

Japanese Civil Society – Flourishing or Floundering?

Tokyo’s First Ever Local Referendum, Kodaira, as a Case Study

Chris Burgess

We know you are busy at work every day and, moreover,
embarrassed to participate in a demonstration.

But if we give up here and now and fall silent
Japan will never improve for the better.

At the very least, we want to act now so that someday, when
our children ask, “What were you doing then?” we will not be ashamed.

Marching Refrain of the *Voices of the Voiceless* Association (Avenell 2010: 94)

Introduction

On Sunday, May 26th 2013, something quite remarkable happened in Kodaira City, Western Tokyo. Over 50,000 citizens voted in Tokyo’s very first citizen-initiated local referendum (*jūmin tōhyō*) on the issue of whether a 50-year-old plan to construct a road should be reviewed or not. The Kodaira referendum came at a time when civil society in Japan is said to be flourishing. Although the Kodaira referendum was the first in the capital, the past 10 years have seen an unprecedented nine referendums on a variety of local issues. However, as citizens’ voices have grown louder, resistance to direct democracy among local and national governments has also been growing. The Kodaira referendum is a case in point: the Kodaira ballots have – to date – still not been opened, thanks to an amendment passed in a special session of the local assembly a month before the vote which set a minimum turnout as a condition for their opening.

This paper looks at the push and pull of grassroots democracy in contemporary Japan: the participation of local residents in contemporary Japan and the moves by government to limit that participation. The central question is: is Japanese civil society flowering, as is often claimed, or actually withering? Section 1 defines civil society. Section 2 describes the emergence and development of civil society in Japan, from the AMPO demonstrations of the 1960s and the

rise of NGOs in the 1980s, through the Great Hanshin Earthquake of 1995 and the post 3/11 anti-nuclear demonstrations. Arguing for a broader definition of civil society that includes individual action, section 3 looks at the history of the referendum in Japan in general and the case of Kodaira in particular. Finally, section 4 discusses the future prospects for civil society in Japan against the background of consolidation by political conservatives and growing nationalism.

1. What is Civil Society?

The classical definition of civil society refers to voluntary, self-organised not-for-profit social activities carried out by groups and associations in the public sphere outside the state, the market, and the family. Not all non-state groups qualify as part of civil society; Hirata (2002: 10) excludes groups which do not promote pluralism and diversity, such as extreme ring-wing groups. Nevertheless, the definition of civil society is broad and includes everything from the 300,000 or so local neighbourhood associations (*chōnaikai*) to organisations of various sizes with economic, cultural, educational, developmental, environmental, human rights, or other agendas. Autonomy from the power of the state – at least to some degree – is central, since such groups are supposed to function as a buffer between the state and the individual. The question of autonomy, however, is a key problem for the

standard definition. This is because the degree of independence of organisations from the state is rarely absolute and the state has a significant influence on which groups flourish and which do not. Pekkanen (2006), for example, notes that Japan has many small, local groups with few or no employees but few large, professionally managed national organisations, such as Greenpeace, a pattern he calls Japan's "dual civil society" and which he puts down to strict state oversight and regulations.

Two kinds of groups which are often mentioned in discussions of civil society are non-governmental organisations (NGOs or *hi-seifu-soshiki*) and non-profit organisations (NPOs or *hi'eiri-soshiki*). The labeling is misleading because both types of group are non-governmental, non-profit civic organisations. In Japan, the main difference is that NGOs refer to organisations engaged in international affairs and global issues (whether within or outside Japan)¹ while NPOs refer to groups involved in domestic activities in Japan. The fact that many groups are involved in both makes the distinction less than helpful and in practice the terms are often used interchangeably. Sugushita (2001: 5-8) even suggests that the choice of term relates more to the connotations of sacrifice contained in the latter against the left-leaning anti-government nuance contained in the former. One important distinction that is clear relates to legal status. Unincorporated associations (usually called civic groups or *shimin dantai*), which make up the majority of groups, lack legal protection and tax breaks but enjoy relative freedom from state supervision. On the other hand, incorporated associations (*hōjin*) comprise both public interest corporations (*kōeki hōjin*) and specified non-profit activity associations (*tokutei hi'eiri katsudō hōjin*). Hirata (2002: 13-14) describes the former as privileged and elite "private-public hybrid NGOs" with strong ties (and obligations) to government and the latter – made possible by the

confusingly named 1998 NPO law (Tokutei Hi'eiri Katsudō Sokushin Hō) – as relatively more independent of the state.

2. The Emergence of Civil Society in Japan

Many commentators have argued that, traditionally, Japan has had a weak civil society. In the 1990s, for example, Samuel Huntington (1993: 71) described the "poverty" of civil society in Japan and non-Western countries in contrast to European pluralism. Van-Wolferen (1993: 62) noted the "absence" of a strong civil society in Japan, describing it as "extremely weak and ineffectual." There are a number of reasons why a vibrant civil society has been slow to emerge in Japan. Post-war, the exclusive focus on economic growth known as the "developmental state" – underpinned by a strong bureaucracy – inhibited the growth of Japanese civil society. Cultural reasons are also frequently cited. These include the idea that the Buddhist tradition is less activist-oriented and "evangelical" compared to Christian religions,² the group-oriented nature of Japanese society which tends to stress mutual assistance within the group before extending help outside, and Japan's Confucian tradition which has led the Japanese to rely heavily on and defer to the government (Hirata 2002: 23-25). It has also been suggested that the Japanese development model is less adversarial than the West's with government, corporations and citizens perceived as "cooperating" to achieve the same goal. In this way, there is less belief in the need for an independent sector and consequently, non-profit work is not seen as a "regular" profession.

Behind these cultural explanations for Japanese civil society as weak are dominant national stereotypes which portray the Japanese as conflict-averse, passive, and docile. For example, writing post 3/11 *The New York Times* (2011)

1 The Japan NGO Center for International Cooperation identifies a medical mission to help refugees in China in 1938 as the first NGO (JANIC 2013).

2 The low rate of Japanese giving to charity is often cited as evidence. For example, donations to NPOs are much lower in Japan than the US or UK, particularly individual donations (Cabinet Office 2013a).

described Japanese civic activism as “exceptional” in a people who “generally trust their leaders.” Similarly, the *Los Angeles Times* (2011), describing growing criticism of authority, characterised the Japanese as a conformist group-oriented people who are “taught to respect authority from an early age.” Even the *Japan Times* (2011a; 2012a) remarked that a “usually sedate” Japan is not commonly known for having large-scale demonstrations or violent antigovernment protests. The genre of writing on Japanese national identity known as *Nihonjinron* – popular inside and outside Japan – has certainly had a role in promulgating and reinforcing such stereotypes. Mouer and Sugimoto (1986: 406) note that the *Nihonjinron* discourse has two central tenets: Japanese society is ‘uniquely’ unique and group orientation is the dominant cultural pattern which shapes behaviour.

