions gave rise to anti-pollution movements in the 1960s. The newly created series of liberal democratic rights enabled victims to organize groups to protest against polluters and local governments without fear of

being arrested. The media picked up on serious pollution stories and reported them nationwide as they occurred at an increasing number of industrial complexes. Electoral democracy empowered people to exercise their influence by electing members of parliament, mayors, and local governors that had authority to commission plant location. Anti-pollution organizations gained an increasing number of seats in local parliaments and an increasing number of votes in mayoral and gubernatorial elections in many areas, as more people recognized environmental damage as a violation of human rights. They saw environmental protection as an issue of general interest with a moral basis, and as a result, industry enhanced collaboration with social movements that pursued the improvement of social welfare.<sup>2</sup>

As a last resort, people brought cases to court and used such action as a tool to bond movements (Tsuru, 1972). Local courts generally judged in favor of victims in the pollution cases of the early 1970s. Defendant firms did not dare to appeal to higher courts, for they knew the judges in the Supreme Court would support the original decision (Yamamoto, 1998).

In the Yokkaichi air pollution case (the first court decision on a pollution case), the court found companies to have been negligent in locating and operating their plants. It detailed the following responsibilities to six firms in the petrochemical complex: strict liability for damages beyond “acceptable” emission levels; shift of the burden of proof to would-be environmental disrupters; and joint liability for outrage and negligence. It also detailed the responsibility of national and local governments in taking administrative measures for pollution control.

In response, several local governments initiated research to investigate any causal relations between industrial plants, pollution and damage. However, they did little more than internal research and did not use the results to police the plants for another decade. Where industrial interests exerted significant influence, local governments discriminated against or completely ignored the complaints and opinions of victims. Most residents and victims knew little about government activities in dealing with pollution. They had to wait and suffer more serious pollution. Finally, with support from counselors and medical doctors, victims at last managed to bring cases against firms and governments.

As victims won in other pollution cases, the Environmental Agency enacted strict liability into law. In 1974, it enacted the Pollution-Related Health Damage Compensation Law to

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<sup>2</sup> In Japan, most trade unions did not support environmental movements despite the common interest of improving the environment (Tsuru, 1972). This was partly attributed to the fact that trade unions were organized within firms instead of at an industrial level.

apply these responsibilities nationwide in aiding victims who suffered from severe pollution but could not afford the costs of bringing cases. Several polluted areas were designated as pollution control areas, and firms located within those areas were required to pay charges in accordance with the volume of their emissions, in order to finance compensation to victims who had lived there for a specified number of years.

These court judgments and stringent regulations encouraged firms to be serious about emissions reduction, but made them anxious about the levels of reduction required. Even if a firm reduced emissions significantly, it still had to pay compensation as long as victims claimed damages (strict liability). The amount of compensation payable might also increase if another firm nearby continued to discharge emissions and caused further damage (joint liability). They called on the government to detail the levels of reduction required to avoid such an “excess” burden.

### 3.2 Policy-making Process

Citizens and victims, however, had no chance to participate in the decision-making and implementation process of industrial pollution control. It was the consensual relationships between government officials, business leaders, and the LDP that played an essential role in policy formulation.

In response to strong anti-pollution movements, as mentioned, several local governments launched research to investigate any causal relations between industrial complexes and pollution. Osaka prefectural government, which suffered from serious air pollution, increased the number of staff and researchers to conduct simple monitoring at many sites to investigate the geographical distribution of pollution. It also obtained subsidies and technical assistance from MITI and the Ministry of Health and Welfare to make an energy use and emission inventory and to conduct health surveys investigating the epidemiological relationship between environmental quality and health damage (Mori, 1999). Institutes of health and sanitation at prefectural and municipal levels played a central role in health surveys by locality. This research established the relationship between emissions and damage, increased the scientific basis for total environmental load control and enabled governments to convince unwilling firms to comply with strict regulations.

However, it was not until the central government enacted stringent environmental laws and regulations, and until the courts gave judgments in favor of victims, that local governments actually applied the findings of their emissions inventories and health surveys by enacting ordinances on ambient quality standards that were considered safe from a human health perspective, in areas where the central government had failed to act. They adopted



total pollutant load control and determined emission standards to attain ambient quality standards.<sup>3</sup> They often concluded pollution control agreements with industry when issuing permits for installing new plants or expanding existing ones. Local people were sometimes involved in negotiating the content of pollution control agreements, but in most cases consultations and discussions occurred between local governments and business elites.

