

The Concept of "Average Citizen" in Modern Government (II)

Tadao ADACHI

3. Mediatory Functions on the Side of Citizen

a. Lawyer as Mediator

And yet, their mediatory functions are limited. In the United States there exists a sharp opposition between whites, the ruling majority, and blacks and others, minority groups. Many government organs are apt to speak for the majority, while the minority groups tend to be alienated from them. This leads to poverty, ignorance, illness and so forth of the minority groups, which causes the opposition between the majority and minorities. In order to solve the problem, in the times of President Johnson, community action agencies were set up in each community throughout the country with the slogan "War on Poverty". Most of them were set up as private and non-profit organizations, where many intelligent people from the minority groups are working. From their social role, they are called mediators between the government and (poor) citizens (a mediator is a Christian idea that Christ is the mediator between God and man). This is because when a mediator is a government official, he tends to mediate in favor of the government.

Thus the citizen needs to exist who, in order to make up for the other citizens' lack of public information and knowledge, mediates between the government and them, at least when there is an apparent opposition between both parties. And it has been the lawyer himself who has been the most classical professional citizen with mediatory functions. Together with the minister who works for Christ, mediator between God and man, and the doctor who

takes care of man's illness, the lawyer, with a social role to mediate between government power and the citizen, has formed a classical and typical profession in the modern times.

Probably it was in Britain that the lawyer developed earliest and most firmly as a professional. In Britain which was called "the factory of the world", industrialization i. e. modernization was accomplished in the middle of the nineteenth century, earliest in the world. It is controversial that industrialization is modernization. But if the term; political modernization can be used together with the expansion of the citizen's participation in politics and rechtsmassige Verwaltung, particularly the development of "rule of law", Britain was the mother country of "rule of law". While such continental countries as Germany and France had bureaucratic constitutionalism, Britain's constitutionalism was based on law, where the lawyer, product of civil society, could be most active. A custom was established that all kinds of lawyers tried to find law based on social traditions and precedents, inductively and casuistically, and that the government and citizens obeyed the law. This explains why the rate of lawyers' population is high in Britain and the United States among the civilized nations. And since such a custom was powerful in Britain, the lawyer had a high social prestige. This is why when the statutory controlling the relations between the government and citizens appeared one after another in the middle of the nineteenth century in Britain, and were published to educate citizens, Jeremy Bentham (1748-1832) predicted that many lawyers would lose their jobs. Bentham believed that a civil code would emancipate the layman from the lawyer, by giving him a clear and intelligible scheme which he could understand for himself.

On the contrary, the lawyers in Britain continued to increase in number and "codification might emancipate the lawyer from himself, by giving him a clean sheet and a quittance from accumulated lumber." ¹⁾ There must be many reasons for this. But according to Barker, "beginning with the Poor Law Amendment Act of 1834, which introduced central administrative control in the sphere of public assistance, we have gradually progressed a long way in the direction of the administrative State." ²⁾ It was because more citizens came to have conflict with government and needed the lawyer's mediation or assistance. At the time of the Poor Law Amendment Act of 1834, "social services" (i.e. welfare administration) dealt with poor people, or what I call the weakest exceptional citizens. But when they came to deal with the average citizens and strongest exceptional citizens in complicated and professional ways, public information became inaccessible not only for the weakest exceptional ones, but also for the average ones and even for the strongest exceptional ones. And thus mediatory functions were highly required. This is understandable enough if the seal baby case in Japan now is seen. Due to the Welfare Ministry's mistake in medical services, lives of some kind of citizens, regardless of their understanding of, and access to, public information, and regardless of their income, are at a crisis, and they must confront the government, not to mention the company.

b) Three Novel Problems in the Present Mediatory Functions:
Dilemmas of Today

There are some serious and novel problems concerning the mediatory functions in the conflict between the citizen and the government.

In *the first* place, it is questionable whether the lawyer, who should originally perform mediatory functions, is actually playing the role sufficiently.

I have already mentioned that the Japanese lawyer is not very helpful in the land expropriation case, a typical conflict between the government and the citizen. In terms of my classification of the citizens, in case of land expropriation, the lawyer often helps to strengthen the strongest exceptional citizen, but he does not help much to help the average citizen, not to mention the weakest exceptional citizen. It is surmised that this is true of court of law where the government and citizen dispute with each other, let alone of administrative tribunal as the Expropriation Committee. While the government can afford to hire able lawyers, the citizen, unless he is the strongest exceptional one, hardly can. In this sense, the system of a defence counsel in the Criminal Procedure Code (Article 36), or the rescue system in a suit in the Code of Civil Procedure (Article 118 and below) should be soon extended to every field of administrative dispute as a general rescue system in suits.

Secondly, today's novel problem arises from the question whether the lawyer can fulfil the mediatory functions.

As is well known and mentioned, today's government functions deal with various fields of various citizens' lives. Therefore, in order to solve citizens' disputes with the government, various kinds of professional knowledge, techniques and experiences are required. But basically, the lawyer does not possess them. Of course, even if government functions are divided into many fields, if constitutionalism is dominant, the lawyer plays a chief role in the dispute. But hardly ever does he alone play the leading role. The real estate appraiser

plays a chief role in a land expropriation case, the doctor in a seal baby case, and in public pollution cases not only the doctor, but also the chemist, the meteorologist, the psychologist, the economist, and so forth are playing leading roles. They are required to. Today, indeed, various kinds of "intellectuals" are expected to fulfil mediatory functions. The biggest exceptional citizen in understanding of public information is expected to exercise mediatory functions by the average citizen, not to mention the smallest exceptional one. And since I understand the extent of the expectation, I would like to set up a new type of intellectual, called a "mediatory intellectual" besides Matsushita's abettors and enlighteners. But I think that my mediatory intellectual is a kind of, or a variation of his policy-making intellectual, and so I shall discuss it in detail later.

Concerning the above matter, two things must be borne in mind. One is the fact that necessary knowledge —this word includes technique and experience here and later— for mediatory functions cannot be given by one professional only such as the lawyer or the doctor. It can be developed only when various kinds of experts work together according to a certain standard or viewpoint. The so-called interdisciplinary approach would be most highly required here. But the knowledge required for the mediatory functions would not be gotten by adding various kinds of experts' knowledge. It would be gotten only after each expert co-operatively makes an interdisciplinary approach according to a standard agreed upon. And the standard would be a kind of a normative premise or a premise of value. Then at the present time, when there are many senses of value, it is apparently difficult to get the standard, a premise in the interdisciplinary approach. The interdisciplinary approach is not

successful in this country because of this as well as because of sectionalistic opposition between each field of learning, although its importance is universally recognized.

The other thing is the fact that more and more kinds of citizens expect mediatory functions. When the present society is discussed in terms of physical and mental desire of citizens only, it cannot be explained by one basic trend or element. It is characterized by two (or more) dilemmatic trends or elements. For instance, many people want to see change in society, but unchangeable factors are dominant too. Therefore, to ask the government for the solution of one problem might cause trouble in the solution of another. In this society the principles to solve various problems, not in the revolution in the distant future, but at the present time, are opposed to each other in a dilemmatic way such as citizen participation and political leadership, and the centralization and the decentralization. This society is called by many names such as post-industrial and knowledge-oriented society. I would like to add to them "a dilemmatic society". Requirement for mediatory functions is increasing due to the dilemmatic social situations. The dilemmatic society cannot be discussed in detail here. The point is that in today's society of Japan many citizens have complaints on their physical and mental desire and that they may develop into conflicts. This is only too apparent. If citizens' conflicts with the government are extended to latent ones, the overwhelming majority of the citizens would be the persons in the conflicts. And the conflicts sometimes arise from the citizen's living place or his community.

