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Toward a Fundamental Review of Public Works

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During the period of Japan's post-World War II recovery and subsequent era of rapid economic growth, public works such as the building and maintenance of roads and bridges were seen as bringing great benefits to society and boosting the economy. However, once a certain level of infrastructure had been attained, construction of new roads and bridges no longer necessarily contributed to raising industrial productivity and living standards, while the ripple effect on the economy and employment weakened. In recent years, public works have come to be viewed more in terms of the burden they place upon the public purse and on the environment. Voices calling for change can now be heard nationwide.

So intimately connected with the politics, economics, and the social fiber of Japan are public works that their thorough reform would change the very fabric of society. Nevertheless, since only ruin could result were such a step not taken, it was the mission of the Democratic Party of Japan's Committee to Restore Public Works to the People to secure the necessary reforms.

PROBLEMS WITH PUBLIC WORKS PROJECTS

Wasteful Projects

From summer to winter 2000, the three parties (Liberal Democratic Party, New Kōmeitō, and New Conservative Party) of the governing coalition carried out a review of public works projects and cancelled over 200 they deemed wasteful—while leaving extant a wide range of wasteful projects including dams, land reclamation schemes, and airports. Among the projects not singled out for review are some, planned several decades ago,

that are still in progress despite having lost all relevance. There are also many projects based on inflated estimates of future demand, assessed according to assumptions valid only in the rapid-growth era, and yet others the purpose of which remains obscure to this day.

Excessive Burden on Public Finance

The combined value of spending on public works by national and local government and special corporations came to more than ¥34 trillion in fiscal year 2000 (ended March 31, 2001). Initial forecasts were in the range of ¥39 trillion but, given the recession and fiscal difficulties of local governments in particular, the final outlay fell well below forecasts. Even so, public works investment amounted to some 6 percent of gross domestic product, a high level compared with that of the industrialized countries of North America and Europe, in which the corresponding figure is generally around 2 percent. Considering that Japan spends roughly half as much as those countries on education and social security, by comparison it remains a "construction state."

Public works projects cost a colossal amount of money. In Japan, there are many cases in which costs are deliberately underestimated at the initial planning stage to make it easier to win authorization for a project, and costs will regularly balloon to several times the original estimate as projects are executed. To support such excessive and inefficient investments, construction bonds have been issued and purpose-specific taxes have been levied for such works as highway construction. The net result of this state-sanctioned benevolence has been to pile up debts that now account for a large chunk of Japan's overall public debt of ¥666 trillion (fiscal year 2001 forecast). With bond repayments now accounting for over 20 percent of the national budget each year, a swift and substantial reduction in public works spending is imperative, not only to protect all members of society, but also to defend their livelihoods.

Environmental Problems

The more than 2,000 dams currently holding back rivers in Japan are destroying the natural environment. Dams obstruct the flow of silt to the sea, thereby exacerbating coastal erosion by waves. To stave off the damage, the coastline is clasped by tetrapods and concrete embankments, to the point where Japan's islands are almost surrounded by concrete. Further, stagnation of the water locked in the dams on rivers and estuaries

undercuts water quality, damaging marine resources and ecosystems and resulting in the presence in drinking water of endocrine disrupters, or “environmental hormones.” With public works projects inflicting harm on both people and the environment, the well-being and even survival of life forms in these areas may be put at risk should environment-hostile projects be allowed to continue.

Government-Industry Collusion

One of the most damaging aspects of public works projects has been the pivotal role they have played in fostering an “iron triangle” of complicity among politicians, bureaucrats, and businessmen. The resultant steady increase in public works spending, the system of state subsidies, and the practice of designating bidders for public works tenders have made the construction industry the strongest supporter of the governing party which, in turn, has made repeated policy decisions in favor of the industry. The increased spending on public works in the name of economic revitalization since the bursting of the economic bubble is a typical instance. With vested interests seemingly leading politics by the nose, there has developed a widening sense of political alienation among the populace. Powerless against the iron triangle of collusion, citizens have increasingly lost faith and interest in politics, allowing the vested interests to further increase their sway in a vicious spiral that, if unchecked, stands to erode the spirit of democracy, leaving but an empty shell.