At the national level, the central government employed the same institutions that had been established to foster specific industries in formulating and implementing environmental policies. In 1964, MITI restructured the Industrial Rationalization Council into the Industrial Structure Council to decide basic policy for industrial control. Members of the council usually consisted of experts such as ex-officials, professors, and representatives of influential groups such as business, trade unions, and, to a lesser extent, consumer groups. The appointment of council members enabled bureaucrats and political and business elites to direct discussions and to obtain the conclusions they were after.<sup>4</sup> Even when representatives of opponent groups were appointed as members, the council gave them little opportunity to express their opinions or to discuss issues seriously, due to reasons of time constraint. In addition, there was no steering committee to monitor implementation or to recommend modifications. There was no political space for citizens to become involved in the decision-making process, unless a majority of members of parliament reflected citizens' opinions in parliamentary discussions.

With this consensual relationship, many complementary measures were adopted to convince business elites to comply with stringent regulations. The central and local governments offered tax privileges such as special accelerated redemption and tax reduction or exemption of fixed assets to reduce firms' investment costs. MITI set up environmental soft-loan programs to offer long-term loans at slightly lower interest rates, whenever new laws and regulations were enacted that required firms to invest in specific pollution-abatement technologies, which often generated no profit.<sup>5</sup> The amount of outstanding

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<sup>3</sup> Yokkaichi municipality set a goal of ambient quality of 0.03ppm of SO<sub>2</sub> and set a reduction target of 69% to attain this goal in 1972. Then it mandated a 20% reduction to the plants in the industrial complex under the pollution control plan that discharged 100m<sup>3</sup> per hour, and a 10% reduction to the plants that discharged 10–100m<sup>3</sup> per hour. With more solid scientific knowledge, Osaka prefectural government set a goal of ambient quality of 0.01ppm and set a reduction target at 85.6% for SO<sub>2</sub>, 76.3% for nitrogen oxides, and 90.4% for SPM in its jurisdiction. Then it mandated a 38% reduction of SO<sub>2</sub> for 20 large companies whose emissions exceeded 60%, and demanded the use of fossil fuel that contained less than 1.7% sulfur for other plants (Osaka Prefectural Government, 1974).

<sup>4</sup> Dryzek (2005: 166) describes Japan as “corporatism without labor.”

<sup>5</sup> An example is the soft-loan program for industrial waste-water treatment technologies that was set up two years after the Industrial Effluent Regulation Act had been enacted in

environmental soft loans exceeded JPY30 billion (US\$90 million) in 1975, when many industrial plants and fossil-fuel-fired power plants invested in fuel-gas desulfurization (FGD). MITI defined technical standards and widely diffused them so that firms, local governments, and government banks in charge could share information on appropriate technologies and their costs.

MITI also supported power generation companies to develop liquefied and storage technologies of natural gas, assisted them to conclude long-term contracts on the import of liquefied natural gas (LNG) with Indonesia, provided financial assistance to enhance capacity for desulfurization and convinced large plants to install FGD so that small- and medium-sized enterprises (SMEs) could secure low-sulfur crude oil at an affordable price.

### 3.3 Implementation at Street Level

Local governments conducted strict monitoring and inspection to ensure compliance. They required large plants to install on-line continuous monitoring devices and to report monitoring data immediately. They also conducted frequent on-site inspections at those plants that had repeatedly violated standards or those that could not afford to finance continuous monitoring devices. They concluded pollution control agreements that included additional binding constraints, sometimes by intentionally delaying administrative procedures for locating and expanding industrial plants. This became a real threat, because firms lost profits during these lengthy procedural delays.

On the other hand, local governments also became cooperative and even made quick environmental scans and audits free of charge, once firms were convinced to comply with the regulations. They conducted on-site inspections without prior notice, but did not immediately give out severe sanctions when they found violations. They began with cautions and then warnings, before issuing improvement orders. They distributed leaflets about manufacturers that produced suitable pollution-abatement technologies, and provided soft loans during the process of administrative guidance. Where plants were too small to make cost-effective pollution-abatement investments, they developed industrial estates equipped with joint treatment facilities and encouraged firms to relocate plants there.

Firms were convinced to comply with these stringent measures and monitoring because these measures had a solid scientific basis that reduced uncertainty over regulations, pollution-abatement costs, and compensation, and that helped to avoid unnecessary government interventions. This sense of compliance, together with the strict monitoring and

administrative guidance of local governments, prevented the moral hazard of firms' misuse of environmental soft loans (Mori, Lee and Ueta, 2005).

Moreover, most people were satisfied with the paternalistic formulation and implementation of policies and measures, as long as they were able to see visible environmental improvement and publications such as annual reports that disclosed the state of pollution and the activities of local governments.

### 3.4 Backlash

Environmental activism continued, but most of the protest movements of the early 1970s disbanded once their grievances had been addressed. By the 1980s, the environmental movement had diminished in size and political influence while few pollution cases were brought to court.<sup>6</sup> Not until the late 1980s and early 1990s did more than a few very small national environmental groups form. There were no independent environmental think tanks (Schreurs, 2002a).