The *third* novel problem concerning the mediatory functions is that due to the above two facts it is questionable whether the

functions are fulfilled in the existing system.

The past system to deal with disputes, as in the past administrative litigation system, assumed the ones between each citizen and the government. And in this system an expert like a lawyer was supposed to help each citizen in his relation to the government functions. It was assumed that one party concerned to an affair was an individual person (including a legal person) and that an expert would help him. But today's party to a dispute or suit against the government is a group of dwellers of a certain community. And for the mediatory functions even experts' interdisciplinary approach is not enough. The citizens, who are the party concerned, must be included in the team of the approach, and their knowledge, technique and experience need to be used. This is the time when the traditional expert's authority is universally challenged.

Experts are challenged from inside their own group. As is well known, there is no experts' group today in which old authorities are not filed a complaint against by young experts.³⁾ They are filed a complaint against outside their group, too. In order to understand this we do not need to know the opinion in the U.S. that Spiro Agnew's maxim, "the experts know more about slums than slum-dwellers" must be changed into the one, "the experts on slums are slum-dwellers". We know it through our daily life. For instance, we know that the experts on noise are dwellers in noisy places. The basic cause for the challenge to the professional experts lies in the dilemmatic social situations. But the experts' authority in dealing with disputes is one of the things which are most severely challenged today. In short, in today's mediatory functions the

citizens concerned must join together with the lawyer and other experts. In this sense it is understandable that Matsushita, who set up a new type of intellectual called "a policy-making intellectual", considers a politically active citizen or a journalist such a one. They are the biggest exceptional citizens in understanding of public information as well as the shortest exceptional ones in access to it, being close to the citizens concerned. They can be such citizens as would help those concerned, which is their social role. And when I pay attention to the leading character of the citizens' life in mediating disputes on the citizens' side, I can see Matsushita's point in proposing the civil minimum as a norm. He proposes it as "a minimum and universal norm of life beyond the pluralization of interest in today's various classes and professions, regardless of the level of the local or national society".⁴⁾ I have already said that in order to make interdisciplinary approach and get a solution from it, there must be an agreement upon a normative premise or a premise of value. Matsushita's civil minimum is to offer a premise for the interdisciplinary approach in which citizens are supposed to play a leading role.

I said that there are some serious and novel problems in the present mediatory functions. It is because cooperation is required between laymen, citizens concerned to a dispute, and various kinds of experts, who used to be thought to oppose each other in a dilemmatic way. Paul H. Appleby had to admit the necessity for the expansion of the government functions, that is, "Big Democracy", while he insisted on the necessity of the citizens' participation in politics harder than almost any other scholar in the 1940's. He denied "the citizen as administrator", saying "Government is different

from all other profession because it is broader than anything else in the field of action.”⁵⁾ Early in 1960 Irving Dilliard said more mildly than Appleby, “Such men as he and many American men and women are citizens so creative and responsive beyond the ordinary public duties of voting and obedience to law that they become a most important part of the administrative points of policy-making as part-time members of the structure and personnel at those points. They are ‘public’ citizens.”⁶⁾ In other words he agreed with Appleby after all. Thus the ordinary and general citizen as “the citizen as administrator”, together with various kinds of experts, has to confront “the experts on public administration” in the problems which he could not approach until recently. It is because “government is different from all other profession.” Indeed, what we are facing is a serious and novel problem. This is such a serious problem that we would like to require a huge government power like a leviathan of Thomas Hobbes (1588-1679) so as to solve the problem drastically. In fact, a good many citizens have such a desire. But it would not lead to a real solution. That is why we are reminded of John M. Gaus who supported Appleby in 1965. He said, “We are a subcontinent of varied regions and ethnic groups, undergoing a shifting of population proportions by space and age. We must achieve working unity at both political and administrative levels. The contribution which Paul Appleby made to the study of our problems was to emphasize the importance of government, and within the government the importance of protecting national policy from the disruptive alliances of special interests. He was a critic of sloppy, sentimental, and unexamined use of terms ... and of unexamined loyalties and institutions.”⁷⁾ Our situation is different

from the American. And yet in Japan where there are a lot of special interests and the people is as sentimental as any other, many lessons can be learned from Gaus.

And the harmony between the experts and laymen cannot be obtained without an accord on some universal, or most common normative premise or premise of value. But this age is characterized by pluralization of senses of value confronting each other in a dilemmatic way. The question of the mediatory functions between the citizen and the government contains a dilemmatic, serious and novel problem in it. It is well-known that dilemma is a common problem in every political question.

The relation of Matsushita's civil minimum with my average citizen will be discussed later.

- 1) Earnest Barker, *Reflections on Government* (1942), p. 32.
- 2) Earnest Barker, *Development of Public Services in Western Europe: 1660-1930*, 1944 (Archon Books, 1966) p. 35.
- 3) S. M. Miller and Martin Rein, "Participation, Poverty, and Administration" in *Public Administration Review*, Vol. XXIX, No. 1 (1969), p. 23. F. C. Mosher, "The Public Service in the Temporary Society" in D. Waldo (ed.) *Public Administration in a Time of Turbulence*, 1971, pp. 245-248.
- 4) Keiichi Matsushita, *Shibiru Minimamu no Shiso* (The Philosophy of Civil Minimum) (The Tokyo University Press, 1971), p. 297.
- 5) Paul H. Appleby, *Big Democracy*, (1945), pp. 9-10.
- 6) Irving Dilliard, "Grenville Clark: Public Citizen" in *The American Scholar*, Vol. XXXIII, No. 1 (Winter 1963-64), pp. 97-104.
- 7) John M. Gaus, "The Citizen as Administrator" in Roscoe O. Martin, (ed.) *Public Administration and Democracy*, (1965), p. 184.

V. The Conditions of Conceptualization of "Average Citizen"

Needless to say, the average citizen cannot be discussed in relation to the politics of every nation. It can be discussed only where the following two social or political conditions exist.

1. Expansion of Government Functions

To begin with, the society must be the one which requires wide-ranging government functions. I am not trying to discuss in detail the expansion and change of government functions. I simply want to point out that they have hastened the failure of the past idea on the citizen.

The real citizens who played a chief role in the development of history through the bourgeoisie revolutions, particularly the French Revolution were, roughly speaking, bourgeois. They had enough property to be financially independent, hence some education and knowledge. And they could judge their personal interests reasonably, rationally and actively in politics, and act on the basis of their judgment. They were people with these concrete characteristics. That is why in *Considerations on Representative Government* John Stuart Mill trying to prove that the representative government was "the best form of government", said, "Each is the only safe guardian of his own right and interest"¹⁾. In other words, he had to assume a man with the above concrete characteristics as a self-evident axiom. When "a decisive part of people"²⁾ could become such people, they combined the individualistic idea of natural rights of man, an abstract idea that every man could and must have such characteristics, with the above realistic idea on the citizen. Using the combined thought as a ideological weapon, they succeeded in forcing

authoritarian states like ancien régime to collapse. Incidentally, I want here to add that my idea of the average citizen is coincident partly with "the average man" in J. S. Mill's *On Liberty* (1859).

