

**AJ Forum 1**  
**Civil Publicness and Public Spheres**

Date: 17<sup>th</sup> June 2005

Venue: Setagaya Campus Library GS room

**Kenichi Miyamoto (Guest Professor, College of Policy-Science, Ritsumeikan University)**

In Japan, debate over definitions and standards of public interest, or “publicness”, has been late in coming. During World War II, when many people gave up not only their possessions but their lives for the Emperor, “public” had authoritative connotations. Academic studies of publicness in this era were almost nonexistent, and the subject received little attention even in sociology. Little substantive research was done in the legal realm either, where it was presumed that the legal framework provided for public interest or public good. More recently, however, in addition to the need to bridge the deep gap between constitutional theory and reality, privatization, deregulation and economic globalization have made it necessary to bring standards of publicness in line with global standards, and these factors have fueled a more active debate over such standards (including their enumeration) in academic circles as well as society at large. The democratic nature and publicness of the state have increasingly come under scrutiny as citizens’ attitudes toward welfare education and other public services change.

The public sphere, according to Habermas, is where citizens engage freely in discourse on politics, freedom of expression, and the establishment of human rights, and is the space in which publicness takes hold. Publicness appeared in the context of the emergence of the proletarian state through civil revolution. Through revolution, the right of citizens to own property was recognized, and basic human rights were established based on this right. The government, in exchange for guaranteeing the freedom of citizens and providing services that are in the public interest, collected mandatory taxes.

In the history of modern Japan, the exercise of public power has been tied to authority. Peace, fundamental human rights, and democracy were established in principle through post-war revisions to the Constitution, but the strong influence of bureaucratism remained. Publicness first became a topic of public debate during the controversy over noise pollution at Osaka Airport. The introduction of jets into a crowded residential area led to tremendous distress among residents due to the noise and vibration they caused. Over the course of the ensuing trial, the standards by which public works and social utility should be judged became a focus of debate, with the government stressing the social utility of the airport. Other opinions sought to place a value on publicness after weighing social harm, namely pollution, against social utility. The following were argued as judgment criteria for publicness regarding public facilities: 1) that public facilities are guaranteed to meet general conditions applying to social productivity and lifestyles, 2) that they may be used on an equal basis by all people, 3) that they improve on welfare or the environment, i.e. fundamental human rights, the natural environment, social amenities, etc., and 4) that democratic procedures are guaranteed by which consent is gained from residents regarding construction or alteration. The judge in this case presented the opinion that not only the airport but the environment as well is of public interest, and priority should be given to the environment. Through developments such as these, factors such as human rights and environmental preservation have gradually come to be recognized as prerequisites for the publicness of public works. In addition, there is growing recognition of a “right to amenities” that extends to the human rights of future generations and the societies of people of other countries. When thinking about public spaces, in accordance with the shift from authoritative publicness to civil publicness, definitions have come to be based on fundamental human rights and amenities.

From Savas’s diagram of the privatization of the public sector, it becomes apparent that, for many

things, it is difficult to tell whether they are public goods or private goods. The standard lies in how thoroughly the elements of one or the other can be eliminated, but it should be noted that there are a growing number of median or mixed goods, such as higher education, which contain both public and private elements. As the socialization of production and lifestyles progresses, such semi-public goods will increase. Mixed goods such as higher education cannot simply be left to free competition but will require frameworks with a certain degree of planning. The standards for publicness cannot be covered with just one definition, and individual assessments for each case will increase in importance. A sustainable society is one that secures fundamental human rights, including those for future generations and in multinational environments, and makes it possible to maintain them.

Public spheres in China are currently a focus of attention. If state-owned corporations are dissolved and their operations are transferred to the private sector, China will become a proletarian tax state, toward which mixing in public spheres is underway. The interaction of ideas unique to China and the establishment of a tax state will no doubt give rise to public spheres of a form different from those seen in the past. If attention, however, is not given to measures to prevent environmental degradation and soil exhaustion, China will likely experience the same kind of environmental pollution problems that Japan did during its era of rapid economic development. In the future, the focus of attention will be on China and how well it learns from past cases as civil public spheres develop in that country.