This drop in public attention weakened support for the Environmental Agency. Due to limited resources and authority, the Environmental Agency had to rely on MITI for the financial resources and information essential to formulate and implement environmental policies. This allowed the LDP, business, and MITI to resist further environmental regulations and even to scale back existing ones. These groups fiercely resisted legislation on environmental impact assessments (EIA), claiming it would hamper industrial location. This pressure made the Environmental Agency give up legislate EIA and adopted it by cabinet decision in 1984, but still had to compromise in excluding power plants from the target. These groups also applied strong pressure for the removal of the 1978 Pollution-Related Health Damage Compensation Act, which, despite effecting substantial emissions reductions, required increasing amounts payable by firms, which was proportional to the growing number of victims.

There are several factors that explain this diminution of support for environmental issues. First, the rapid and dramatic reduction of industrial pollution enhanced neo-corporatist formation in the process of environmental policy-making, allowed the government higher

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<sup>6</sup> One of the famous cases was the 1978 air pollution case in the Nishiyodogawa and Amagasaki areas, where the presence of industrial plants and vehicles driving on the highway and national roads had seriously damaged the health of nearby residents. The court found against the industrial plants and the highway corporation, and ordered them to pay compensation for joint outrage, but did not impose a suspension of operation. Both parties finally accepted mediation in 1998, agreeing to examine the regeneration of communities.

social control, and reduced social volunteerism in ordinary society. The LDP had responded actively to the environmental agenda of citizens' movements at the national level. It had passed several pollution control legislations in 1970, and set up the Environmental Agency in 1971 to enhance institutions for pollution control. Recognizing that local governments had taken a lead in adopting stringent environmental regulations, it had legally allowed them to set more stringent standards and to expand the range of pollutants and types and/or size of plants under regulation. This transfer of authority turned problems into local matters. For example, most citizens identified anti-nuclear activities as being only a local issue, forgetting the fact that, collectively, more than 30 per cent of electricity consumption relied on nuclear power.

The localization of problems prompted environmental movements to pursue local solutions instead of bringing cases to court or organizing nationwide movements. This reduced public attention. It also pushed the movements to change their orientation and goals toward local matters. Moreover, the core members of many movements were housewives who relied on their husband's earnings, and their husbands often worked for the firms that were the sources of pollution. These women became conservative and dropped out of the anti-pollution movements when Japan entered a recession, as their activities in such movements raised the risk of adverse impacts on the salaries and promotions of their husbands. Some movements gave up the social nature of their protest and paid more attention to monitoring wildlife. Others turned their activities into consumer movements and organized consumer cooperatives. They had little incentive to organize umbrella organizations that supported nationwide movements, and each organization was strongly opposed to any intervention or guidance from outsiders.

This change on the part of anti-pollution movements further empowered government and business to divide citizens' environmental concerns piecemeal and to deal with problems separately at the local level. As people perceived visible improvements in air and water quality, the media paid less attention. Anti-pollution movements did not evolve into broader environmental movements that included amenity and nature. All of this enabled the LDP to reverse its electoral slide at the local level, while opposition parties lost the chance to pick up on environmental concerns as a way of expanding their support.

Second, government and business deprived citizens' movements of resources that could have attracted supporters. The process of obtaining the status of juridical person, which organizations required to rent offices, connect phone lines, and have bank accounts, was not totally transparent. Gaining tax-exempt status was also highly unpredictable, for it was necessary to obtain approval from the prefectural government that had jurisdiction over an

area. These procedures offered advantages to those entities that employed former high-ranking government officers, while hampering the emergence of citizen-based non-profit organizations.

In addition, the government often refused to widen the range of disclosure of public information. The government was less open to the idea of passing legislation that would have made decision-making more transparent or pluralistic, brought public and political attention to environmental threats, or developed and disseminated new ways of thinking and making policy on the environment. In order to strengthen their position in inter-ministerial negotiations and in policy formulation, bureaucrats often turned to advanced countries for information about new environmental problems, policy ideas, and policy instruments (Schreurs, 2002a: 332). The lack of information caused environmental movements to miss out on chances for raising awareness about environmental crises and for proposing alternatives to citizens.