But after they succeeded in the revolutions, and especially after proletarians appeared as a political class³⁾ to confront them, they emphasized the abstract aspect of the idea on the citizen more than the concrete and realistic aspect. Besides, what was favorable to them after they abolished the government functions of the authoritarian state was that the government functions were limited to the minimum of maintaining order and peace. It was because the liberalistic idea was dominant that the best government was the cheapest and smallest one. This idea was not always carried out,⁴⁾ but at least the idea that it was the ideal influenced the area of actual government functions. In other words, from the citizen's viewpoint his contacts with government functions were extremely limited—nay, it was considered the ideal that his contacts were limited. By these facts, although not all the citizens possessed the above concrete characteristics including a certain amount of property, the idea on the reasonable citizen could exist in its abstract and idealistic aspect.

It is in this context that the following can be rightly understood. That is, it was thought that when the citizen suffered loss in his relation to the government, the lawyer would solve the problem, and that the lawyer's law was called law of bourgeois society, which assumed the above reasonable man.

But today class structure in society has changed and wide-ranging government functions to deal with our daily life have appeared. Then the past idea on the citizen in its concrete and

realistic aspect as well as in its abstract and idealistic one, has to be revised. And what Gustav Radbruch (1878-1949) criticized as "ein individualitätsloses Individuum" and "gegen diesen Begriff eines seiner Eigenart entkleideten und deshalb auch seiner Vergesellschaftung enthobenen Individuums der individualistischen Rechtsauffassung"⁵⁾ must correspond to the above citizen. And as mentioned before Matsushita tried to interpret today's citizen in the aspects of the social basis of the working class, independently-policy-making-ability, the sense of daily life and the broad-minded attitude toward making rules. Okuda and Masuda, who mark the present mass democracy and mass society, tried to make typological conceptualization of the citizen. These are, after all, challenges to the old idea of the citizen. And as far as this point is concerned, I, who have proposed the idea of the average citizen, have something in common with them.

2. Socialization in Three Aspects

However, the expansion of the government functions in many nations is not enough to discuss the average citizen. Generally, the present expansion of the government functions appeared when the regulating function of dealing with the citizen's daily economic life as well as with the management in agriculture and industry, and the service function of guaranteeing the minimum standards of wholesome and cultured living were added to the traditional infringing order-maintaining function. Therefore, from a global viewpoint, this expansion of the government functions is seen in the developed countries. But in some developing countries such as Arab nations, which have become rich due to the demand for oil and

rapid increase in its price, it seems that wide service functions are offered by the government. It can be said that the government functions have expanded there, too. But the average citizen cannot be discussed there. It is because the average citizen cannot exist without a kind of "socialization". In many developing countries while very few exceptional people, who may not be called citizens, are wealthy and highly educated, the majority of the people are poor or illiterate. It is evident that in such countries the average citizen cannot be discussed who is ordinary in comprehension and living, and is general because he belongs to the majority. That is, the average citizen as the mean and mode values cannot exist there.

Thus the second condition to enable the average citizen to exist is "socialization". This word is very popular both in daily and academic use, and so it is ambiguous in meaning. Needless to say, this does not mean the socialistic ownership of productive means. In 1918 in Germany, Karl Kautsky (1854-1938) was said to use the word, "Socialisierung" of mining industry and so on, which was different from "socialistic socialization". Today it refers not only to the economic field of production, but to every "social" field of man. As a result it is used in many meanings both in daily and academic use. This word is used in various academic fields of sociology, social psychology, psychoanalysis, political science, economics, pedagogy, anthropology and so on in different senses.⁶⁾ Of course, I cannot be caught in the diverse meanings. Therefore, I will limit the word "socialization" to that of daily use.

"Socialization" comes from the verb "socialize". According to English dictionaries, most of them explain "Socialization" as meaning "causing to become socialist"⁷⁾. "Socialize" means 1) to

render social, and 2) to render socialistic in nature⁸⁾. Apparently today's "socialization" comes from "socialize" in the first sense. It means "to adjust to co-operative group living" and "to adapt, as oneself or others, to the common needs of a social group"⁹⁾. Therefore I define "socialization" as "a process in which a member of society, while conscious of the common needs of the society and strengthening co-operation with others to realize the needs, gets something common—at least something similar—". In this sense it can be said, for example, that "socialization in education" is a process in which the majority of the members of society get a similar education of a certain standard and gain the substantial result.

Socialization, the second condition to make the average citizen possible, can be discussed in many ways. But here it will be discussed in its three aspects.

a) Socialization in Education

The average citizen in his understanding of public information can exist chiefly on the basis of socialization in education. The sense of socialization in this case is mentioned above. It must be something close to political socialization, a new field in political science. David Easton and Jack Dennis said, "We shall define political socialization restrictively as those developmental processes through which persons acquire political orientations and patterns of behavior¹⁰⁾. Thus if political socialization is processes through which members of society acquire prevailing political orientations, outlooks, attitudes and behavior, socialization in education is a political socialization with emphasis on the processes through which persons acquire necessary language and letters for acquiring them.

Socialization in education in this sense is very developed in Japan. As far as the education system is concerned, at least, every citizen is entitled to get elementary and junior high school education. In March, 1974, more than ninety percent of junior high school graduates went to high school throughout the country and more than thirty percent of high school graduates went to college (in March 1973, 31.2 percent all over Japan, and in March 1974 in Hyogo Prefecture, 42.5 percent). Therefore in Japan, the majority of the people are average citizens with high-school-graduate-level understanding of public information. It is apparent when we see as of September, 1974, 31,745,668 persons passed the driver's license exams in Japan, the most difficult in the world. When the figure is compared to the population of Japan, 110,000,000, it shows most of the examinees have passed the tests.

It must be noted, however, that socialization in purely linguistic reading or listening comprehension is not enough to understand language and letters in public information. Socialization in reading and listening comprehension must be accompanied by a certain political orientation. In today's Japan most citizens' political orientation is the constitution, or democracy defined in it. At least in "principle" no political party denies it. Therefore learning the constitution is very important in our education. The government, which values the constitution in "principle", but in fact tried to exclude the study of constitution from required subjects, tries to maintain unconstitutional prewar relations between the government and citizens. To speak in relation to the citizen's character in the Land Expropriation System, the more deeply government functions interfere with the citizen's daily life, the more constitutional

understanding of public information the citizen has. The government is afraid that it cannot maintain the past relations between government and the citizen because of this.

b) Socialization in Public Information: Socialization in Political Participation

The same can be said of the average citizen in access to public information. The average citizen with this aspect cannot exist where access to public information is restricted to a few exceptional citizens. Socialization in public information cannot exist there. Most of if not all of, the information on the government or government functions must be open to public to enable socialization in public information. In other words, the two principles of "an open government" and "the freedom of press" in the broadest sense must be established. Public relations of public organs plays a major role in expanding these two principles, and even more important are mass communication functions represented by the newspaper, radio and television. The normal development of public relations and mass communication media is the very condition that enables the average citizen with this aspect of access to public information to exist.

Here I cannot discuss in detail the normality and abnormality of public organs' PR and mass communication media in Japan. The next two points are pointed out only. Firstly, even if mass communication media give a lot of public information to citizens, if they give abnormally much information irrelevant to it, citizens lose interest in access to public information. Secondly, citizens' interest increases when they are given an opportunity to join decision-making at a public organ based on their own opinions and information as

well as on public information.