Although civil society is not the same thing as democracy, civil society is often viewed as the foundation of democracy and a democratic system is in turn needed for civil society to flourish. The roots of Japan’s civil society today can be traced to the enactment of the new Constitution of Japan in May 1947 which marked the birth of liberal democracy in Japan. Although the Taisho period (1912-26) saw more voters enfranchised, greater female participation in politics, and broader representational government, universal suffrage was only realised in 1946. Of particular note was the emphasis on the principle of popular sovereignty in the new constitution, as introduced in the preamble:

sovereign power resides with the people...
...Government is a sacred trust of the people, the authority for which is derived from the people, the powers of which are exercised by the representatives of the people, and the benefits of which are enjoyed by the people. This is a universal principle of mankind upon which this Constitution is founded

Thus, in contrast to the pre-war idea that sov-

ereignty lay with the Emperor, the post-war constitution makes it clear that sovereignty lies with the people and defines The Emperor is merely “the symbol of the State and the unity of the people” who derives his position “from the will of the people with whom resides sovereign power” (Article 1). The “rights and duties of the people”, in particular “individual rights” (*jinkaku*) are mentioned throughout.

In contrast to the stark difference between pre-war and post-war constitutions, many political and government personnel continued in their positions post-war, often after being briefly purged and even imprisoned for war-crimes. Yoshida Shigeru, for example, who was Prime-Minister for most of the period from 1946 to 1954 was imprisoned for several months in 1945 while Nobusuke Kishi (Prime-Minister from 1957-1960) was held as a “Class A” war crimes suspect until his release in 1948. The contrast between the ideals of the constitution and the thinking of the old-guard was highlighted by Kishi’s pushing through of the revised US-Japan Mutual Security Treaty (AMPO) in May 1960 and his dismissal of the ensuing protesters as “distasteful” and “insignificant” (*Time* 1960).

2.1 Early Post-war: Protest and Confrontation

Protests against renewal of the US-Japan Security Treaty (known as the AMPO *tōsō* or struggle) starting in 1959, peaked in the summer of 1960. Following Kishi’s forced approval of the treaty in a midnight session of parliament, millions of Japanese citizens took to the streets for months of protest. The numbers were unprecedented and have yet to be superseded even today: on June 11th, for example, 235,000 surrounded the Diet in Tokyo (Avenell 2010:70). Although the protests ultimately accomplished very little – apart from the resignation of Kishi – Avenell (2010: 63) describes them a “breakthrough for civic activism in Japan”, one that gave birth to the idea of the citizen or *shimin*. One group commonly seen as the pioneer of civic activism in Japan were called Voiceless Voices (*Koe Naki*

Koe no Kai). The name was appropriated from a statement by Kishi who argued that the loud voices of the protesters (*koe aru koe*) did not represent public opinion, the silent majority that he called the “voiceless voices” (Avenell 2010: 93). This group tried to broaden the demonstrations by appealing to ordinary unaffiliated individuals in order to break down “the sense of separation between political activism and everyday life” (Avenell 2010: 93; Sasaki-Uemura 2001: 148).

In the decades that followed, the AMPO era citizens’ movements exerted a major influence on the organisation and political philosophies of the anti-Vietnam War effort, Narita Airport protests, and environmental and consumer movements. Citizens were driven to transform Japanese society and reshape the body politic through opposition to Japan’s postwar establishment of politicians, bureaucrats, and businesspeople. Here, Hirata (2002: 15-16) distinguishes *shimin undō* (citizens’ movements) focusing on national issues and citizen rights, such as anti-war movements, from *jumin undō* (local resident movements) which are less political and more community focused. However, Hirata (2002: 17) argues that these movements failed to lead to a vibrant civil society in Japan in the 1960s and 1970s because they were focused on single issues which when solved saw the movement disappear.

2.2 1980s: The Rise of NGOs and the Mainstreaming of Civic Activism

The preceding section has shown that citizen-based movements – including consumer, environmental, and minority social movements – have been active in Japan since the 1960s. However, it was only with the rise of NGOs in the 1980s that Japan’s civil society began to mature. Hirata (2002), in a study of the role of NGOs in Tokyo’s official development assistance (ODA) policy, notes a rapid growth from less than a dozen such organisations in the 1960s and 1970s to more than a hundred in the late 1980s to the early 1990s. Indeed, the 1990s saw the greatest number of newly established organ-

isations, though numbers began to drop in the mid-1990s following the bursting of the bubble and the stagnation of membership fees and donations (JANIC 2013). Tsujinaka (2003:91-93), in a comparative analysis of a broader range of civic organisations in Japan, finds a similar pattern: between 1975 and 1991 the total number of such organisations almost doubled; on a per-capita basis, Japan’s figures were a half of America’s in the 1970s before approaching the US figure in the late 1980s.

Two interrelated factors account for this growth. The first was Japan’s emergence as an economic powerhouse in the 1980s. Growing foreign criticism of Japan as an “economic animal” and pressure to liberalise its economy saw the erosion of the “catch-up” developmental state ideology that had focused solely on economic growth. “[T]he diminishing capacities of the insulated developmental state”, notes Pekkanen (2004: 365), “have opened up new political opportunities for Japan’s once weak advocacy sector to more strongly assert itself in national affairs since the 1980s.” Affluence also saw a change in values. Mouer and Sugimoto (2003: 219) describe a shift in consciousness among the general population away from purely material goals.³

The second, connected, factor in the NGO boom from the 1980s was rapid globalisation. This brought an increasing awareness of and public interest in the needs of the developing world. Hirata (2002: 301-31) identifies the Indo-chinese refugee crisis of the late 1970s and early 1980s as a key incident abroad which triggered the expansion of NGOs in Japan. Foreign pressure to take on greater leadership and responsibility in the international arena saw a dramatic increase in both financial contributions, in the form of Overseas Development Aid (ODA)⁴, and physical contributions, such as peace-keeping

³ See also Hirata on Japan’s authority-challenging “post-materialists” (Hirata 2002: 91-95)

⁴ According to MOFA (2013), Japan was ranked as the world’s top ODA provider from 1991 to 2000 on a net disbursement basis; from 1985 to 1989, Japan’s contributions more than doubled, seeing it become a major donor.