Third, local governments lost flexibility in fiscal expenditure, which deprived them of a fiscal basis for initiating innovative policies. As a means of restoring the balance between economic growth and social development and the environment, local governments increased expenditure for social services and the environment, and constructed sewage systems, waste landfill sites, and incineration plants. As most local governments, especially those with reformist governors or mayors, provided social services at a lower charge, they could rarely recover their operational costs. This increased operational, maintenance, and personnel expenditures that could not easily be reduced. Local governments rely for most of their revenue on corporate business and property taxes, both of which fluctuate with business cycles. They faced fiscal deficit when many companies reduced profits and paid less tax than expected. This deprived them of flexibility in fiscal expenditure, as seen by the rise of current balance ratios in Figure 1.1. This is especially true of the Osaka prefectural and municipal governments, which increased social and environmental expenditures to restore sound social and environmental conditions but did not obtain enough tax revenue during the depression period in the 1970s to compensate for these increases.

The rise of current balance ratios forced local governments to increase their fiscal reliance on special purpose subsidies and debt for financing capital expenditure. As the central government strictly controlled debt issue, and allocated special purpose subsidies in accordance with its-initiated development plans, the LDP-led central government took advantage of the situation, showing a bias in favor of local governments that implemented central policies and supported LDP candidates in the election. In other words, to obtain subsidies, governors and mayors were required to have close connections with LDP

members of parliament and central ministries, and to obey central policy initiatives. This fiscal pressure allowed the LDP back to the decision-making table at the local level, and encouraged local elites to invite former high-ranking central ministry officers to stand as candidates for governor and mayor.

The local governments that had LDP governors and mayors often responded positively to central government initiatives, such as the new Comprehensive National Development Plan, enacted in 1987, and the Law for Promoting the Development of High Technology Integrated Regions, enacted in 1983. They competed to attract high-tech and tourism industries as a means of boosting local economic growth. This attitude, coupled with failure to legislate the EIA, the deregulation of land use, and the rolling back of nature protection regulations, allowed local governments to ignore complaints from local people and adverse impacts to the environment and community.

#### 4. Administrative Failure and Resurging Movements for Democratic Institutions

##### 4.1 Criticism over Government-led Development Projects

Comprehensive development plans caused local governments to suffer from serious fiscal deficits and to lose their fiscal independence (Figure 1.1). With central subsidies and bond issues under the comprehensive national development plan in the 1980s, local governments invested in land and infrastructure development in advance to attract business. However, many of them failed to attract business because the appreciation of Japanese currency and trade liberalization in many East Asian countries offered more profitable investment opportunities to Japanese businesses in East Asia. When the bubble burst and land prices collapsed in the early 1990s, local governments were faced with huge amounts of debt and were forced to cut their current, not to mention their capital, expenditures significantly. Even those that succeeded in inviting high-tech industrial plants and/or tourism business were required to provide additional expenditure to control and reverse the adverse impacts of the resulting pollution, which included groundwater and soil contamination and the loss of forest, watershed, and natural amenity. The pollution in turn meant that tourism faced decreased demand. Some local governments were forced to bail out the businesses that they had tried so hard to attract.

Even after the failure of the fourth comprehensive development plan became apparent, the LDP government increased subsidies for public works at a local level. These subsidies were a part of fiscal stimulus packages, but the LDP government implemented them as the easiest way to create jobs at the local construction sector and thus to win elections. Public works offered jobs to farmers in winter, when they could obtain no agricultural income and

forced to go to urban areas as temporary workers. The local construction sector became a vested interest and required the LDP to increase industry jobs in exchange for political support. In response, LDP members of parliament exerted their influence on the Ministry of Construction (MoC) and Ministry of Agriculture (MoA) to increase public works in their constituencies. Their requests supported both ministries to make ambitious infrastructure development plans and to obtain increased budgets for public works. To increase local acceptance, the government abandoned the “beneficiary pays” principle to reduce charges to beneficiaries (Igarashi and Ogawa, 2001). As such, an “iron” triangle between the construction industry, the LDP, and the ministries was established (Hirose, 1981). This triangle was used to provide jobs in construction sectors to the laborers who were made redundant by the shutdown and elimination of manufacturing companies in the 1990s.

In addition, the ministries, together with the LDP, made decisions on long-term plans, projects, and budget allocation without involving the people affected (Igarashi and Ogawa, 2008). Neither ministry had any intention of even modifying the design of some projects that had been planned several decades earlier, when economic and social demands were urgently high. Local governments ignored the adverse impacts of these projects on the environment and local society in order to obtain subsidies and/or not to return the subsidies that had already obtained and spent to the projects.

However, this fiscal stimulus further increased the fiscal dependency of local governments. Construction became the major industry in many local areas. Local governments were forced to obtain central subsidies to keep jobs in the construction sector, even if they recognized that the subsidized public works were not urgent to local development. Local governments had little incentive to stop public works because of adverse impacts on the environment. In addition, these works increased fiscal deficits and reduced fiscal flexibility because they required cost sharing with local governments in the name of the “beneficiary pays” principle. Many local governments resorted to bond issues, which were repaid by offsetting against block grants.

