STATE AND CIVIL SOCIETY IN JAPAN

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Japanese politics is no more difficult – or easy – to understand than political life in Italy or Australia. And yet there are some aspects of state–society relations that make the state ‘organizationally pervasive’ – in the words of a Chinese political scientist, “The lines between public and private, political and personal, formal and informal, official and non-official, government and market, legal and customary and between procedural and substantial are all blurred” (Ding, 1994, p. 317). This pattern of state–society relations can be found in some, perhaps all, East Asian states and it is a feature of the Japanese state that sets it apart from the states of what we can broadly call the West.

One account of the state – and this is the commonly accepted one – would argue that there is no basic difference between modern states. All have the same functions. They all operate within the same parameters. In this view the modern state has its origin in Western Europe, in the aftermath of/in reaction to absolutism of various kinds. Forces active in civil society opposed the absolutist tendencies in the state and placed boundaries on it. In this process the frontiers were established between civil society and the state, but nevertheless a strong and effective state was created. Moreover, whenever this modern state structure came into contact with less robust systems of governance the modern state would usually triumph. Thus the British state was able to win control of India, and its successors in North America triumphed over native Americans. In the nineteenth century, powered by capitalism, the modern states of Western Europe, now in competition with each other, could displace governing structures in most other parts of the world, resulting in widespread European-led imperialism.

The only alternative to succumbing to imperialism was to transform one’s own state into a similarly robust structure. This was the conclusion arrived at by the leaders of Japan in the 1860s and 1870s. Creating strong state structures which could resist the imperialists was the driving idea behind all their reforms. Japan was not alone in reaching this conclusion. At much the same time, though in different circumstances, nationalists in Italy and Germany were engaged in a similar enterprise. Moreover, though relatively late-developers, the Japanese – like the Italians and Germans – acquired something of an empire, which once again we can see as a result of what
happens when strong modern states encounter weak, pre-modern systems of governance. In the Japanese case they encountered and triumphed over Ainu to the north, Okinawans to the south and later the inhabitants of Taiwan and, in the twentieth century, Korea and China. In this sense the story of the development of the Japanese state is no different from that of many in Europe. We do not need any extra explanation to account for its features. There is no deep structure that is different.

However, at this point, those who would want to stress political culture would want to emphasize some fundamental differences. For example, the political tradition of Europe, whether liberal, conservative or socialist, has been informed by a broadly Christian ethic, inherent to which is the notion of ‘rendering to Caesar that which is Caesar’s’ – at least following the Westphalian settlement. This provides some basis too for the state/civil society ‘division of labour’. However similar the external structural features that gave rise to the modern states of Italy and Japan, the ideological components were quite different: the Roman Catholic version of Christianity informing one and a Japanese form of neo-Confucianism informing the other. Moreover these were not just ideologies manipulated by an elite to legitimate power; they were sets of ideas that were taken seriously by both state and citizenry so that they guided expectations of both state leaders and the average citizen.

But what were these expectations and how can we see them manifest in political structures and policy implementation? If we are to take political culture seriously we should look at the origins of the modern state. State power in Tokugawa Japan extended deeper than ever before. Ooms shows how the socially accepted and legally sanctioned remedies dealing with disputes between individuals, villages or temple communities were abandoned as the Tokugawa state monopolized the use of coercive force. Indeed, the Tokugawa regime has been described as “martial law applied in peacetime” (Ooms, 1996, p. 325). There remained a degree of devolved power in Tokugawa Japan, as local lords and, below them, villages were allowed considerable autonomy. Moreover, the capacity of the state based in Edo deteriorated over time. Nevertheless, the normative ideology that supported state power was a variant of neo-Confucianism which distinguished vaguely, if at all, between state and society and encouraged individuals to rely on the state to resolve issues. Indeed, there was an expectation that the state would be there to redress wrongs if its local representatives did not. Ooms describes examples where even female commoners, dissatisfied with local authority decisions, would threaten to “go to Edo” in search of justice. (Ooms, 1996, p. 312) There was a generalized expectation of the benevolence of the state and from the side of the state there was a generalized expectation of obedience, plus of course a set of arrangements that would enforce that obedience when it was not given freely.

On neither side was there any expectation that civil society would play a role. Indeed, at least in the classic statements of Confucianism we cannot find any space ‘beyond the family yet before the state’. As Shils put it, “Confucius is entirely silent regarding the institutions of civil society” (Shils, 1996, p. 71).