Dependence of Local Economies

Japan has been in a serious recession since the economic bubble burst. The consistent response of successive administrations has been to increase public works spending. The situation has become particularly precarious since the failure of the fiscal reform program introduced by the cabinet of Prime Minister Hashimoto Ryūtarō, which was followed by cabinets—of Obuchi Keizō and Mori Yoshirō—that pursued programs of scattershot public spending.

As a result, dependence on excessive public spending has been cultivated nationwide, the only exceptions being a few major cities. At present, even a small measure of fiscal austerity could easily destroy local economies and, were this to happen simultaneously in a number of local areas, the economy and public finances of the entire country could be bankrupted.

With public works spending long having been used to treat economic sluggishness, a large segment of the population has become seriously dependent on such outlays. But if this dependence does not soon cease, local industries will not develop and Japan will be in tatters.

THE INTERMINABLE SYSTEM OF PUBLIC WORKS

How is Japan to kick the public works habit and regain fiscal health? These days even the government and ruling parties concede that wasteful public works spending cannot be allowed to proceed unchecked. To date, reforms have failed to address the cause of the problem, namely, the system that gives rise to wasteful public works projects. Considering, too, that there are said to be over 50,000 projects authorized by the now defunct Ministry of Construction alone, any policy that merely tries to pick off a few of the worst projects can only have a very limited impact. It follows that reforms must be undertaken that will change the system itself.

Public works projects are based on a plan that, after a budget has been drawn up, is implemented as prescribed by law. It would, thus, make sense to change the planning, budgeting, and lawmaking processes that constitute the system's framework, rather than merely cancel a few specific projects.

Public works projects are conceived in accordance with the Comprehensive National Development Plan, which constitutes a blueprint for the entire country, and long-term plans, which lay down specifics for the implementation of projects in each sector.

The Comprehensive National Development Plan

The most fundamental level of public works formulation, this plan is drawn up in accordance with the Comprehensive National Land Development Act. The present Fifth Comprehensive National Development Plan (CNDP), covering the period from 2002 to 2015, is being promoted by the catch phrase, "Promotion of Regional Independence and Creation of Beautiful National Land," which is supposed to signal a change of course away from the traditional land policy focused on development. However, under the influence of the iron triangle, it has been stuffed with a host of even more grandiose construction projects than were previous plans. These include the relocation of capital-city functions, 14,000 kilometers of high-specification trunk roads, two more bridges to link the island of Shikoku to the islands of Honshu and Kyushu (in addition to three existing bridges

spanning the Inland Sea), and further development of the experimental super high-speed train known as the maglev (superconducting magnetically levitated vehicle). The costs entailed will far exceed the ¥1,000 trillion figure for the Fourth National Plan. Indeed, it is said that the reason no cost estimates have been published for the current plan is that the outlays are so vast as to be literally incalculable. As long as the iron triangle continues to influence these national plans, the mismatch between theoretical and actual need will continue. Even within government circles there is an awareness of this truth, and a growing number of voices are calling for this plan to be the last.

Within the framework of the National Plan, 16 long-term plans specify public works projects by sector, including roads, flood control, urban parks, sewerage, housing, ports, land improvement, afforestation, airport maintenance, and waste disposal facilities. Here, too, some serious problems exist. Most of these plans were originally launched in the desperate days after World War II, under the Temporary Measures Laws, when Japan was struggling with material and financial shortages but urgently needed to construct roads and other basic infrastructure. But, as the Twelfth Roads Plan is currently being implemented under the very same "emergency measures," on paper at least Japan is in a permanent state of emergency. One might here mention the spectacular growth in spending on flood control and sewerage, the budgets of which have grown at rates 30 percent to 40 percent higher than those of all public works plans combined. Such anomalies, coupled with the colossal scale of the budgets—¥78 trillion for roads, ¥24 trillion for flood control—testify to the fact that plans which cannot possibly be afforded under Japan's current economic and fiscal circumstances have not only been agreed to, but are being implemented.