Thus socialization here means not only the passive aspect of citizens' receiving public information from public organs' PR or mass communication media, but also the active aspect of citizens' forming public information in some way. If it can be called democratization of politics or socialization in political participation, the development of such socialization is an essential condition to let the average citizen exist. Of course, in present time when government functions are complex, diverse and specialized, political participation itself must be, as Geraint Parry put it,¹¹⁾ reexamined in its intensity (who participates how often?) and quality (whether the participation is effective or ineffective, and "real" or "facade"). Therefore, in order to discuss the average citizen, not only the question of political participation and its socialization, but also that of how much socialization in political participation is essential to it is to be challenged from now on.

Although it is thus admitted that there are still some questions left, in the present Japan socialization in public information can be discussed.

c) Socialization in living Conditions

The same is true of the average citizen in living conditions.

As mentioned before, in our daily life we are related to public functions in almost all areas from food to art. It is expected that socialization is going on in all the areas, for instance, socialization in art appreciation or in medical treatments. But not all of them can be discussed here.

Generally speaking, our living conditions are food, clothing and

shelter (housing). As for food and clothing, the majority of the citizens today wear similar clothes and eat similar food. Socialization is much advanced in them in the sense that citizens can get the similar things. But socialization in housing is not so advanced. And that is why socialization in housing is an important item in today's politics.

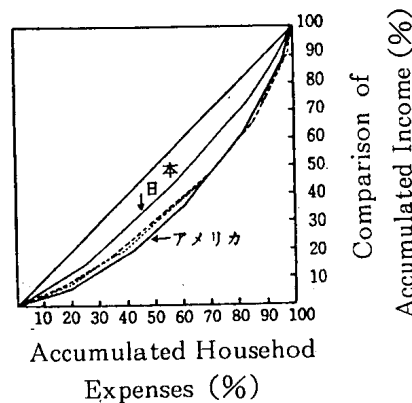
In spite of the fact that socialization in housing is not fully developed in Japan, socialization in living conditions can be still discussed. It is because socialization in income, the basis for socialization in food, clothing and housing, is developed to some extent. Socialization in food, clothing and housing as well as in income is outside my own field, and so I cannot give any clear judgment on it. But apparently, the difference in pay between those who have just finished compulsory education and those high-ranking people with knowledge and experience of long years is much less than in the prewar times. So is the difference between the farmer's income and the city worker's. The difference becomes even less due to the progressive tax rate system in income tax, property tax and inheritance tax and the system for the high income earner's income to be partly transferred to the low income earner (e.g. the one for whom the Daily Life Security Law is applied). In other words, in Japan a certain degree of equalization of income distribution is practised.

"The National Life White Paper" of 1974 says about this: "Recently in Japan, the city workers' income has been considerably equalized even from an international viewpoint. It is more equalized than in the U.S., England, France and so on. (Chart 2-3). This graph is called the Lorenz Curve. The closer the arched income distributivn curve is to the 45-degree diagonal, the more equalized income distribution is.

Also the income difference between the city worker's household and the farmer's is getting less due to the farmer's income increase by income from other than agriculture. And since 1969 the farmer's per household income has been more than the city worker's, and in 1973 by about 30 percent. ... since 1972 the farmer's per capita income has been more than the city worker's, and by 7.4 percent in 1973. (Table 2-1)

Such equalization in income is reflected in people's consciousness of living conditions, too. Ninety percent of the Japanese think that they belong to the middle class. Only one percent of them think they have higher living standard, and five percent a lower living standard. (Chart 2-4)" Thus income or living is equalized or socialized. Out of the charts and table quoted above, "The International Comparison of Household Income Distribution" is shown here.

The International Comparison of Household Income Distribution



Gini's Indici diconcentrazione

———	Japan	1970	Gross income	0.190
.....	France	1969		0.318
-----	Great Britain	1969-70	Gross income	0.323
————	the U.S.	1970		0.343

By *Kakei Chosa Nempyo* (Annual Study of Household), "Annuaire Statistique de la France" (1973) "Social Trends" (1973) and "Statistical Abstract of the U.S.A." (1972).

The white paper, however, does not miss the fact that recently the income difference is slowly growing bigger and bigger. "Equalization of income has stopped recently. In the rise of commodity prices and land prices a new unfairness has appeared concerning the possession of such real property as land and houses, and of monetary property." And concerning the Land Expropriation System, the start of my paper on the average citizen, and the equalization of real property, which has much to do with our daily life and yet is scarcely referred to, the white paper says: "Concerning the average worker's household in 1973, suppose we roughly calculate the increase and decrease in the evaluated value of property from the possession of property in the end of 1972, and the trends in commodity prices, land prices, house prices, stock prices, interest in deposits in 1973. Concerning the real property of land and a house evaluated value increased by 1,053,000 yen, while monetary property including stocks decreased in value by 200,000 yen. That is, the increase in the evaluated value of property was 55 percent of his annual income. ... But the increase and decrease in the evaluation of property greatly vary according to how much property one has. ... The economic difference between those who own land and a house and those who do not has been increasing". In short, the difference in property has been expanding more than that in income. Also according to the white paper, the initial income and the redistributed income (initial income minus tax minus social insurances fee plus social security allowance) were more equalized in 1967 than in 1962 and more equalized in 1972 than in 1967, but since the function of redistributing social security allowance had been weakened between 1967 and 1972, equalization in

redistributed income was lowered. (For instance, the rate of transferrable income to the national income was being lowered). This is shown in several charts and tables.

Indeed, due to the recent expansion of economic difference, the average citizen in living conditions, especially in housing is harder today to discuss than around 1970. But there is still a possibility to return to the past equalization and to reduce the economic difference, that is, a possibility to develop what I call economic socialization, depending on the policy. The citizens who "think that they belong to the middle class" have not decreased in number. While realizing that limitations, I still believe that socialization in living conditions is going on in Japan and that it is possible to discuss the average citizen in living conditions.

Needless to say, I cannot state clearly how much equalization of economy makes it possible to discuss socialization and the average citizen in living conditions. Hisao Otsuka says concerning modernization, "It is partly the development of capitalism, that is, the development of modern capitalism in a strict sense, and partly a broader modernization with the development of socialism added."¹²⁾ Even to this controversial idea of "modernization" my idea of socialization in three aspects and that of the average citizen can be a key. It is because industrialization, a key to modernization, and its immense development, seems to have "socialization in politics" and "socialization in living conditions" as indispensable conditions.

1). John S. Mill, *Considerations on Representative Government*. (1861).

2). Hisao Otsuka, *Kindaika no Ningenteki kiso* (Humanistic

Basis of Modernization) (Chikumashobo, 1968), p. 67.

- 3). The proletariat did exist before then as a social class, but it was a non-political class. Barker, *Reflections*, p. 274.
- 4). Herman Finer, *The Theory and Practice of Modern Government*, 1932, Vol. I, p. 79.
- 5). Gustav Radbruch, *Rechtsphilosophie*, (1932). Translated into Japanese by Kotaro Tanaka, *Hotesugaku* (1951), p. 90. p. 180.
- 6). *International Encyclopedia of the Social Science* (Crowell Collier and Macmillan, 1969), Vol. 14, pp. 534-562.
- 7). For instance, there is no item of "socialization" in *Encyclopedia Britannica* (1958).
- 8). *The Oxford English Dictionary*, (1933) Vol. IX p. 359.
- 9). *Webster's New Twentieth Century Dictionary*, (1958) p. 1723.
- 10). David Easton and Jack Dennis, *Children in the Political System*, 1969, p. 7.
- 11). Geraint Parry, "The Idea of Political Participation," in G. Parry (ed.) *Participation in Politics*, (1971) pp. 11-17.
- 12). Otsuka, *op. cit.* p. 248.