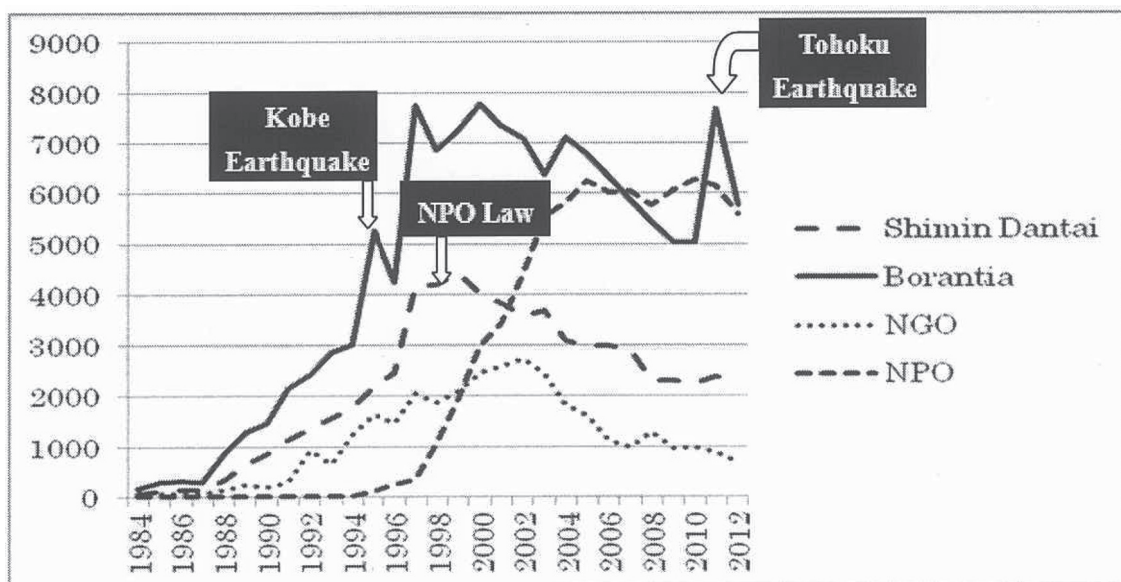
operations in Cambodia and elsewhere following passage of the PKO law in 1992. Awareness of global issues heightened through the 1990s. One example of such an issue was that of land-mines. Public interest in the issue saw Japanese NGOs play a key role in pushing the government to ratify the international land-mine ban in 1998 (Hirata 2002: 121), illustrating the increasing transnational nature of civil society.

2.3 The Great Hanshin Earthquake: The Re-birth of Civil Society

The term *shimin shakai* (civil society) is still not widely used in Japan outside academia; a

search for the term in the Asahi Shimbun Database gives just over a hundred hits each year between 1995 and 2001, before falling off. In contrast, the terms *borantia* (volunteer), *shimin dantai* (citizen group), and NGO were fairly common even before the 1995 Kobe earthquake, though this event saw them become everyday terms (Figure 1). Thus, it is important to note that interest in citizen participation was increasing even before 1995, encouraged by the end of LDP dominance – the so-called 1955 system – in 1993. In contrast, the word NPO remained very much a foreign term in Japan until 1995 when it shot to prominence in the build up to the NPO law of 1998 (Figure 1).

Figure 1: Number of Articles in the Asahi Shimbun Containing *shimin dantai*, *borantia*, NGO, and NPO (1984-2012)



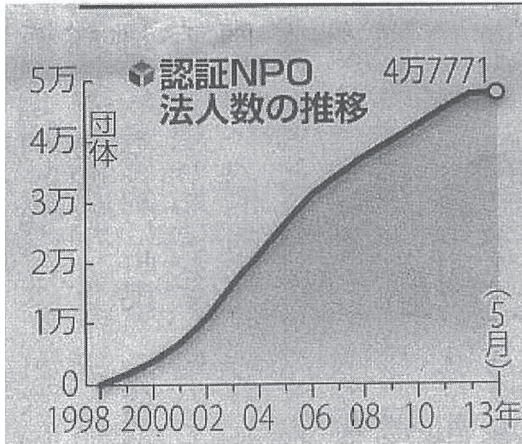
Source/Notes: Compiled by the author from the Asahi Shimbun Database (Kikuzō). Articles counted contained the terms one or more times in either the heading or body of the article. Figures for NGO and NPO numbers include *hi'seifu-soshiki* and *hi'eiri-soshiki* respectively.

As Figure 1 shows, the catalyst for “volunteer” and other terms becoming firmly established in the Japanese lexicon was the Great Hanshin Earthquake which hit Kobe in 1995. With the government response slow and disorganised, some 1.3 million volunteers came forward in the weeks following the quake to engage in on-site relief work. Though volunteers

had appeared in previous disasters, the sheer scale of volunteers – many first-timers – saw 1995 labelled as “the first year of volunteerism in Japan.” In other words, 1995 saw volunteering – belatedly – gain social legitimacy. The momentum led to the passage of the NPO law (Tokutei Hi'eiri Katsudō Sokushin Hō) in 1998, landmark legislation which made it easier for existing civil

society organisations to apply for legal status (Figure 2), though the number of *new* NGOs continued to drop.

Figure 2: Groups Attaining NPO Corporate Status under the 1998 NPO Law (1998-2013)



Source: *Yomiuri Shimbun* (2013b)

As of July 31 2013, 49,929 organisations had applied for legal status under the NPO law, with the vast majority – 47,973 – being approved (Cabinet Office 2013b). However, legal status does not automatically result in tax exempt status. Strict conditions, such as 20% of total revenues being from donations, mean only a handful of organisations – only 249 as of April 2012 – enjoy tax privileges (*Japan Times* 2012b). As a result, the biggest problem for non-profit organisations – with or without legal status – has been to secure income (*Yomiuri Shimbun* 2012b). As we shall see later, this problem was partially addressed in a 2012 revision to the NPO law.

Another feature of the post-Hanshin earthquake era was an increase in tax-payer lawsuits and freedom of information requests, many of which were successful. These increased further after Japan's national information disclosure (*jōhō kōkai*) law took effect in 2001, an achievement which owed much to lobbying by the "Citizens Movement for an Information Disclosure Law" group. Freedominfo.org describes the law as "a major milestone in the nation's development as a democratic society." For many, information disclosure is the key to facilitating citizen

participation in policymaking and increasing government accountability to the public (Kingston 2004: chapter 2). Information disclosure is closely linked to judicial reform. In 1999, the Judicial Reform Council (JRC) was established with a remit to consider "a more accessible and user-friendly judicial system, public participation in the judicial system, the redefinition of the legal profession and the reinforcement of its function" (Cabinet Office 2002). The 2001 JRC report led to the biggest postwar reform of the judicial system, including establishment of a lay-judge system, independent professional law schools, and the Japan Legal Support Center (*Japan Times* 2013e). These reforms are said to have further strengthened Japan's civil society.