These plans are drawn up and decided upon by various ministries and bureaus. For instance, road planning is conducted by the Road Bureau of the Ministry of Land, Infrastructure and Transport (MLIT), while flood prevention is handled by the MLIT's River Bureau. With decision making apportioned among ministries, bureaus, and sometimes even among different departments and sections of the same bureau, the vertical division of public works has become structurally embedded in the bureaucratic system, and each segment has developed its own vested interests. This vertically segmented configuration is the reason for which the structure of each plan has scarcely been altered over the decades despite the changing needs of the people. But the biggest problem is the ingrained bureaucratic mentality, which sees it as imperative that budgetary allocations be

used up. Thus, as is often said of public works projects, “once they’ve started, they never stop.”

Plans for public works projects often have massive implications for the rights and duties of the general public, as when whole villages are submerged in the course of dam construction, or when people are evicted from their homes to make way for new roads. The projects also place an immense tax burden on the people. While it would follow that in a state which espouses the principle of the rule of law, decisions regarding the plans that are to be implemented should be made by the representatives of the people, in local assemblies or the Diet as appropriate, and that there should be laws to specify how such plans should be implemented, these plans are settled by “cabinet decision” with but a few exceptions. In the case of some categories, including airport maintenance, there is not even a law on the statute books establishing the legitimacy of the enterprise, which fact is one of the major reasons that bureaucrats are in control of public works.

Issues Relating to Individual Laws

Public works projects cannot be implemented just by drawing up a plan. Actual projects are based on individual laws, such as the Road Law or the River Law, which are also seriously flawed.

Complicated Laws Squander Taxpayers’ Money

The Road Law carries with it some 30 associated laws, which take effect in combination with various government ordinances, implementation regulations, and official notices that together fill hundreds of pages. Add in all the paperwork involved with the subsidies financing the projects, and virtually no one other than a handful of bureaucrats can grasp the overall picture of what is actually going on. As ever greater areas of legislation have been left to the discretion of bureaucrats, they have increasingly come to dominate the body public. An obscurantist legal framework has turned the world of public works into a black box, while bureaucrats have been permitted to freely decide which projects to implement, teaming up with politicians in the exercise of these far-reaching discretionary powers to create an opaque decision-making apparatus.

Cancellation and Dissent Proscribed

The power of the national government over public works is so overwhelming that there have been calls for devolution of powers, while the

monopolization of enterprises that in many cases could be handled by the private sector has led some to call for the application of private finance initiatives that pay due attention to market realities. To date, however, calls for such deregulation have done little to set reform in motion.

The old system of highly centralized authority and total bureaucratic control has been preserved virtually unchanged. The Public Works Law thus still does not involve local assemblies, and there is almost no provision for members of such bodies to publicly express formal opposition or take legal action against projects. Public works have always been determined by laws that include no provision for cancellation.

Not only does the law need simplifying, but devolution and deregulation must be pursued and new legislation created to permit wider participation in projects and the expression of opposition to them.

Essential Fiscal Reforms

Public works projects are broadly of three types, namely, those implemented by the national government directly, by local authorities with the aid of national government subsidies, and by local authorities independently of the national government. The source of funding is taxes (general account, special accounts, etc.) and borrowing (construction bonds, local authority bonds, and funds borrowed from the post office savings and national pension funds under the Fiscal Investment and Loan Program). It is no easy matter to say which project should be carried out using what kind of financing, but at the very least reform is necessary in two main areas.

- Public works: Pork-barrel spending carried out in the name of economic revitalization has only exacerbated the problem. Restoring public finances will require a quantitative spending reduction plan. One possible option would be for central and local government to set a ceiling on their borrowing.
- The system of subsidies: Hitherto, subsidies have caused the management of projects to be split among the administrative strata, with straitjacket standards applied uniformly nationwide, causing unhealthy rivalry among local authorities petitioning the central bureaucracy in Kasumigaseki for subsidies. Local government has been held hostage by this bureaucracy, which uses petitions to strengthen its power.