VI. "Average Citizen" and the "Ideal Citizen"

1. Idealistic or Ideological Factors of the Average Citizen

I have already said that the past idea on the citizen has to be revised both in its realistic aspects and in its abstract ones. I have also said, while introducing Radbruch's criticism of the past idea on the citizen, that Matsushita's idea on the citizen, which I critically called an idealistic concept of the citizen, and my idea of the average citizen are both challenges to the past idea. Also I have discussed the average citizen in relation to many values and norms (e.g. equality

under law) which are supposed to be approved of by all the citizens. Therefore, there should be a suspicion that some idealistic conceptualization and ideology may be contained in the idea of the average citizen although I tried to avoid both as much as possible. It would be impossible for me, a human being, to avoid every sense of value, which may already be a kind of sense of value. But at least it is evident that I should defend myself against the above suspicion.

Firstly, if the mean value of the average citizen could be decided scientifically, the average citizen thus established would be just as ideology-exempt and value-free as the fact that in 1970 the average height of the male Japanese (twenty years of age) is 166 centimeters. But even natural science contains some ideology in it. So if I were asked what is the true scientific method, I would not be able to answer it. Even if a scientific method to decide the mean value exists, since it has not been established, the idea of the average citizen cannot help being unstable. Then why do I discuss such an unstable thing? I have already answered that even an unstable thing can be a norm or standard in politics or public administration. I shall supplement this answer, too. But if I am asked whether there was any ideology originally in my presenting the idea of the average citizen, I will have to say there was.

Thus the second self-defence of mine is given here. I want to quote Radbruch, again. He explains "soziale Rechtsauffassung" which criticized "individualistische Rechtsauffassung" as follows :
 "Individualistische und soziale Rechtsauffassung müssen daher gleichermassen von dem Gleichheitsbegriff der Person ausgehen. Die soziale Auffassung lost nicht etwa diesen Gleichheitsbegriff in die

unterschiedlichen Typen des Arbeitnehmer, Arbeiter, Angestellter zu sein sind ihr nur verschiedene Situationen, in denen die als gleich gedachten Personen stehen. Wenn nicht im Hintergrunde jener sozialen Typen der Gleichheitsbegriff der Person stünde, so fehlte es andern Generalnennern, ohne den eine Vergleichung und Ausglichung, ohne den Erwägungen der Gerechtigkeit, ohne den Privatrecht und vielleicht überhaupt Recht nicht denkbar waren."¹⁾

Radbruch's types of person such as workers (Arbeiter), employees (Angestellte) and so on are economical or class ones. They are different from human types presented by many Japanese sociologists who are interested in the psychological aspect of man. All I want to say is that my idea of the average citizen, like Radbruch's idea, questions a more fundamental man than those who are conceptualized in various types. Specifically speaking, the idea of the average citizen concerns many general persons, who, *before* being "Arbeiter" or "Angestellte", or "authoritarian citizens" or "traditional citizens", understand the Japanese language normally, have normal interest in and access to, public information, worry about inflation, and lead an ordinary life.

But I have to hastily add that the idea of the average citizen, unlike Radbruch's idea, does not presuppose the equality of personality. I also believe that man should be equal in personality. More specifically, man should have the equal rights to think freely, discuss freely and act freely. But it is my wishful and ideological idea as well as many people's. In the present Japan everyone should have such an idea. But about a hundred years ago the value of life was different between the lord and his men as the story of "Chushingura" shows, and between samurais, and farmers and

merchants as the latter's lives were at the mercy of samurais. Also about thirty years ago when the phrase "for the Emperor's sake" had a magic effect, the life of the Emperor (and the Imperial Family) was essentially different from those of us, subjects. This is what many people believed. And as the "buraku" problem is in much discussion, a good many people still unconsciously think that there is difference in value of lives. If no one thought about the difference in value of lives, we would not need to think about equality of man. In other words, the idea of equality of man (personality) is what man has created metaphysically and artificially. Radbruch admits this point, too, and following the above "Gleichheitsbegriff der Person" he says: "Diese Betrachtungen zeigen bereits die 'Kunstlichkeit des Rechtssubjekts gegenüber dem realen Vollsubjekt.' Die rechtliche Gleichheit, die gleiche Rechtsfähigkeit, die das Wesen der Person ausmacht, wohnt Menschen und menschlichen Verbänden nicht inne, sondern wird ihnen erst von der Rechtsordnung beigelegt. ---Alle Personen, die physischen wie die juristischen, sind Geschöpfe der Rechtsordnung. Auch die physischen Personen sind im strengsten Sinne 'juristische Personen'. ---Das Problem der juristische Personen. ---ist vielmehr das Problem ihres metajuristischen Substrats."²⁾ Thus although I partly agree with Radbruch who says to the effect that "Relativismus" is a universal tolerance, but that it is not tolerance to intolerance, I have to part with him for the same reason that I cannot wholly accept Matsushita's idea. I have to go into the real human world, following his words, that "Relativismus" is united with "Aktivismus".³⁾

From a realistic viewpoint I notice a basic difference between

Radbruch's view of man and Matsushita's both of which I rejected as they are idealistic. With Radbruch there is no clear existence of the citizen who, based on the ideal of equality, struggles against inequality in the reality. That is, there is no clear reference to the "Träger" to bring the ideal into reality. But although Matsushita's idea on the citizen is an idealistic conceptualization, the "Träger" of the idea clearly exists on the economic or class basis as "the working class with new character".⁴⁾ Now my idea of the average citizen is clearer. When I *once* (I shall explain this later) abstract the idealistic factors of Matsushita's idea on the citizen and look at the actual citizen's reality, I think I can find in many ordinary and general citizens some factors, actual or latent, which can develop into the idealistic citizen. I call such citizens with such factors the average citizens. Hisao Otsuka, who pursues the "ethos" or types of modern man, often refers to "a decisive part of people". In it I find the above realistic factors, buddingly or latently and call the citizen with these factors the average citizen. If I were Otsuka, I would say that I see in the average citizens, a widespread part of the nation, a latent possibility to develop into such a new "ethos" or "human type" as Matsushita calls.

Therefore, while my idea on the average citizen is positive, value-free and ideology-exempt, it is in the above sense idealistic, value-concerned and ideological. But if my idea on the average citizen were criticized as an ideology and a doctrine, I would reply that I am viewing the possibility of such a "human type as well as its impossibility. Also I would reply that if I could view its possibility, I would be able to view the possibility of a wider expansion of the average citizen. And I would be able to view the

possibility of development of *public interest* through the "process of discussion" by the widespread citizens. If someone criticized these views as an ideology, I would reply in the affirmative, adding the following words of Barker's which I think politically express Radbruch's "Relativismus" or "universal tolerance": "just as the doctrine of religious tolerance is different from any particular religious doctrine, so the doctrine of political tolerance — which is only another name for democracy is also different from any particular political doctrine."⁵⁾

- 1) Radbruch, *op. cit.* Translated into Japanese by Tanaka, *Hotetsugaku*, p. 188.
- 2) Tanaka *ibid.*, p. 189.
- 3) *ibid.*, p. 310.
- 4) Keiichi Matsushita, *Shiminsanka* (Citizen Participation) p. 199.
- 5) E. Barker, *Reflections*, p. 175.