2.4 The Great East Japan Earthquake: The Flowering of Civil Society?

Like the 1995 Kobe earthquake, thousands of organisations and over a million volunteers responded to the 2011 Tohoku quake. Although the exact numbers are unclear, according to the Japan National Council of Social Welfare (JNCSW 2013) more than 1.17 million volunteers have been active in the affected areas as of March 2013. In the first four months alone, there were almost half-a-million registered volunteers in Tohoku (Kingston 2012: 9). In terms of organisations, some 3,000 have registered with the Cabinet Office for disaster relief; 750 organisations were affiliated with the Japan Civil Network for Disaster Relief in the East Japan (JCN) (*Yomiuri Shimbun* 2012a). Although volunteer numbers were lower than for Kobe – in part due to the more inaccessible nature of the region – the government and local infrastructure to facilitate volunteering contrasted starkly with Kobe where officials often didn't know what to do with the all the offers of help (Kingston 2012: 9). Kingston (*Japan Times* 2011b) refers to these volunteer efforts as evidence for the "flowering" of civic activism in Japan.

The large role played by NGOs and NPOs in the response to the 2011 earthquake pro-

moted a further revision to the 1998 NPO law which went into force in April 1 2012. The revision made it easier for such organisations to secure tax-exempt status. The thinking behind the revision was to create incentives for ordinary citizens to make donations, thus improving the financial condition of NPOs and enabling them to expand their activities in communities (*Japan Times* 2012b). A further change saw local governments take over the handling of NPO applications, making it easier for NPOs and local governments to better cooperate.

One dramatic development post 3/11 is the return⁵ of citizen voice. Since the mid-1970s, protest movements had declined to be replaced by civic movements characterised not by confrontation but by “constructive” or “pragmatic” activism and cooperation (Avenell 2010: 195). One consequence of this shift was that civil society groups became unable to function as effective checks or monitors – as watchdogs – on state action or to influence government policy (Kawato *et al.* 2012). Kawato *et al.* (2012) point to the weak advocacy role of civil society organisations – specifically their failure to monitor the nuclear industry – as contributing to the magnitude of the nuclear disaster. But after the disaster citizens again began to speak out. The turn-out of tens of thousands of anti-nuclear protesters in Meiji Park in September 2011 harked back to the 1960s. By the summer of 2012, more than 100,000 were gathering at weekly protests in front of the Prime Minister’s official residence (Kantei mae), the largest demonstrations for half a century (Williamson 2012).⁶ Many writers have picked up on the notion of “voice” (*koe*) in describing these protests. Kindstrand (2013) for example, focused on the image of one protester’s placard which read *kokumin no koe o kike*

5 The is true only of mainland Japan. Protests in Okinawa, such as those against government textbook changes in September 2007 or Futenma Air Base in April 2010, attracted crowds in the tens of thousands even before 3/11.

6 At the time of writing these two hour (6-8pm) protests are still ongoing, although numbers have significantly fallen since the June-July 2012 peak. See <http://coalitionagainstnukes.jp/>.

(listen to the people’s voices!). Noma (2012: 133), in a book sub-titled, *The Voice of the Protests will Change Politics*, describes a wave of indignant voices making visible the will of the people (*min’i*). In sum, the disaster at Fukushima energised individuals to be more proactive and vocal not only about nuclear issues but also about other issues affecting their lives. This re-discovery of voice is especially apparent in the increase in the number of local referendums and petitions in recent years.

3. Referendums in Japan: Hearing and Silencing the Voices

3.1 Referenda in Japan

One problem with the conventional definition of civil society is that it focuses on activity that occurs in an organisation, association, or group, the so-called “third sector.” For Schwartz (2003: 32) and many others, associations are an essential part of civil society. This means that individuals – the ordinary citizen joining a Voiceless Voices march in 1960, the mother attending a Friday anti-nuclear protests with her children, the teen “liking” a citizen group’s Facebook page, the independent volunteer in Tohoku – who are not affiliated with any organisation are, by the standard definition, not part of civil society. Spontaneous, informal activities and interpersonal practices – whether in groups or not – and “the immediate pursuit of self-interest” are similarly excluded (Ehrenberg 1999: 235; Pharr 2003: xiv). But in many ways these individual acts are the most likely to be truly independent of the state:

Those who are urged to transform the way they live now take action in their own way; some gauge radioactivity in communities, some migrate to less contaminated places with their children, some visit Fukushima to give support to its residents, some collect signatures to push local legislators to hold a referendum ...and other join demonstrations in the

street. It is not difficult to see their determination to become independent from authority... (Ando 2014: 2)

The ability of the state to appropriate civic organisations in Japan through registration, paperwork, funding, regulation, and personnel (staffing with ex-bureaucrats) is well documented. “The combination of discretionary screening function, close supervision of operations, and sanctioning power,” writes Pekkanen (2006: 17), “has a chilling effect on the vitality of the civil society sector.” What Ogawa (2009: 15) refers to as the “state-led institutionalization of volunteer-based NPOs under the name of civil society” has resulted in a stifling of advocacy roles and impotence in contributing to policy, as illustrated by the Fukushima nuclear disaster. Civil society is often portrayed as a buffer between state and people but, when defined narrowly, it functions more like a barrier as organisations soften or even silence the voices of ordinary citizens, inhibiting rather than facilitating speech, and disguising citizen wants and wishes. In this narrow definition, civil society fosters only *indirect* democracy since it mediates between citizens and state.

In contrast, the referendum is often portrayed as a direct form of democracy where individual citizens are given the chance to speak directly to and about power. In Japan, there are various kinds of referendum (*jūmin tōhyō*) all of them local. National referendums on constitutional issues – like the 1975 UK vote on European membership – have not taken place in Japan, although any constitutional amendment would require ratification by the people in a special referendum (Article 96).⁷ The first type of referendum are those required by article 95 of the constitution when a special law (*tokubetsuhō*), applicable only to one local public entity, is to be enacted. These were common in the post-war

re-building years, such as the June 1950 Tokyo metropolis vote on the special construction law. Referendums must also take place when local assemblies or offices dissolve usually due to the merger of towns and villages. This was particularly common in first decade of the 2000s in the period known as “the great Heisei mergers” (*heisei no daigappēi*). Finally, referendums can be proposed by citizens or officials under the Local Autonomy Law (*Chihō jichi hō*) which allows for the enactment of a local act or ordinance (*jōrei*). This latter type will be the focus here.