Recently the system has become further perverted, as the national government has effectively helped pay off local-authority portions of the

costs of joint central/local projects by increasing tax grants *ex post facto*. This has allowed local authorities to enjoy the benefits of projects while shouldering relatively little of the costs entailed, blurring the conceptual link between cost and benefit, and so encouraging local authorities to petition for any project they believe they stand a chance of getting.

EMERGENCY MEASURES TO RESOLVE THE PRESENT CRISIS

Reform of public works is an issue that transcends party politics and concerns the entire citizenry. However, before the system can be reformed and to avert confusion, policies must be established to deal with the projects already under way. This could be done in two stages.

Stage 1: A Complete Review of Ongoing Projects

In the case of dam construction, for example, work should be suspended on projects currently under construction and those planned for the future. Dam building has three major objectives: flood prevention, the supply of irrigation water, and electricity generation. Even the Deliberative Council on Rivers, a government advisory body, has stated that the emphasis in flood prevention has shifted toward mountain preservation and a general emphasis on the environment. As for irrigation and other uses of water, projections for future demand are constantly being revised downward in response to the slowdown in economic growth and population expansion. Meanwhile, liberalization of the electric power industry has exposed the relatively high cost of hydroelectric power. It is hardly surprising that all the major objectives of dam construction now stand in urgent need of review, given that many of the projects under way are based on demand projections 20 to 30 years out of date.

In the areas of expressway and airport construction, it has also been customary to ram through projects based on projections that underestimate construction costs and overestimate demand. Tokyo Bay Aqua Line is a case in point. The initial cost estimate for this ambitious road project was ¥900 billion, but the actual cost weighed in at ¥1.44 trillion, representing a 50 percent cost overrun. The demand projection has proved even more wildly inaccurate, with actual use running below one third of the projected level. More outrageous still, the redemption plan for paying off the loans for the project assumes a continuing increase in traffic, despite the fact that the population of Japan is set to peak in 2007 and

then move into decline. The way things are going, it is all too evident that the Japan Highway Public Corporation (JHPC) is well on its way down the same disastrous path traveled by Japan National Railways (JNR), the publicly owned railway company that was privatized in 1987, leaving behind huge debts that are still far from being paid off. The JHPC, together with its sister corporations—the Honshu-Shikoku Bridge Authority, the Metropolitan Expressway Public Corporation, and the Hanshin Expressway Public Corporation—should immediately cease all new construction, be promptly privatized, and make a serious effort to reduce the mountainous debts they have accumulated.

Stage 2: Dealing with the Impact of Project Cancellation

To halt projects now at the planning stage, under construction, or already operative would have a major impact on the areas surrounding the project sites, to the extent that many projects could not realistically be stopped even were it theoretically deemed desirable to do so. There is, thus, the need to establish an environment that would make it possible to halt projects with as little trouble as possible.

Projects under construction generally leave in their wake three main problems when terminated, namely, the questions of what should be done regarding the project funding already spent and facilities already completed; how contractors should be compensated; and how to compensate citizens who have planned their lives on the assumption that projects will go ahead.

Spent Project Funding and Completed Facilities

Inevitably, where implementation costs have already been incurred, the contracting body will have to bear the burden. In most public works projects, costs have already been met through borrowing, and the body in charge of the project is responsible for repaying the debts incurred irrespective of whether the project has been completed. A problem arises, however, when grants from the national government to local governments are involved. According to the Law Relating to Appropriate Execution of Budgets Involving Subsidies Etc., the head of each ministry and agency can revoke the decision (to award a grant) if the body in charge of the enterprise contravenes the contents or conditions of the grant. In such a case, the body in charge of the enterprise must repay the subsidy to the national government with the addition of 10.95 percent per annum. This

obligation to repay grants on unfinished projects is one reason that local authorities often feel obliged to carry on with projects that they know to be wasteful. The relevant legislation should be reformed so that the obligation to repay grants does not arise where there is good reason for halting the project.