2. "Average Citizen" and "Ideal Citizen"

Even if what I call the average citizen is an ideology-exempt or a peculiarly ideological idea, it is possible to combine it with the idealistic citizen and use it to solve actual political problems. I presented the idea of the average citizen because I wanted to claim its practical use. Then with what kind of idealistic citizen is the average citizen expected to be combined?

I have already suggested the possibility of discussing the average characteristics of the citizen in Japan. In this case nobody would object, at least in "principle" to the improvement of the mean value of the citizen's understanding of public information and access

to it, and the materialistic living standards (food, clothing, housing, work and sparetime). Some people may not in "fact" want the citizen to improve his understanding of, and access to, public information because it would increase the number of "critical and noisy" citizens. When a public policy is discussed, or when the relations between the citizen and the government functions are discussed, the mean values themselves will be the norms. And the mean value of each citizen's possibility to suffer from calamities, crimes, traffic accidents or illness in one year would be a norm, too.

Indeed, this is the age of pluralization of ideas or senses of value. But in spite of the numerous ideas, the widespread agreement on some senses of value should not be overlooked. Some articles of the constitution are quite controversial like Article 9 which declares the "renunciation of war". But some others are not controversial and can be agreed upon by all the citizens at least in "principle": equality "under the law" (Article 14), the guarantee of "the minimum standards of wholesome and cultured living" (Article 25), "the right to own or to hold property" (just compensation — Article 29). There may be a good many of these. I have referred to the social roles and responsibilities of the lawyer, the intellectual, and the journalist, which cannot avoid ethical, normative and value elements. But their roles and responsibilities can be agreed upon by all the citizens in "principle" just as the doctor's role and responsibility to cure disease.

It should not be ignored, however, that the citizens' agreement upon some of the articles and those professional's social roles can be reached in "principle" only. It is a plain fact that such an agreement cannot be gotten upon the specific actions to carry them out. That is why the disagreement between "principle" and "fact"

or "real intentions", and the contradiction of "agreement upon the general, but disagreement upon the particular" are often pointed out. Of course, this kind of disagreement or contradiction is not equally seen in every constitutional article or professional's social role agreed upon by all the citizens. Generally speaking, there should be less disagreement upon the social roles than upon the articles, which are more normative. As far as the above three articles are concerned, there should be the most disagreement upon Article 25 which provides for "the minimum standards of wholesome and cultured living". As is well known, there are opposite interpretations concerning whether the article is a mere "program" provision (hence, a kind of wish in an extreme case) or not.

It is an undeniable fact that the disagreement in the realizing process upon the articles and the social roles, which were first agreed upon by all the citizens, comes from the difference in each individual's ideology and sense of value as long as they are "principles", norms and ideals. But also the disagreement comes from the difficulty in deciding the content of the articles and the social roles objectively, scientifically and quantitatively. As a result, they become mere "principles" and such a situation causes the difference in each individual's sense of value and ideology. Therefore, if it were possible to decide the concrete content of them, it would be possible to develop all the citizens' agreement on them in "principle" into the one in "fact" or "real intentions". That is why an index number of GNP, which seemed to be agreed upon by all the nation, has disappeared. Instead, such terms as welfare GNP, MEW (Measure of Economic Welfare) and NNW (Net National Welfare) based on MEW, and a social indicator, have appeared to

try to express in figures the concrete content of "the minimum standards of wholesome and cultured living".

Of such many efforts, some are national like NNW, and others are civil. There is difference between them. It is because the indicator of National Life Council, Inquiry Committee (ed.) *Social Indicator* seems to be different from that of (what I call) the Civil Minimum School based on Matsushita's civil minimum in its concrete content. Probably the difference partly comes from the fact that both indicators are still in the trial stage . But even if indicators become more accurate in the future, I do not believe that the idealistic agreement by all the citizens will be the same as the actual agreement. It is because there seems to be an everlasting basic difference (If agreed, it would be split instantly) between the above national position and the civil one. In this sense although the word "ideology-exempt" is often used today, some "ideology" will remain. But it is apparent that by making indicators more accurate there will be less ideological controversy. It is our important duty to make indicators more accurate in Japan where there is too much ideology.

I presented the idea of the average citizen (including each kind of specific average citizen and exceptional citizen) because I expected that it would help make the indicators more accurate. It may not contribute much (if not too little) to more refined interpretation of "the minimum standards of wholesome and cultured living" in Article 25, since many scholars have done much research on it. But I believe that my idea will contribute much to the equality "under the law" in Article 14 or "just compensation" in Article 29, where there is much discrepancy between all the citizens'

agreement in "principle" and agreement in "actuality" although it does not seem to exist. This will be discussed, later.

Of the increases and of the mean values of the average citizen, only those which can be agreed upon by all the citizens as desirable, at least in relation to "principles" and ideals, have so far been discussed. In other words, the standardization of the mean values has been discussed. That is to say, all the citizens can agree that the increase in socialization in education to increase understanding of public information, "socialization in politics" to shorten access to it, and socialization in income (in property at times) to enrich the living of as many citizens as possible, and the decrease in calamities, crimes, traffic accidents and illness are desirable ideal for the citizens in their relation to the government or the government functions. As long as this holds true, the citizen whose mean values increase or decrease to extreme limit is an idealistic citizen desired by all the citizens.

Now it is a fact, on the other hand, that the increase or decrease of the mean value in every aspect of the average citizen cannot be agreed upon as a norm in relation to the idealistic citizen. It is said that most of us get irritated to be kept waiting for more than five minutes at a window of a city office or a bank. In this sense, five minutes is a mean value of the average citizen (although it depends upon how we are kept waiting), but it cannot be easily decided whether the length of the time should be increased or decreased. Also when one presents one's political opinion or idealistic judgment which one believes is proper to a group discussion, and cannot carry it, there are supposed to be four alternatives. Firstly, one considers those who are opposed to one's

idea "enemies" whom he cannot persuade in discussion. Secondly, one gives up carrying one's idea and retires from the discussion. Thirdly, one can find an easy compromise between opposers and oneself and accept it. Fourthly, without giving up the basic principle of one's idea, and hoping one can carry it through some day, one can make the biggest possible concession and compromise. In the present Japanese social situations if it is possible (although it must be extremely difficult) to measure quantitatively the mean value of the alternative most frequently adopted by the average citizen (and it depends upon the kind of discussion, too), and the mean value of the time it takes him to wait and decide upon the alternative, the evaluation of them depends upon the idea, ideal or ideology of the one who evaluates. Such factors in Matsushita's idea on the citizen as "the sense of daily life and the broad-minded attitude toward making rules" must be connected with this evaluation. According to my ideal on the citizen as well as to Barker's, the average frequency concentrates on the fourth alternative and it highly values those citizens who can wait long to decide upon it. But such citizens are "concerned with the spirit and temper of mind"¹⁾ and "conventions which go down far to the roots of human thought, and are concerned with the exercise of fundamental virtues".²⁾ And as Barker mentions "a virtue which may also become a vice, if we surrender the depth and tenacity of our convictions to the claims of social convenience",³⁾ such a citizen is realized based on a virtue of making a compromise without losing his backbone or belief. Apparently he is an idealistic citizen, with whom not all the citizens can agree. If Barker's political theory is based on such a citizen (although I do not wholly think so), I would agree to criticise him

as an idealist. As far as this point is concerned, I have to part from Barker, too. It also means that I have to part from Matsushita who discussed the citizen in those four serious aspects, although I am strongly impressed with the seriousness.