Kobori (2009: 17-18) portrays referendum by local ordinance (RLO) as an “incredible success” because of their ability to generate extremely high turnouts, intense community involvement, and lively discussion. He (2009: 18) lists three key features of RLOs: first, they are non-binding; second, they are not limited to local issues; and third, only signatures from 2% of the electorate⁸ are needed to force the local assembly to debate holding a referendum. In fact, despite (or perhaps because of) the low signature threshold most referendum proposals end up being rejected by the local assembly. For example, following the nuclear disaster, assemblies in Tokyo, Osaka, Shizuoka,⁹ and Niigata have voted down proposals calling for referendums on whether to resume operations at – or scrap – nuclear power plants, despite more than the required number of signatures being collected (*Japan Times* 2013f). Referenda in Japan function rather differently to those in other countries, acting more like a questionnaire or advisory tool: in Japan, the local assembly – not the citizen – has the final say (Numata 2006; Okamoto

7 A National Referendum Law, passed in 2007 by the first Abe cabinet and coming into effect in 2010, clarified the process for revising the Constitution (*Japan Times* 2010)

8 In contrast, signatures from one-third of the electorate are needed to instigate a referendum on recalling a mayor.

9 Although the proposal for a referendum in Shizuoka was rejected, it has succeeded in raising consciousness of the issue. In June 2013, governor Kawakatsu – who favours holding a referendum – was easily re-elected in an election whose turnout was 49.9%. “Regarding what we should do in the end,” remarked Kawakatsu, “we should listen to residents in whom sovereignty resides [*shukensha dearu jūmin ni kiku beki*]” (*Mainichi Shinbun* 2013b).

2012: 117). Okamoto (2012: 122) calculates that only 16% of referendum proposals are actually approved though notes that the approval rate is much higher for referenda initiated by councillors (38%) and mayors (90%). However, in recent years a number of municipalities, starting with Takahama City in 2000, have passed permanent referendum ordinances (*jōsetsu-gata jūmin tōhyō jōrei*) not tied to one single issue (*hikobetsu-gata*) that allow referenda to be held if enough signatures are gathered without the need for local assembly or mayoral approval (Okamoto 2012: 122).

Although petitions and demands for referenda have been increasing since the late 1970s, the RLO held in 1996 in Maki, Niigata over the building of a nuclear power plant is widely recognised as Japan's first popular referendum (Table 1). Thereafter, over 400 have been held, though the vast majority have been related to village and town mergers (Okamoto 2012: 115, 117). Okamoto (2012: 116) argues that the emergence of RLO is a consequence of citizen voices and wishes being reflected less and less in the decision-making process against the background of the Heisei mergers.

Table 1: Local Referendums by Local Ordinance (*Jōrei*) in Japan, 1996~2013

Date	Place (population)	Issue	Initiator	Turn-out	Result
Aug. 1996	Maki, Niigata (30,525)	Invite nuclear power plant	Councillor	88.29%	Rejected
Sep. 1996	Okinawa Prefecture (1.3m)	Downsize US base etc	Citizens	59.53%	Review
Jun. 1997	Mitake, Gifu (20,058)	Est. industrial waste plant	Citizens	87.51%	Rejected
Nov. 1997	Kobayashi, Miya (41,654)	Est. industrial waste plant	Citizens	75.86%	Accepted
Dec. 1997	Nago, Okinawa (52,193)	Accept US heliport base	Citizens	82.45%	Accepted**
Feb. 1998	Yoshinaga, Okayama (5,439)	Est. industrial waste plant	Citizens	91.65%	Rejected
Jun. 1998	Shiraishi, Miyagi (41,505)	Est. industrial waste plant	Mayor	70.99%	Rejected
Jul. 1998	Unakami, Chiba (11,176)	Est. industrial waste plant	Mayor	87.31%	Rejected
Jul. 1998	Kongai, Nagasaki (6,989)	Expand quarry	Mayor	67.75%	Accepted
Jan. 2000	Tokushima City (263,358)	Build dam	Councillor	54.99%	Rejected
May 2001	Kariwa, Niigata (4,761)	Introduce nuclear pwr plnt	Citizens	88.14%	Postponed
Nov. 2001	Miyama, Mie (9,764)	Invite nuclear power plant	Mayor	88.64%	Rejected
Oct. 2003	Hidaka, Kochi (5,940)	Est. industrial waste plant	Citizens	79.8%	Accepted
Oct. 2005	Sodegaura, Chiba (59,549)	Develop station	Citizens	57.95%	Rejected
Mar. 2006	Iwakuni, Ymgch (145,537)*	Accept US base	Mayor	58.68%	Rejected
Dec. 2007	Yotsukaido, Chiba (88,167)	Build exchange Center	Citizens	47.55%	Rejected
Apr. 2008	Izenason, Okinawa (1,523)	Build Cattle Ranch	Mayor	71.36%	Rejected
Nov. 2010	Saku, Nagano (99,961)	Build Cultural Centre	Mayor	54.87%	Rejected
May 2012	Tottori City (194,362)	Build new City Office	Citizens	50.81%	Refurbish
Apr. 2013	Sanyo'onada, Ymg (63,348)*	Cut councillor numbers	Citizens	45.53%	Fail (<50%)
May 2013	Kodaira, Tokyo (180,049)	Build road	Citizens	35.17%	Fail (<50%)

Sources: Kobori (2009: 20); Okamoto (2012: 120); *Sankei Shimbun* (2013a); *Nihon Keizai Shimbun* (2012).

Notes: Referenda on town and village mergers are not included. Permanent Foreign Residents were able to vote in 2003, 2006, 2008, and April 2013. Highlighted referenda required a turnout of 50% or more to be recognised (except for Tokushima, failure to satisfy this condition – *seiritsu yōken* – meant ballots would not be opened – as happened in the Sanyo'onada and Kodaira cases).

* Denotes "permanent type" (*jōsetsu-gata*) referenda. This type of referendum usually contains the 50% turnout condition. All other cases here are single-issue type (*kobetsu-gata*) referenda.

**In the December 1997 Nago referendum, voters narrowly rejected the proposal, but the mayor disregarded the result. In a later court case, the judge dismissed a suit brought by citizens noting that the result of a referendum is not binding (Numata 2006: 22).

Table 1 shows how the interest in civil society and volunteerism following the Kobe earthquake corresponded with a referendum boom in the years 1996-1998. Numata (2006: 19) gives two reasons for the increase: (1) the perception by

citizens of referenda as the most useful means to express their views and (2) the perception by local assemblies of referenda as a useful tool for challenging government. Up to 2003 most referenda related to the building of industrial

waste or nuclear power plants, though recent years has seen a diversification of the issues, particularly “wasteful” public-works projects. Two recent trends can also be seen: a tendency to extend the vote to foreign residents and one to attach a 50% turnout condition to the vote.