This attitude, alongside the worsening fiscal deficit, sparked massive citizen protests against public works. Citizen protests caused some projects to be suspended, as seen in the reclamation project at Lake Shinji. Some cities went further, requiring local referenda to fill the gap between local councils and mayors and public opinion on development projects. Local referenda were called in the 1990s to block development of nuclear power plants, dams, waste incineration plants, and disposal sites (Niigata Nippo, 1997).

In response, the Environmental Agency finally enacted the Environmental Impact Assessment Act in 1997, albeit with strong pressure from MITI and the electric power

industry to exclude power generation. In 2000, the Agency also enacted the Basic Act on Establishing a Sound Material-Cycle Society, to mitigate conflicts over waste incineration plants and disposal sites. The Ministry of Economy, Trade and Industry (METI) announced a comprehensive study to review energy policy, and enacted the Renewable Portfolio Standard (RPS) Act in 2003.

This new legislation, nonetheless, did not change the economic and institutional structure that caused the problems. Pressure from the electric power industry, which became stronger with the deregulation of the electricity market, forced MITI to give up promoting renewable energy as an alternative to nuclear power and instead to adopt a quota system with a very limited amount of mandated purchase of renewable power (0.65 per cent in 2007 and 1.6 per cent in 2014). It made the Ministry of Environment to give up including power plants in the Strategic Environmental Assessment Bill that was submitted in the Parliament in 2009 and 2010 under the Japan Democratic Party (JDP) government<sup>7</sup>. The Basic Act on Establishing a Sound Material-Cycle Society has significantly increased the recycling rate and brought change in the design of products and packages, but it is criticized as leaving the structure of massive production and massive consumption unchanged, and simply adding massive recycling to the problem.

#### 4.2 Information Disclosure

Under coalition governments between 1993 and 1996, the inappropriate spending and decisions by government were disclosed to the public. Typical examples were of the wining and dining of bureaucrats to influence government expenditure, the bailout of government housing loan companies, and even HIV-infected blood products. As many prefectural governments and municipalities increased their reliance on subsidies from the central government, and as competition over the subsidies became fierce, they increased spending for the entertainment of central government bureaucrats to try and tip the balance in their favor. Citizen networks took advantage of local ordinances on the disclosure of public information to uncover this spending. This created a storm of criticism over bureaucrats' use of tax monies for their personal entertainment.

Also, the Ministry of Finance was blamed for concealing information on the financial status of the government housing loan companies when proposing bailouts. Citizens as well as business leaders strongly opposed the injection of government funds, for they knew the financial corporations involved had paid higher salaries than other industries and had

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<sup>7</sup> The Environmental Agency was upgraded to be the Ministry in the bureaucratic reorganization in 2000.



speculated on land. However, the ministry hid documents and memos that showed the process of decision-making and did not admit any fault over its decisions or administration.

In the case of HIV-infected blood products, the Ministry of Health and Welfare was accused of forbearance since it had obtained knowledge on the health risks of the use of such products through surveys in Japan and foreign countries, but did not dare to stop their production and consumption owing to concerns about the profits of domestic manufacturers. It was therefore blamed for causing serious health damage or death to a number of people. The minister involved apologized and decided to pay compensation to a number of victims, but the ministry did not admit fault and refused to pay compensation to those who were certified as victims later on. Victims brought their cases to court to clarify the guilt of both manufacturers and the ministry, and finally won judgments in their favor.

During the same period, serious groundwater and soil contamination was uncovered near electric and electronics manufacturing plants, as well as near condominiums and parks where industrial plants had been located in the past. In these cases, however, local governments were reluctant to investigate or reveal sources, and thus most of the details about the contaminations have not yet been fully made public (Yoshida, 2002). Some firms paid part of the cleanup costs but refused to admit fault.

These factors caused the government to lose credibility and fueled criticism against it. The government was forced to enact the Public Information Disclosure Act, which mandated the government to disclose information through public documents, including documents of the private sector that the government had obtained during its administration, and documents that recorded decision-making processes. It limited the range of information that may be kept secret. The Pollutant Release and Transfer Register (PRTR) Act was also enacted in order for citizens to access information on firms' release and transfer of designated pollutants, especially volatile organic compounds (VOCs).

This disclosure legislation impacted the government and private sector. Members of the ministerial council could not speak out for fear of being criticized as "rent-seekers" or proponents of specific interest groups, and firms were forced to invest in the proper management of chemicals at their plants in order to avoid fierce local protests.