At this point I am suddenly reminded of Masatoshi Nagahama, who was my long-time teacher. He said when he was in his thirties: "Politics is understood as formation of political unity, or formation of a national community. ... public administration is to grasp the political unity as a symmetrical and stable order and maintain life in it. ... It is "Pflege" or maintenance for the life in the national community as a static aspect of the political unity."⁴ Right before his death, based on Value Relativism by Shimpei Kato, one of his colleagues, Nagahama said; "Indeed, the content of public interest or value of public administration is subject to change historically and socially. This is a question of fact cognition. But when I am faced with a practical problem, I can select a sense of value suitable for my belief after I adopt a position of value relativism. Since historical relativism and value relativism belong to different dimensions, there is no contradiction between them."⁵ This is important because as far as the question of fact and value is concerned, I have not proceeded from his idea at all.

In the following two points, however, I am different from Nagahama. Firstly, living is discussed in terms of a national community with Nagahama, while with me, in terms of the citizen, an individual person. As far as this point is concerned, I am a follower of Barker. In spite of different claimants for liberty such as the nation, the class, and the church, and the different liberties claimed such as civil liberty, political liberty, economic liberty and

religious liberty, that is, "In spite of these differences — and they are deep — we cannot but feel that there must be some single and ultimate claimant for liberty, and some single and essential liberty which that ultimate claimant demands,"⁶⁾ Barker says. He established the whole system of his political theory on an assumption. He says, "The assumption is that in our human world, and under God, the individual personality of man alone has intrinsic and ultimate worth, and having also the capacity of development has also an intrinsic and ultimate claim to the essential condition of its development."⁷⁾ Also, I am a follower of Matsushita, who discussed the idea of the civil minimum as the citizen's living rights based on the citizen, and not on the nation. Secondly, Nagahama refers to the combination of "historical relativism and value relativism". And in the relation of fact cognition with the selection of value, he says, "I can select a sense of value suitable for my belief", while I select a sense of value (ideal) agreed upon by all the citizens in "principle" whether it suits my belief or not. I further try to find the "Trager" of the sense of value to be agreed upon by all the citizens, latent or apparent, among the widespread average citizens. I cannot definitely say whether the average citizen perfectly agrees with Matsushita's "working class with new character" or not. I cannot get precise explanations of it from him. And I cannot discuss the average citizen in relation to social class in today's Japan, that is, I cannot say how the average citizen's social solidarity can exist — maybe it can exist in the weak sufferers' consciousness only —.

Concerning this point, one thing must be mentioned. In today's Japan only the strongest exceptional citizens can effectively confront public organs (including the government) — their confrontation

with the organs are so effective that, paradoxically, they are friendly with each other. The average citizens as well as the weakest exceptional citizen are powerless. This can be easily understood if conflict about pollution or my analysis of the Land Expropriation System is examined. Then there should be broader citizens than the average citizens who claim the realization of the constitutional articles including "equality under the law" and of the social roles of professionals as the idea in "actuality" as well as in "principle". Simply, the average citizen has more advantages (sparetime etc.) than the weakest exceptional citizen in practical activities to claim for them. This can be a basic position of practical theory based on fact cognition and value selection. From now on, I would like to think based on this fundamental point of view how wide-ranging citizens including the average citizens can claim the realization of the ideas in "principle" agreed upon by all the citizens and become the suitable citizens for the ideas, or the idealistic citizens in that sense. It is clear in that case that, the citizen's self-discipline would be the most important and that in the process of the advancement, the government should not be the only organ to be responsible for his education, training and discipline.

I am not making light of the fact that, although the wide-ranging citizens have a common quality of being powerless, they have dilemmatic opposition and difference within themselves. I shall discuss in detail some day how serious the dilemmatic opposition is. Here I have to say that however serious the opposition is, it remains to be a dilemma, not developing into a decisive division or disunity. It is because if what keeps dilemma from becoming a division were called a national community, a national society or a nation, I would

have to confess that I have not solved the question which Prof. Nagahama tackled with all his life.

1)& 2) Barker, *Reflections*, p. 71.

3) *Ibid.*, p. 64.

4) Masatoshi Nagahama, *Gyosei no Sonzai Kozo I* (The Existential Structure of Public Administration) (Hogakuronso, Vol. LI, No. 3., 1944), pp. 108-110.

5) Masatoshi Nagahama, *Gendai Kokka to Gyosei* (Modern State and Public Administration) (Yushindo, 1973), p. 24.

6)& 7) Barker, *op. cit.*, pp. 15-16

3. "Average Citizen" and "Civil Minimum"

The difference between Matsushita's civil minimum and my average citizen should be mentioned now. Both of us say that our own idea should be the norm of government or public administration.

Firstly, while the civil minimum is an idealistic or ideological norm, the average citizen is a realistic or ideology-exempt one.

I understand that Matsushita insists upon scientific objectivity of municipal policy to be established with the civil minimum as a norm, and of the concrete content of the civil minimum. He says the scientific objectivity "must be guaranteed by three kinds of objectivity: 1) Historical objectivity of vision (prophecy of political science), 2) theoretical objectivity of a model structure in a specific situation based on an analysis of the present conditions and theoretical laws (scientific penetration), and 3) procedural objectivity of using supplementary technique (professional strictness)."¹⁾ I am not saying the idea of the civil minimum is subjective or whimsical, although his words are too difficult for me to understand clearly.

But as it is "historical objectivity of vision", it is a vision. And although it "prevents an ideological opposition from a deadlock or from expansion," it does not "mean 'the end of ideology'". Also, it "is expected to change an ideological situation into a more objective and selective one."²⁾ In these points the civil minimum is idealistic and ideological.

Matsushita says: "This minimum is not a transition to a maximum. The one hundred percent nursing rate of the children who need nursery, the one hundred percent spreading rate of water supply and drainage, no public pollution and no traffic accidents are the very civil minimums. The minimums should be decided, not according to finance, but according to the citizens' necessity and based on civil rights. In the sense of guaranteeing civil rights, maximums are minimums."³⁾

Suppose we take the words, "maximums are minimums", not as an idealistic goal, but as a peremptory imperative to be fully realized. For example, suppose it were a peremptory imperative not to cause any traffic accidents, we would have to prohibit the use of cars, keep from going out like the optically-handicapped and when we do go out, we would have to act as carefully as they do. Actually it is said that the traffic accident rate of the optically-handicapped is lower than that of those with normal sight. Such a criticism as mine would be cynical. But when he says, "Maximums are minimums", I am embarrassed by this paradox. Besides, in talking of "the one hundred percent nursing rate of the children who need nursery", there is a question of how to decide the children who need nursery. The Child Welfare Law may suggest some standard. But when it comes to specific standards to execute the law,

there appears very complicated ideological opposition. In human society monogamy *should* be observed and the couple's household *should* be the basic unit of living. And either of the couple — mostly the wife — *should* concentrate upon nursing the child. Therefore, a nursery school *should* take care of a child of a household only where both the couple have to work to earn a living. No. If a wife finds enough value in working, a nursery school *should* take care of the highest exceptional citizen's child, too. Or regardless of the parents' income, all the children *should* be nursed at a nursery school for a certain period away from their parents. Unless there is agreement upon a series of these ideas, the range of "the children who need nursery" cannot be defined. Can all these ideas agreed upon by all the citizens? I do not know much about the children of public nursery schools, nor about those of unlicensed nursery schools which receive, or request, financial support from local governments, but according to my subjective ideology, it seems that such children as cannot be considered "children who need nursery" are being nursed with our tax. Therefore, I am not sure whether I can say with Matsushita, "Banzai (Hurray) for the one hundred percent nursing rate of children who need nursery!" or not.