Although the referenda in Table 1 represent only the successful few, the heavily restricted nature of referenda and their low success rate disguises their merits even in cases where approval is not given. In the first place, simply organising to hold a referendum can heighten interest in local and national elections: Kobori (2009: 24) notes that referendums in Japan have successfully raised voter turnouts. Okamoto (2012: 117, 125) identifies three merits: (1) expanding participation in and transparency of the decision-making process, (2) raising consciousness of the political process, and (3) fostering political literacy. In concrete terms, the *process* of collecting signatures and lobbying the local government – characterised by information sharing, newspaper articles, meetings, symposiums, study groups, (web) campaigns, and social media blitzes – engages citizens in grassroots democracy, educates them about the issues, and encourages participation of people in local issues regardless of ultimate success. This will become clearer in the case study of Kodaira below.

3.2 The 2013 Kodaira Referendum

Jennifer Robertson’s (1991) study of Kodaira describes the remaking of the town (since 1962 city) as newcomers flooded in during the 1950s and early 1960s and mixed with native citizens. Located in Western Tokyo, the population has grown by more than 30,000 since Roberston wrote and stood at 186,244 as of August 2013 (<http://www.city.kodaira.tokyo.jp/>). Unlike central Tokyo, Kodaira is full of green spaces and fields producing local produce for sale direct to citizens. The key feature of Kodaira City is the Green Road, a popular 21km tree-lined walking path which rings the city and which for 8km runs along the historical Tamagawa Aqueduct

(Tamagawa Jōsui) that since 1654 has carried water from the Tama River to the capital (<http://kodairagreenroad.com/>). In his greeting on the city homepage, Mayor Kobayashi begins by highlighting the Green Road as the key feature of Kodaira, one brought to life by Tamagawa Jōsui which has made Kodaira a “rich natural environment.” This emphasis on nature is also reflected in the citizens’ charter (*shimin kenshō*), the first article of which states, “Let’s build a green verdant town to which small birds will flock.”

The story of the Kodaira referendum starts some fifty years ago, against the background of a booming population and economy. In 1963, the Tokyo Metropolitan government put forward a plan for a four-lane 1.4km road, part of a 13.6km stretch linking Fuchu and Higashimurayama. This road was to run through Kodaira Central Park dissecting the historical Tamagawa Aqueduct and the Green Road. Soon after, the plan dropped off the political radar but in 1995 it was revived. Aside from the economic benefits arising from transport improvements, emphasis was also put on its role in times of disaster. The revived plan was to cost ¥250 billion – most of which would be used to compensate the 220 households who were to be evicted. Almost half of 1.3 hectares of woodland was scheduled to be cleared and 481 trees chopped down.

The revival of the old plan triggered concern amongst a number of local groups. Finally, in October 2012, 13 local citizen groups and one NPO¹⁰ joined together to form a coalition named Kodaira-toshi-keikaku-dōro ni Jūmin no Ishi o Han’ei Saseru Kai, literally “Group to Reflect the Residents’ Wishes towards the Kodaira Metropolitan Road Plan.”¹¹ This is usually shortened to “Han’ei Saseru Kai” which I will use here on. The rationale for establishing the new

10 A full list of these groups is available on the group’s HP at <http://jumintohyo.wordpress.com/>.

11 Although there is no official English translation for the group, the following was suggested to me: “Citizens for Reflecting Peoples’ Opinions on City Road Plans in Kodaira.” Here *jūmin* (resident) is translated as “people” and *ishi* (intention/wish) as opinion.

group was as follows (my translation):

Many citizens have asked that citizens' wishes regarding this plan be reflected, but Kodaira City have said that because this is a Tokyo Metropolitan Government Public Works Project they are unable to comply with our demands. We want to tell all citizens about this plan. We want citizens' wishes to be reflected in "town building" (*machizukuri*). This group was started in order to implement a referendum to ask whether it was necessary to review the plan (<http://jumintohyo.wordpress.com/>)

What comes through most strongly here – as the group's name suggests – is frustration that local people's voices had not been adequately reflected in the decision-making process to date. This is in contrast to Kodaira City who felt that enough consultation with locals had been undertaken (my translation):

In 2006, the Tokyo Metropolitan Government and 28 cities and towns drew up a (revised) road plan and public opinion was broadly canvassed (*hiroku iken kōbo*). Also, recent social changes were taken into consideration and the necessity and effect of the project were inspected and it was decided to go ahead. On top of this, some changes were made to the original plans for the reason of environmental conservation (personal correspondence)

Members of Han'ei Saseru Kai were incredulous after seeing this response, and took particular umbrage at the claim that public opinion was "widely" canvassed. Group spokesperson Kazue Mizuguchi said that most people had no idea opinions were being invited and wanted to know what opinions had emerged and how they had been made use of. She noted that the opinions of Kodaira Kankyō no Kai (Environment Group), a member of Han'ei Saseru Kai, had not

been reflected at all in the final plans. What comes across here is the large gap in perception over what degree of consultation is appropriate and whether public opinion needs to be reflected in a public works project.

In December 2012, Han'ei Saseru Kai set about gathering "signatures" (*shomei*), knowing that if they were able to collect 3,000 – some 2% of the voting population – they would be legally entitled to ask the local government to hold a referendum. For non-Japanese, collecting signatures might seem a simple task, but in Japan it is no easy matter. This is because it is not a handwritten "signature" that is required at all but a personal seal (*hanko*). The fact that most Japanese don't carry their *hanko* while out and about in town made collecting "signatures" a difficult task (although a finger print was also an option for those who didn't mind the ink). If this were not enough, signees also had to write their date-of-birth, a rather sensitive piece of information in an increasingly privacy conscious Japan. Finally, Kodaira collectors had to be officially approved; non-Japanese residents were not allowed to canvass or sign.

Despite all the difficulties, by the deadline of January 2013 a total of 7,593 signatures had been collected, more than twice the required amount. The election board ruled 7,183 of these to be valid and these were presented to the local assembly in February to debate whether a referendum should be held or not. This was by no means a foregone conclusion; indeed, Mayor Masanori Kobayashi made his displeasure clear, saying, "it was likely to cause problems for the road networking plan of the Tokyo Metropolitan Government" (*Sankei Shinbun* 2013b).

Against this background, the Kodaira Assembly's March decision to allow a referendum to go ahead came as a big surprise to many. Like the previous ten referendums initiated by citizens, it was decided that no conditions (such as a minimum turnout) would be attached. The fact that citizens were not asking to stop the road, just to take another look at the 50-year-old plan, undoubtedly worked in their favour.

Another factor might have been that the group had ultimately decided, fearing this might derail the whole process, not to ask that Permanent Foreign Residents be allowed to vote (opposition to foreign participation was reportedly deep among many assembly members). Unfortunately, to Han'ei Saseru Kai's surprise, it was decided not to hold the vote in conjunction with the upcoming mayoral election, something which would have guaranteed a higher turnout.