However, de Bary, among others, has shown that there were some neo-Confucianists in seventeenth century China who supported the idea that it was the duty of magistrates to ensure that abuse of power ceases and that even the ruler should be subject to law. Within their writing there are embryonic notions of civil society and
rule of law (see, for example, de Bary, 1998) However, if Japanese scholars knew of them they were not taken up. When the Meiji state was formed there was very little awareness of any frontier between state and society. The hierarchy of the new state was recruited from those who had risen through the ranks of the administrations in the four feudal domains that provided the leaders of the Meiji restoration – most of whom had been trained in the Confucian tradition. Ironically, given the Confucian objections to business, they then became involved in an attempt to create a capitalist state, but it was a structure quite different to that which had emerged in the US and UK. The strategy that saw state actors creating and then selling off factories and similar enterprises only served to blur further the boundary between state and market, even as those markets were being created. Bureaucrats retained an interest in the factories they had founded even after they had been sold off, which made it easy for bureaucrats to exert influence over the private sector. There was little or no notion of the importance of the independence of the market or that there was an inevitable conflict of interest between bureaucrats and businessmen.

As capitalism developed, in the later nineteenth and early twentieth centuries anti-capitalist organizations emerged and the state fought back with repressive legislation aimed at preventing the development of labour unions and socialist parties. As is well known, although they were unable to prevent a rise in radicalism in the period 1917–1926, between 1930 and 1945 dissent was effectively suppressed and the most radical aspects of civil society were placed under control.

Meanwhile, the Uniform Civil Code was promulgated in 1896 at a time of renewed interest in Confucian ideas, following a period of fascination with Western ideas during the previous 20 years. In this code, although Article 35 provided for the establishment of profit-orientated organizations, there was no corresponding category for non-profit bodies. This denied legitimacy to public interest groups, forcing many to remain as informal groups, unable, for example, to run their own bank accounts. Groups that were permitted to acquire a legal personality operated at “the discretion of the competent ministry”, to which they had to report and to whose “administrative guidance” they would be subject. Thus, even though some element of civil society was allowed to emerge, it was kept under the close control of the bureaucracy.

This blurring of the state/society boundary is of more than theoretical interest. In most policy we can see how the institutions of the Japanese state work with non-state actors in ways that would be considered unusual, perhaps impossible, in many Western states. The techniques of administrative guidance used to influence decisions in the business world during the 1950s and 1960s are well known. The basic premise of industrial policy from the late nineteenth century has been that the market cannot be relied on to generate optimal solutions. This notion was strong in the 1950s and remains influential today. We find in a recent statement of Ministry of Economy, Trade and Industry (METI) policy that there remains a need for an “industrial policy to develop the basic conditions necessary to promote a major encounter between supply and demand, performing a co-ordinating function”. Market forces cannot be trusted to solve Japan’s basic problem – now, of course, deflation – without METI becoming a “navigator” to “propel the Japanese economy” through the twenty-first century. (METI, 2001, quoted in Neary, 2002, p. 185).

Minseiiin, unpaid volunteers, play a crucial role in the provision and distribution of
social welfare. Roger Goodman has described their work and organization in some detail. While there are only 15,000 welfare officials employed by local government – and few of them welfare specialists – there are now over 190,000 minseiiin, usually retirees, who help deal with the social problems faced by the elderly, the poor, the disabled and single parent families (Goodman, 1998, pp. 144–145). The system began in the 1920s as a way of “preventing the radicalisation of thought”, particularly the disaffection of the underclass. At that time the state began to pay attention to the poor as part of the policy to deal with radicalism, but the social welfare policy was designed to ensure that social security payments did not “reward idleness” and avoided the “dreaded evils of excessive assistance” and most of all did not create “a consciousness of rights” (Garon, 1997, pp. 54–57). Mobilization of the country for war in 1938 brought the system under central control and, after the war, although the name was changed to minseiiin, most of them were re-appointed – a group described by Garon as “a group of local notables which had little motivation to abandon the moralistic and restrictive approaches of the past” (Garon, 1997, p. 21). The system has continued to develop but the attitude remains unchanged. Goodman suggests that the very low take-up of some benefits demonstrates how they continue to play a role designed more to discourage “excessive assistance” than to facilitate access to entitlements (Goodman, 1998, pp. 144–148).

Moreover, minseiiin are just one of a number of groups of state-controlled volunteers that exist on this state/society boundary. There are also, for example, 140,000 social insurance commissioners and 52,000 rehabilitation workers. In addition to them, there are numerous social welfare groups that are nominally independent but which are strongly guided by the welfare ministry using the powers conferred by the 1896 Civil Code.