In much the same way, a flexible approach should be taken regarding facilities already completed, allowing the creative ingenuity of local residents to ensure they are put to optimum use. Where the use of a facility is limited by the terms of the grants awarded, those limitations should be waived, while legal reform is necessary to enable such facilities to be put to alternative uses.

Compensation of Contractors

In terms of compensation to contractors for cancelled projects, the contracting body is currently likely to be found in breach of contract and, therefore, liable for compensation payments. It should, however, be possible to find ways of lightening the load by, for instance, freezing the review period or granting contractors preferential treatment in connection with other project tenders in lieu of compensation payments. Where such arrangements will not suffice to cover the losses sustained by contractors, the outstanding loss will have to be made good by the contracting body, be that the national or a local government, or a partnership thereof.

Compensation of Citizens

The question of compensating citizens is extremely complex and varies in each case. Accepted theory and precedent put severe limits on compensation to citizens. Thus, a decision to construct a dam is not deemed to adversely affect residents, who are not able to claim compensation even when the decision to build a dam has led to the imposition of such building restrictions in the area as a ban on the building of edifices of three or more stories.

However, decades of dam construction have resulted in a great variety of situations, including those involving both individuals who have received compensation and moved to new homes, and those who remain in the area earmarked for flooding. People whose lives have been disrupted by dams have been forced to endure appalling hardship and canceling a dam project would throw up a host of difficult questions. For example, would those who had already received compensation have to repay it? Would those who had not received compensation still be in a position to claim it? And, where projects were suddenly cancelled, there

would be even more difficulties regarding how to meet the concerns of those communities the members of which had planned their personal and civic lives on the assumption that some major project would be undertaken nearby.

This is one area which would require legislation that is new and, not bound by existing conventional wisdom, would look at waiving repayment obligations for those who had already received compensation, as well as finding some way of supporting those who had not yet been compensated by, for example, consolation or social support payments.

FUNDAMENTAL REFORM OF THE SYSTEM

Abolition of the Planning System and Creation of a New Legal Framework

The basic planning framework for public works projects is chaotic. There is the CNDP, the National Land Use Plan (NLUP)—based on principles contradictory to those of the CNDP—as well as laws related to the NLUP, namely, the Three Major Urban Areas Development Law, the Law Relating to Local Development and Revitalization, and the Law Relating to Development of Special Regions. While these are the main branches of the planning framework, still more legislation is piled on top, including the Private Participation Promotion Law and the Resort Law. If left untouched, these legal provisions would allow the public works phenomenon to continue forever, so a new legal framework must be established on the basis of decentralization. All 16 of the long-term plans for public works should also be abolished in favor of a system that can flexibly focus public works on the most important areas.

Planning a System to Replace Abolished Public Works Plans

Decentralization of Financial Resources, National Projects

Wasteful public works projects have emerged from a system in which Kasumigaseki bureaucrats have taken charge of project planning and financing, depriving local officials in the affected regions of any awareness of the fiscal burden entailed, while tending toward a uniform national policy that ignores the environment and local culture and history. Were decision-making authority and fiscal responsibility devolved to the regions, the following merits would accrue.

- The views of local residents would be reflected in the selection of projects.
- The vertical segmentation imposed by the Kasumigaseki ministries would end, the expenditure involved in pursuing projects in isolation would be avoided, and synergies could be sought by carrying out mutually complementary projects.
- Local residents could scrutinize the process of bidding for contracts and project implementation.
- Transparency would grow and the involvement of politicians seeking pork-barrel perks decrease.
- Cost reductions would result from the involvement of local residents.

Devolution of public works should start with the reform of the subsidy system. As well as extending vertically segmented administration from the central bureaucracy across the country, the system also leads to massive administrative costs in connection with the labyrinthine application process, and imposes uniform standards nationwide, leading to higher project costs.