Things, however, began to take a turn for the worse shortly after Mayor Kobayashi was re-elected in April. On April 24th, in a special session of the local assembly, a revision (*kaiseian*) was made to the terms of the local referendum: in the case of a turnout of less than 50%, ballots would not be opened. Professor Koichiro Kokubun, a supporter of the referendum writing in the *Mainichi Shimbun* (2013a) referred to this as a "surprise attack" (*fuiuchi*)¹² and denounced the attempt by local government to deny citizen participation. Certainly, given that the turnout in the mayoral election had been around 37%, the 50% figure seemed like an impossible hurdle – one, moreover, that was not mentioned by Kobayashi in his re-election bid. The revision also excluded those having a criminal record from the vote, putting them in the same bracket as foreign "residents."

Despite the efforts of volunteers to publicise the referendum voter turnout on May 26th was 35.17%, less than the 50% required (<http://www.city.kodaira.tokyo.jp/oshirase/032/032896.html>). Kobayashi, seemingly questioning the validity of his own re-election, declared that such a turnout "cannot be said to reflect the collective opinion (*sōi*) of Kodaira citizens" (*Tokyo Shimbun* 2013). On May 28, just two days after the ballot, the Tokyo Metropolitan government submitted the paperwork for the road plan to the national government for approval.

Initial reaction to these developments was

12 It was also commonly referred to as *atodashi* or cheating in rock-paper-scissors by waiting to see your opponent's move first and then playing, illustrating the trust that was lost by making such a move.

indignation rather than resignation. For example, part 4 of a series of symposiums held on June 30th on the theme of decentralisation attracted a record turnout and panellists noted how Kodaira had become a spark (*hakkaten*) for the broader issues of local democracy that had gained attention throughout the country.¹³ In the foyer, T-shirts and badges were on sale containing the name Kodaira with the last "a" elongated signifying "Kodaira-lover". Media interest in the referendum was also intense: on the day of the vote over 50 news organisations has gathered outside Kodaira City Hall and many national newspaper carried editorials and comment (*Mainichi Shimbun* 2013a).

A number of moves have been made to get the referendum results released and delay construction of the road. On May 27th, Han'ei Saseru Kai asked Kodaira City to release the ballots and, on June 3rd, representatives visited the Tokyo Mayor's Office to request construction be stopped until this had happened (*Yomiuri Shimbun* 2013a). Both Kodaira and the Tokyo Metropolitan Government rejected these requests, the latter emphasising that completion of the trunk road was "essential." On August 8th, a suit was filed in the Tokyo District Court to release results, arguing, under the information disclosure law, that non-release was a violation of the citizens "right to know" and ultimately unconstitutional (*Nihon Keizai Shimbun* 2013). Against these moves, the Ministry of Land, Infrastructure, Transport, and Tourism officially approved construction on August 12th (*Asahi Shimbun* 2013a). Despite this setback, on September 10th, Han'ei Saseru Kai spokesperson Mizuguchi presented a petition of 13,390 names to the general affairs committee of the local assembly. In the meantime, citizens have continued to hold a silent (*mugen*) protest outside city hall every Monday.

The notable thing about the story of Tokyo's first local referendum is how the protest

13 The full video of the symposium is available on YouTube at <https://www.youtube.com/watch?v=slUEHI-ybyE>.

movement morphed from a loose coalition questioning the need to destroy a green space to build a road based on 50-year-old population projections to a broader movement of citizens indignant at the indifference and even contempt being shown by those in power towards local people's opinions. Despite all the legal obstacles already in place – including the fact that even if a referendum *is* successful it remains non-binding – local politicians seemed to be trying their hardest to thwart local activists every step of the way. In particular, the way the 50% condition (*seiritsu yōken*) was introduced riled many observers. Unfortunately, this condition is becoming more common: Okamoto (2012: 124) notes that of the 33 municipalities that have set conditions, 28 have the 50% condition, a figure she argues, citing the German case, needs to be seriously reconsidered. In Japan, however, the idea that the voice of 50% (or more) of the electorate must be respected (*sonchō suru*) – but that less than 50% need not and the ballots discarded – is becoming political “common sense”.¹⁴

4. Conclusion: Japan's Move to the Right and the Enemies of Civil Society

Using the Kodaira referendum as a case study, this paper has proposed expanding the conventional definition of civil society to include all social actors – including individuals – actively participating and interacting in the public sphere, both real and virtual. “[T]he way of discussing civil society in the existing literature is a very privileged one”, writes Ogawa (2009: 11), “[i]t largely ignores the experience of ordinary grassroots people.” Ando (2014: 25) offers a much broader definition: “civil society is a place where people who are not mandated by states and companies but act on their own free will talk, make plans, and work together.” This wider definition allows a shift in focus from the more

abstract national *shimin undō* (citizen movements) which have tended to be the focus of the civil society literature to date to *jūmin sankā* (resident participation): interest in, engagement with, and promotion of concrete issues at the grassroots level.

This change of focus, illustrated by the Kodaira case, challenges the common assertion that civil society is flourishing in Japan. Kodaira highlighted the intransigence of local officials loath to listen to individual citizen voices, especially in the case of public works which are already “decided.” While lip-service is paid to *jūmin jichi* (citizen self-government),¹⁵ and citizen participation – rhetoric which plays well with voters – in reality, Kodaira Mayor Kobayashi was unable to conceal his view of the referendum as a nuisance, harking back to Kishi's description of protesters in 1960 as “distasteful.” The sense of powerlessness and exclusion from the decision-making process generated by the Kodaira experience energised some citizens and offered a valuable learning experience for many others but for the vast – and increasingly silent – majority it brought home the futility of speaking out and a strong sense of resignation often voiced as *shikata ga nai* (it can't be helped). Such developments merely strengthen Japan's shift towards becoming an increasingly *muen-shakai*: a society in which individuals are isolated and have weak interpersonal relationships.¹⁶

If a defining feature of civil society is its “empowering of individuals to resist” (Schwartz 2003: 34), then the disempowerment of Japanese

15 In a flyer distributed to Kodaira households on May 30, 2013 announcing the birth of a new municipal government, Kobayashi wrote the following: “I think we should aim for a society in which people think about and solve their problems by themselves, citizen self-government (*jūmin jichi*) with real responsibility. In order to realise that, it is important for citizens as the subject of the locality to participate in local government” [my translation]. His official greeting on the Kodaira City HP (<http://www.city.kodaira.tokyo.jp/kurashi/001/001841.html>) also talks of building a “partnership” between citizens and government.

16 In contrast to Americans who are increasingly *Bowling Alone* (Putnam 1995), there are more and more cases of Japanese dying alone, a phenomenon known as *kodokushi*.