Yet some bureaucrats resisted the public information disclosure so strongly that the legislation was enacted only in 2001, a full six years from when the public debate had been launched. In addition, provisions thought to be essential for citizens to take advantage of the Act—the right to know, introduction of in-camera review, and the range of disclosed information-- were not clearly stipulated or excluded (Asaoka, 1997). Furthermore, the release and transfer of toxic substances were to be disclosed only at prefectural level, not at

plant level. Courts have also often made unfavorable judgments over disclosure. Together, these factors have limited the people's right to know and thus the empowerment of civil society.

#### 4.3 Comprehensive Administrative and Fiscal Reform

In response to strong local protests over public works, deteriorating fiscal situations, and the accumulating sub-performing loans at government banks, the LDP coalition government initiated comprehensive administrative reform in 1996. Initially it aimed to reorganize bureaucratic structures to separate implementation functions into independent administrative agencies. It became apparent, however, as the financial status of and subsidies to special government corporations were disclosed, that the national investment and loan program was at the root of the problems. This program was instituted to finance capital expenditure in a special account when the government cut spending in the general budget account, and required a variety of subsidies from the general budget to compensate for the loss.

Thus the reform centered on the privatization of the postal system that provided savings to this program, and forced special government corporations, such as the Japan Highway Public Corporation, to issue bonds to finance their business. However, most of these bonds are government-guaranteed, and special corporations continue to obtain subsidies for interest payments. Thus these reforms are expected to produce little improvement, if any, in the financial prudence of these corporations (Shindou, 2006).

The coalition government also enacted the Decentralization Package Act in 2000 to enhance innovation in administration so that local governments could manage local problems in their jurisdiction. The Act stipulated that the central government should abandon the unilateral imposition of administrative jobs without legislation, described the devolution of legislative authorities, and allowed local governments to increase non-statute earmarked taxes upon taxpayers' consent.

However, this Act created no political space for local governments to make new ordinances. It allowed new ordinances only in compliance with the law, implying that the central bureaucrats would keep control. The Ministry of Finance transferred some sources of fiscal revenue, but at the same time reduced block grants in amounts that more than offset the transferred revenue (Takahashi, 2009). Many prefectural governments adopted environment-related earmarked taxes such as the industrial waste tax, watershed tax, and forest protection tax, but the amount collected through these taxes is minuscule (less than one per cent of total revenue). This discouraged local governments from increasing local autonomy and accountability to citizens.

## 5. Impacts of Globalization

### 5.1 Greening of the Neo-corporatist Regime

In response to the international criticism over environmentally destructive activities and to the international demand for greener products, Japanese industries have changed their production process, obtained International Organization for Standardization (ISO) 14001 certifications, and published annual environmental reports with environmental accounting to show their performance and progress in this area to stakeholders. In order to keep trade with firms located in the European Union (EU), many Japanese firms paid non-tangible costs to obtain the ISO 14001 certification. They set up environmental offices to describe their environmental practices in documents that were shared and delivered along the production line, and required subcontractors to obtain certifications with the threat of stopping transactions. In the process, some firms established green supply chains to substantially reduce environmental impacts throughout the life cycle of their products (Mori, 2002). In the same vein, the EU Directives on Restriction of Hazardous Substances (RoHS) and the EU Regulations on Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) pressured manufacturers on substituting raw materials and changing production processes and thus created private institutions for environmental protection.

Globalization has had an impact on environmental policy in Japan. To avoid criticism over mounting trade surpluses and to enhance its influence in the international community, the LDP (or at least its influential faction) took a lead in advancing environmental policies. It initiated the provision of official development assistance (ODA) for environmental protection in developing countries, and supported the enactment of the Basic Environmental Act in Japan as a response to the United National Conference on Environment and Development (UNCED). Even after the influence of this faction waned, a new crop of green politicians emerged both in ruling and opposing parties. Among them was GLOBE, an inter-parliamentary group that facilitated international cooperation on the environment.

However, the bureaucracy lagged behind the rise of environmental concerns in the international community. In the 1990s, it restructured to establish new offices, increased its resources, reoriented the research agenda, and established new research institutions, but its motivation was to avoid undesirable conclusions in multilateral environmental negotiations. Nonetheless, there remains a severe conflict of interest between MITI and the Environmental Agency that may be characterized as business interests against regulation. This has created a barrier to advancing environmental policies in fields where business has strongly opposed it.

This limited and reactive response can be seen as a consequence of the long-term monopolistic rule of the LDP, as well as of a shortage of resources allocated for these issues by the bureaucracy. Lack of competition among parties has made it difficult for the ruling party to get massive support to initiate policy changes, to control bureaucrats, and to keep discipline within the party. Instead, LDP members of parliaments intensified pressure to reflect local needs of their constituency on policies and budget allocation at the central ministries. A fragmented bureaucratic policy network with business associations and academic researchers has exacerbated this lack of clear policy initiative (Iio, 2007). Under this interrelationship, both the ruling party and ministries have little if any incentive to make policies that are not in favor of their vested interests.