Human rights is a core concept in the post-war constitution. Civil Liberties Commissioners (Jinken Yogo Iin) were established in the late 1940s to spread an awareness of them. However, in many ways they were to human rights what the minseiiin were to welfare. Their age, gender profile and class background are very similar and, with honourable exceptions, they have functioned less to encourage the assertion of rights among citizens or against the state than to pacify and control demands for human rights. This is typical of human rights policy since the 1940s. Where possible, the Japanese state has tried to exercise control over rights demands where it could not prevent them entirely. The biggest and also the most radical of the groups asserting rights – the Buraku Liberation League (BLL) – succeeded in attracting the attention of government and won the commitment to an estimated US$134 billion between 1969 and 1992. However, this was accompanied by a process that sought to incorporate the BLL into the administrative structure and a conscious attempt to create a pliant alternative to the BLL in the form of the Dowa movement. This is a grassroots coalition, supporting the promotion of multicultural awareness and human rights education. Mainly because of its radical ideological base, the BLL resisted the attempts at incorporation. There was a fear that in the 1990s, following the collapse in Europe of what used to be called “actually existing socialism”, the radical core of the BLL would evaporate, leaving it susceptible to incorporation by the state. This has not happened and we have seen a significant change in human rights policy.

The 1990s saw Japan becoming increasingly committed to the international human rights regime – ratification of the covenants on the rights of the child, torture and the
elimination of discrimination, plus the submission of a series of reports to UN committees. Domestically there were several policy initiatives that seemed to suggest that Japan was taking rights seriously at last, including a report last year that recommended the creation of a National Human Rights Committee that would somehow replace the Civil Liberties Commissioners. The discussion that followed publication of that report has focused precisely on the area that has been the theme of this brief essay – the boundary of the state. The Ministry of Justice and its supporters have been very reluctant to allow the creation of an independent organization that would have full powers of investigation in all areas of government, including prisons and hospitals. Meanwhile, the human rights community has argued that nothing less than a completely independent institution that complies with UN standards will do. It is not clear how this matter will be resolved, but the outcome will be significant in terms of the development of civil society.

There are reasons to believe that the state might be on the retreat, or at least that its boundaries are being re-drawn. In 1998 the Special Non-profit Organization Law (NPO) was passed, changing the way Japan regulates its civil society organizations. It not only greatly reduced the control that central bureaucracy has exercised over civil society since 1896 but it also devolved responsibility for the licensing of non-profit organizations to the prefectures, without providing a model indicating how they should handle this. This will lead to wide variation in implementation, unusual in a country that has so often stressed its homogeneity (Pekkanen, 2001, p. 141).

Some doubt the significance of the measure. The passage of the NPO law benefited from the extraordinary coincidence of the Kobe earthquake – in the immediate aftermath of which voluntary groups proved more effective than state-controlled organizations – and the changes in the electoral system and party political structure which weakened the grip of the Liberal Democratic Party and bureaucracy. Moreover, there is some evidence that bureaucrats are playing an active role in the registration process, suggesting that an informal screening process is taking place as the bureaucrats fight back to regain some control. However, if we place these changes in the context of the broader changes in policies, such as the proposal for a National Human Rights Committee, we can say that at the beginning of the twenty-first century the state/society boundary is better defined than ever, closer to that in Western states but still not drawn in the same place with the same clarity.

Though no more difficult to understand than the politics of any other modern state, Japan does have some particular features. To make that suggestion is not to bring back Nihonjinron (the concept of ‘Japaneseness’), nor is it to ‘orientalize’ Japanese politics. It is to say no more than that politics in Japan has some special features, as does politics in the Nordic countries. Indeed, one can conceive of a time when it might be possible to refer in a similar way to an East Asian pattern of politics, observable in Taiwan, Korea, Japan and, perhaps, even China.

Acknowledgements

The author is grateful to Professor Marie Conte-Helm, Director General of the Daiwa Anglo-Japanese Foundation, and others who attended the seminar, for their comments.
REFERENCES


LAUNCH OF THE CENTENARY HISTORY OF THE SOCIETY:
13 NOVEMBER 2002

At the President’s Reception in Canning House, London, on 13 November 2002, the President of the Society, Lord Denman, thanked Mr Hugh Leach and Miss Susan Farrington for the successful completion of the Centenary History of the Society, Strolling About on the Roof of the World, and for assigning the copyright to the Society. He added thanks to Shell for financial support and to RoutledgeCurzon as the publishers.

In his reply Hugh Leach thanked those who had helped in the work, most especially Sue Farrington, who had had to cope with his handwriting in typing up countless drafts, one memorably forwarded by post with a date-line 3.50 am! Marinel FitzSimons had read all the chapters, drawing on her 27 years as Secretary; Ivor Lucas had overseen the project with helpful suggestions; Carol Gardiner had given her professional copy-editing services free and David McCarthy of Laserscript had shown ingenuity in the layout and patience in dealing with inevitable amendments. Hugh concluded, “I only now understand why the book has taken nearly three years to complete when I look at the index of some 1500 entries, all of which had to be researched, checked and re-checked!”

The reception was attended by the Rt Hon Lord Hurd of Westwell, who wrote the Foreword to the History, by diplomatic representatives of Asian states, and by over 150 members.