14 See for example, these words from the mayor of Saku City, following the 2010 referendum: “The set condition has been exceeded, so I will respect the result; I want to cancel the construction of the cultural centre” (Saku City 2010).

citizens by obstructing their ability to engage in direct democracy would suggest that Japanese civil society is far from blooming. A concrete example of such obstruction is the “50% condition”, a stipulation which is becoming increasingly common and renders referenda invalid (and ballots unopened) unless 50% or more of the electorate vote. If civil society connotes a society committed to making “meaningful participation possible” (Mouer and Sugimoto 2003: 209, 215) – a definition that includes a sense of responsibility for the outcomes representatives achieve – the evidence presented here suggests it is not flourishing but floundering. In a June 2013 poll, 60% said they didn’t think political protests have any effect to move the government (*Asahi Shimbun* 2013b). Disillusionment with politicians has seen a growing apathy towards participating in politics in recent years, as evidenced by falling turnout rates in elections. For example, the LDP landslides of Dec 2012 (lower house) and July 2013 (upper house) hid very low turnout rates. The former posted a postwar record low turnout of 59.32% for single-seat constituencies (*Japan News* 2013) while the turnout for the latter, despite internet election campaigning being allowed for the first time, was 52.61%, the third lowest in the postwar years (*Japan Times* 2013d). In between, the June 2013 Tokyo Metropolitan Assembly Election garnered a turnout of 43.5%, the second-lowest figure recorded (*Japan News* 2013). Turnout for young people in particular tends to be around 20% percentage points less than the total turnout (*Yomiuri Shimbun* 2013c).

The reasons behind voter apathy were widely discussed and debated in the media, such as the following *Japan Times* article written on the eve of the July poll:

What’s most noticeable...is the silence of the citizenry. Try finding the slightest hint that voters are fired up...Perhaps voters sense that the outcome is a *fait accompli* (*Japan Times* 2013c)

Echoing the theme of voter apathy, the *Japan News* (2013) ran an article titled “Many Candidates Baffled by Voters’ Inactive Response.” One reason for the general puzzlement was the fact that on one of the hot issues of the time – whether to re-start nuclear power plants in the short-term and continue with nuclear energy in the long-term – the LDP was directly at odds with public opinion (*Asahi Shimbun* 2013b). Moreover, it was not only public opinion that the LDP was against: local governments throughout Japan are increasingly promoting the goal of a nuclear-free society (*Asahi Shimbun* 2013c), creating a widening gap – a disconnect – between what localities want to do and what the nation actually is doing. This disconnect is reflected in a growing dissatisfaction among voters with the lack of representation of their voices and values in the Diet (Ando 2014: 23). The landslides of 2012 and 2013 were less to do with the popularity of the LDP and more to do with disenchantment at the performance of the DPJ.

In an attempt to define the concept, Hall (1995: 7-15) identifies five enemies of civil society. The first of these is despotism, which describes the concentration of power and authority including the “tyranny of the majority.” The recent LDP landslides in both houses together with the spread of the “50% condition” suggest this may apply to Japan. The second “enemy” of civil society is the imposition of “civic virtues” often implemented through moral education. In Japan, moral education has taken on increasing importance in recent years starting with the Kokoro no Nōto (Notebook of the Heart) readers in 2002, through the revised Fundamental Law of Education (2006) and 2008 Course of Study (*shidō yōryō*), and culminating in the proposal to make morals a regular subject in schools by 2018 (*Japan Times* 2013b; Maruyama 2013; MEXT 2013). The third enemy is nationalism, specifically those types of nationalism that emphasise social homogeneity. There have been many signs of a shift to the right (*ukeika*) in Japan recent years, such as the very visible emergence of extremist anti-foreigner groups like Zaitokukai (MacKinnon

2010); the new conservative LDP administration has merely heightened such fears. This ties in with a fourth enemy, cultural essentialism. Section 2 touched on *Nihonjinron*, a popular genre of writing that emphasises Japan’s cultural uniqueness. A central premise of *Nihonjinron* is that the Japanese are a homogeneous people (*tan’itsu minzoku*) which constitute a racially unified nation (*tan’itsu minzoku kokka*). The final enemy of civil society are totalising ideologies especially in late development countries where power is concentrated in a centralised state. Although the days of the Japanese developmental state are over, there are signs of more totalitarianism. For example, the 2013 secrets protection law that stiffens penalties against civil servants who leak classified information was opposed by the Japan Newspaper Publishers & Editors Association as a violation of the right to freedom of speech that will undermine Japan’s democracy (*Japan Times* 2013a).

In his *The Failure of Civil Society?* Ogawa (2009: 182) describes a growing realisation during his fieldwork that the huge upsurge in NPO incorporation in Japan occurred *simultaneously* with nationalistic policy moves. These moves included the flag/anthem law of 1999 and the revision to the Fundamental Law of Education in 2006. Today, discussions centre on constitutional revision. As seen earlier (footnote 7), the first Abe cabinet clarified the process for revising the Constitution in the form of the National Referendum Law. The new Abe cabinet – armed with large majorities¹⁷ – is moving cautiously but there is little doubt revision remains one of Abe’s major long-term policy goals (*Japan Times* 2013g). Morris-Suzuki (2013) describes the LDP’s proposal to rewrite the postwar Japanese constitution¹⁸ as so “far-reaching” as to effectively

17 Abe aims to reduce the majority needed for constitutional revision stipulated in Article 96 from two-thirds to half, a move which contrasts with increasingly strict rules on minimum turnout for local referendums.

18 The full text of the Liberal Democratic Party’s 2012 proposal for constitutional reform is available (in Japanese) on the Party’s website at http://www.jimin.jp/policy/policy_topics/pdf/seisaku-109.pdf.

comprise a new constitution. In particular, she notes the rolling back of individual rights and the key principle that sovereignty lies with the people:

The proposed changes include removing the reference to “respect for the individual” and making it constitutionally impossible for foreign permanent residents to be given national or local voting rights. Freedom of expression and freedom of association would not be protected where these “have the purpose of harming the public interest or public order”. The same formula would be used to limit the right of citizens to “life, liberty and the pursuit of happiness.” The revised constitution prepared by the Liberal Democratic Party contains no guidelines as to how, and by whom, “public interest” and “public order” would be defined, leaving an alarmingly large loophole for the repression of civic freedoms by the state. A new article would also be added to the constitution to give the state sweeping powers to declare prolonged states of emergency, during which constitutional rights could be suspended. (Morris-Suzuki 2013)

In conclusion, the power of the state at both the local and national level seems to be growing, throwing doubt on claims that Japanese civil society is flourishing. Amid an environment where citizens are increasingly deprived of the oxygen needed to speak out and question authority, the fear is that we are witnessing a return of the “voiceless voices” which characterised pre-war and early post-war Japan.

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