To eliminate these evils, a uniform grant system should be established based on integrated subsidies and simple distribution standards. At the same time, a clear distinction should be made between national and local authority projects, to alter the division of roles between central and local government that enables the national government to exercise control even over projects that are supposedly run independently by local authorities.

A clear distinction should be made between public works projects that ought to come under national, and those that should be under local, government jurisdiction. State projects should be strictly limited to those beyond the means of local authorities or that must be handled by the national government because they entail relations with other countries—such as international hub airports, commercial ports, and major trunk roads. Local authorities should carry out all other projects autonomously.

Quantitative Restrictions and Financial Resource Reform

As stated earlier, Japan's spending on public works is excessive, 6 percent to 7 percent of GDP being spent on public works, compared with the roughly 2 percent to 3 percent of GDP in developed Western countries. With Japan's fiscal condition already extremely serious compared with that of those countries, Tokyo must find a way to curb spending.

One way that would work rapidly would be to stipulate a spending reduction target, such as a 30 percent cut over five years. Also, the unlimited issuing of bonds to finance public works should be reduced, and serious consideration given to abolishing construction bonds. Further, the system of earmarking particular revenue sources (such as gasoline tax and vehicle licensing fees) for specific purposes (such as road and airport construction) should be abolished, as it obstructs change in a few budgets at a time when the overall trend is for lower outlays. These revenues could thus be used for whatever purposes a local government deemed necessary.

Getting Elected Assemblies Involved

Although public works projects soak up huge quantities of the taxpayers' money, the law has no provision for significant involvement in these projects by the National Diet or local assemblies. One hears various arguments in favor of the status quo: Project management is better conducted by the executive rather than the legislature; involvement of elected assemblies would open the way to political exploitation of projects, distorting the principle of fairness; and not only is there nothing to stop assemblies from contributing to the planning process, but they already do, being involved in budget hearings. However, political involvement in public works is far more pernicious when conducted in secret than when it is open to scrutiny in a debating chamber. Those who point to budget hearings as a form of democratic involvement are merely engaged in sophistry: The hearings could never take a serious look at the budget for every single dam and road being planned.

Hence none of the arguments against assembly involvement are at all convincing. The absence of elected assemblies from the process of deciding and implementing public works is the biggest impediment to realizing citizen's power of choice over their own affairs. The principle that only the elected representatives of the people should decide how tax revenues are used is fundamental to the modern democratic state, so reform is urgently needed.

Establishing a System of Continuous Review

Some public works projects take decades from launch to completion and, without a system of periodic review, most waste taxpayers' money. A system should be set up that constantly reviews projects to reflect changing socioeconomic conditions. Nor should the review process end with the completion of the project. Another system should be introduced to

evaluate the effectiveness and influence of each project on people's lives, so that subsequent projects can be improved with the aid of hindsight.

A law is required—a Basic Law on Public Works—that would transfer funding and decision making to local areas, limiting the scope of directly managed national projects; replace the 16 long-term plans with a single plan; stipulate quantitative reduction targets; require assembly approval of projects; provide for citizen participation; demand project assessment at regular intervals; and call for post-project environmental evaluation and the analysis of cost effectiveness. The result would be a slimming down of the Ministry of Land, Infrastructure and Transport, and a reduction in its authority.

With construction having become the mainstay industry nationwide, most citizens and local authorities have become inured to dependence on the national government and public works. Breaking free of this mindset would require support from the national government and local governments. Giant projects must give way to small-scale ones meeting local requirements, while local communities must develop sustainable industries by setting up community businesses, firming up welfare provisions, and fostering town-village interchanges. Only by developing new industries and employment opportunities can personnel gradually be transferred from the construction industry. This shift in employment patterns will entail the promotion of decentralization and decoupling of income assistance from production promotion policy in primary industries, resulting in the recovery and strengthening of local industry, the development of systems in which volunteers and the elderly can participate, as well as support for both small industries and those that promote environmental recovery. These and other measures will need to be incorporated in another new piece of legislation: a Local Autonomy Support Law.