## 5.2 Resurgence of Environmental Movements

As a result of UNCED, the international normative expectation on the increased role of non-governmental organizations (NGOs) has created an increasing dilemma for Japanese government and business (Schreurs, 2002b: 224). Officials have been trying to figure out how they can work with NGOs to increase their size and status, while at the same time not yet fully appreciating environmental groups' potential role in policy-making and implementation.

There is a stronger internal driving force for the government to work with NGOs. Volunteers had a visible role in the post-earthquake activities in the Kobe area, which highlighted the delays and deficiencies of the government. The government and business have slowly started to accept NGOs as legitimate actors in the policy-making process and to recognize the role they can play in society in bringing attention to issues and helping to implement policy solutions.

These external and internal driving forces led to the enactment of the Non-Profit Organization (NPO) Law in 1998. It made it easier for groups to obtain non-profit status and thus help to empower civil society. At the same time, groups were required to be more accountable to their members.

Despite this law, however, it is still difficult for private organizations to achieve legal status as NPOs and to obtain sufficient financial resources to hire full-time staff. Most of them are trapped in a trade-off between donations and accountability, where small membership and donations restrict NGOs' ability to hire full-time staff, while lack of staff makes it difficult to be accountable to members. This, in cyclical fashion, lowers their credibility and leads to smaller membership and donations. There are no major private foundations to provide resources to environmental groups and think tanks, and few

foundations allow environmental groups to spend their money on hiring staff. They have to rely for their financial resources on grants-in-aid for projects. As a result, environmental movements at the national level remain extremely small and weak. Environmental policy formulation remains more or less exclusively in the hands of bureaucrats and industry.

Nonetheless, the number of NGOs involved in international environmental protection has grown as the public interest in the global environment increases. The environmental NGO community has worked to strengthen its voice in the decision-making process since the late 1980s (Schreurs, 2002b: 219). To do this, they have organized umbrella NGOs and network-based NGOs and enhanced their capacity as advocacy think tanks. They have started to hold seminars and events, while still respecting the independence of each individual NGO.

In the 1990s, several Asia-focused environmental networks emerged to criticize Japanese environmental destruction through international trade, foreign direct investment, and ODA. These networks were at first adversarial to the government, but gradually started to influence it in instituting environmental and social safeguards, as aid agencies and export credit institutions started to hold periodic deliberative meetings with NGOs. The topics, however, increasingly became too specialized to attract wider attention from the public.

### 5.3 Can Climate Change Be of General Interest?

Climate change is gaining wider public attention and can be said to be of general interest because of the moral issue of intergenerational equity. Climate change negotiations succeeded in bringing NGOs and citizens' organizations together. Promotion of renewable energy as a means of climate change mitigation succeeded in forming an alliance between politicians (Schreurs, 2002b: 220–1). NGOs have held seminars to facilitate discussion and share common interests between government, business, researchers, and citizens.

Nonetheless, the government has taken little more than a voluntary approach, with fiscal stimulus for purchasing low-carbon goods and houses. It has yet to adopt economic instruments such as a carbon tax or emissions trading, although it did launch a pilot emissions trading program among voluntarily participating firms. It adopted feed-in tariffs, but they applied only to the small amount of solar power that consumers generate for their domestic use. This showed a compromise between fostering the photovoltaic manufacturing industry and protecting the vested interests of existing power companies. In 2009, the Japan Democratic Party took over the government and declared a 25 per cent reduction of greenhouse gas (GHG) emissions in the UN Special Conference on Climate Change, and brought in the Global Warming Bill in 2010. However, it remains uncertain whether this political change will alter the balance in favor of climate policy, empowerment of civil

society, and enhancement of initiatives and solutions of local governments, given the strong opposition of business society and concern over adverse impact on international competitiveness of industries.

## 6. Conclusions

This chapter examined the historical development of environmental policy and governance in Japan, with special focus on the interaction between the LDP and the central government on the one hand, and environmental movements and local government initiatives on the other hand. The main findings were as follows. Firstly, democratic institutions that had been established since the 1870s, as well as 1947 Constitution created legal basis for anti-pollution movements. Constitutional democracy, together with civic rights and freedoms, enabled victims to make protests relatively safely and media to publicize issues nationwide. Access to justice enabled courts to make judgments in favor of victims in situations where industrial pollution endangered the fairness of society and further economic growth.

Secondly, institutions for the environment were largely top-down, centralized, and hierarchical because the central government did not change its development-oriented strategy and kept its consensual relationships with business. Even under this unaccountable, less pluralistic regime, a highly technologically oriented approach succeeded in pollution reduction and regained support for the LDP. However, this success deprived local governments of political space to take further initiatives and blocked the development of institutions for civil society.

Thirdly, increased fiscal revenue was the financial basis for local governments to take the initiative in industrial pollution control. When faced with fiscal deficits, however, they had to rely on central special purpose subsidies, and bond issues in financing their expenditure. This brought them into competition over subsidies and directed them to implement the policies and initiatives of the central government, and lost political space and incentive to initiate policies outside those of the central government.

Fourthly, the uncover of a lack of government capacity, as well as globalization of environmental problems in the 1990s raised citizens' interest in non-profit activities and access to information, and prompted citizens' involvement in the environmental policy network.

Finally, despite the resurgence of environmental movements and step-down of the LDP-lead governments, greening policies has been limited to what business society can compromise and respond to them by technical measures. This implies that changes of

government are not sufficient to advance environmental policy. A More accountable institution should be established.

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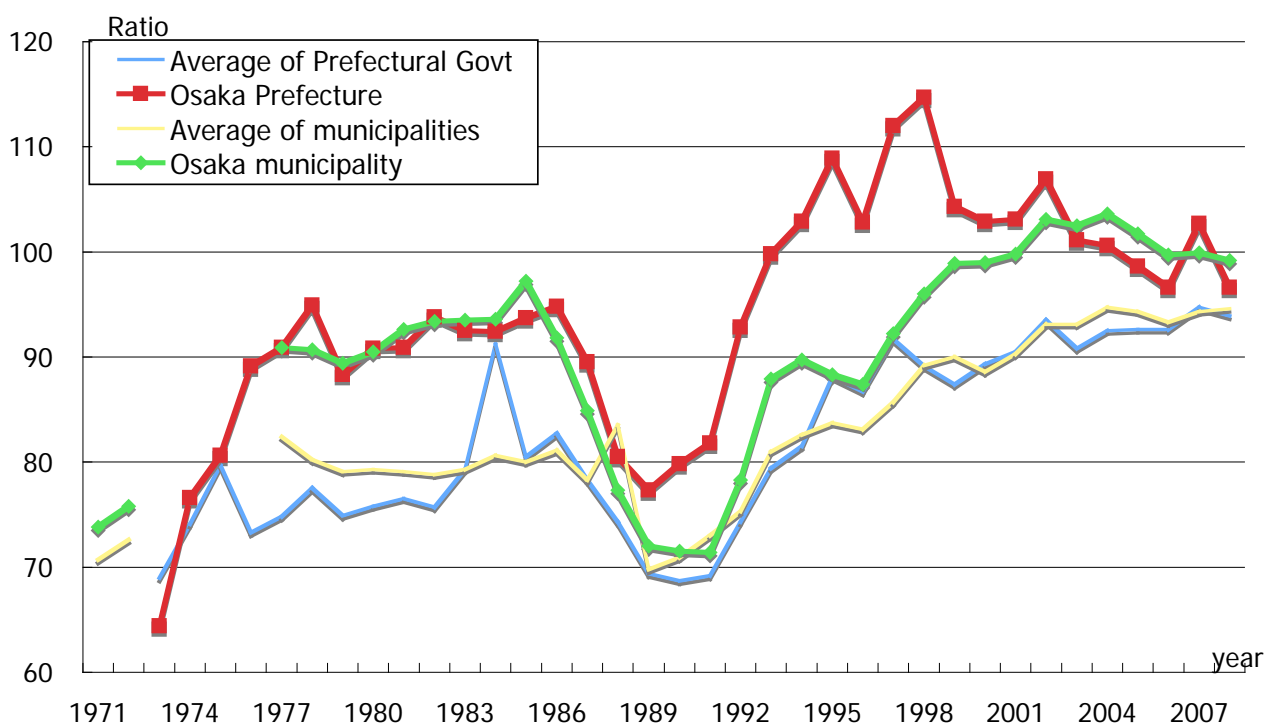
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Figure 1.1 Current Balance Ratio of Prefectural Governments and Municipalities



Note 1: Fiscal structure is evaluated as becoming inflexible when the ratio exceeds 80, and to have become inflexible enough to initiate any activity when it exceeds 100.

Note 2: It was uncovered that the Osaka Prefectural Government reported window-dressed accounts during 2004–6 in order to avoid the direct intervention of central government (Asahi Shinbun, 30 December 2007). Thus the stated ratio during these three years is smaller than the actual realized ratio.

Source: Ministry of Home Affairs, *Statement of Accounts of Prefectural Governments* (yearly) and *Statement of Accounts of Municipalities* (yearly).