Also Matsushita says, "not according to finance". It seems to such a person as me, who has to think of the realization of the ideas, that unless the present technological society went back to pastoral society, or even if it did, "the one hundred percent nursing rate of the children who need nursery" or "the one hundred percent spreading rate of water supply and drainage" definitely contradicts with "no traffic accident" without talking of finance. Extremely speaking, the civil minimum is like that beautiful idea of 'freedom'

and 'equality' which everybody hopes for but which are contradictory, an ideal and an ideology.

On the other hand, my average citizen does not contain such ideality or ideology. Various mean values to be established concerning the average citizen are realistic norms based on the cognition of objective facts, just as there is little ideology in the mean values of 166 centimeters, the average height of the twenty-year old modern male Japanese, and 2,400 cal., necessary calory to maintain the Japanese' health.

I am not making light of the value of the idea of the civil minimum. I am not making light of the civil minimum by boasting that the average citizen is a realistic norm. As I tried in the analysis of the Land Expropriation System, when I see "an ideological situation" including a deadlock and expansion of ideological opposition formed by progressive people as well as by the government bureaucrats, I am certain that the idea of the civil minimum has shocked them all the more because it is an idealistic norm.

It may sound paradoxical, but my idea of the average citizen, too, can shock today's "ideological situation" all the more because it is a realistic norm. The nature of government functions, which ignored the average height of Japanese and forced the soldiers to use canons and guns fit for Frenchmen as given by the Emperor, has not been changed in spite of the democratic constitution and laws. We experience it everyday in the "rosokutai" and the sidewalk which ignore the average breadth of our shoulders, and in the traffic signals which ignore our average attentiveness. In other words, the nature of our government functions is so tragic that the

average citizen has to be discussed before the civil minimum. Paradoxically, I may be more "ideologically radical" than Matsushita in reality cognition. It is in this context that I defined the average citizen as a norm as a minimum request.

The *second* difference between the civil minimum and the average citizen lies in the areas they are applied to as norms.

The idea of the civil minimum comes from a national minimum as Matsushita clearly states, "This was made in imitation of a national minimum."⁴ If it is interpreted as a minimum right before death from starvation, it has to go back to the enactment of the Poor Relief Law in England in the sixteenth century.⁵ If it is used in the sense of "the physical right to life, health, and a proper standard of subsistence", it has to go back to the Poor Law Amendment Act of 1834. And in England after the periods of "Factory Legislation" of the nineteenth century and of "Social Insurance" influenced by the social policy of Otto v. Bismarck (1815-98) towards the end of the century, "men began to recognize that there was such a thing as a right to health."⁷ And through "decent minimum of general sanitation"⁸ the idea of "a national minimum of sanitation"⁹ was established. And the phrase, "a national minimum" won worldwide universality through the Beveridge Report of 1944 which systematically conceptualized social security after World War II. In short, this phrase has been increasingly used in the fields of social security policy or welfare policy, that is, in the fields of beneficial administration (*Leistungsverwaltung*) or service administration (*Bedienungsverwaltung*). These terms to express the fields are not as valid as they used to be, but since there are no other suitable expressions, I use them. Then the

civil minimum is a norm which is most valid in service administration. Of course, I know that it is "set up as a civil norm of municipal policy which plans the reformation of the whole living structure of the people"¹⁰⁾ and it has to be. But now it is apparent even from Matsushita's "Tokyo Civil Minimum Plan: 1970-1972" that the civil minimum is useful in service administration.

The average citizen as a norm is very useful in service administration. For instance, when it comes to deciding the nursery tuition for children who need nursery, the average citizen with the average income should be the norm. If it is examined in detail, it will be found that it can be applied for a wide area. Compared to the civil minimum, however, the average citizen would be applied more for infringing administration (Verletzungsverwaltung) and regulative administration (Regulierungsverwaltung) than for service administration.

Originally, service administration, infringing administration and regulative administration are closely related to one another. When a nursery school is to be built, there is typical infringing administration of expropriating private land by power. And to decide a nursery tuition, there has to be regulative administration of regulating tuitions. Then, the civil minimum is chiefly useful for service administration, while the average citizen, for infringing administration and regulative administration.

Many examples will clarify this point, not to mention the fact that the idea of the average citizen was developed through the analysis of the typical infringing administration of land expropriation. According to the above analysis and examples, this norm of the average citizen would claim that public power should

expropriate land from the owner of land wider than what the average citizen needs at a wholesale price (or free if he has gained much profit from being expropriated), but from the owner of land smaller than the average, at a higher price than a retail price.

There may appear an opposition to this claim that equality defined in the constitution, following equality "under the law" of Article 14, is procedural, and that such substantial equality as would differentiate citizens' relations with public power has nothing to do with the constitution. Very few persons would object to my claim constitutionally. But as I clarified in discussing compensation in the land expropriation system, such an objection is rather dominant among government officials and even lawyers. Therefore, I have to answer the objection which is based on the liberalistic principle of equality under the law.

By the progressive taxation, which was theoretically advocated in the early nineteenth century and practically adopted in 1894, the above liberalistic principle has already been revised. This adoption is called "an increasing application... of the old liberal principle of equality".¹²⁾ And direct taxes — mostly income tax — are distinguished from indirect taxes for objects in that they are imposed on *personnalité économique*. In adopting progressive taxation of income tax, the average "*personnalité économique*" is the standard of its application. In this sense, the idea of the average citizen is nothing novel. I am only saying that the already-established idea should be applied to various areas of politics and government functions with emphasis on the general character of today's citizen.

I do not use the phrase, "civil average", following the example of the civil minimum, partly because I am afraid such an

English expression is beyond the average citizen — how many “katakana” or foreign words we use without knowing their meaning ! — but more basically because I stick to the word “citizen,” and try to totally grasp the citizen as a human being while paying attention to all the aspects of the citizen in dealing with government functions. This can be the *third* difference between the civil minimum and the average citizen. In comparison with the exceptional citizen with the biggest understanding of, and shortest access to public information and the highest living standard, the rest of the citizens including the average citizen have disadvantage in the total aspect in relation to public power. That is why I call the idea of the average citizen a norm and a minimum request.

I may have boasted of my idea. But I know that there is a serious defect in it. That is, it is extremely difficult to measure the mean values of the average citizen in his many aspects with scientific exactness as in the case of the average height of the male Japanese. In the case of the mean values of the average citizen in the above three aspects, it is difficult to know even approximate mean values. The difficulty would be overcome to some extent with the help of behavior science and system approach, especially operational research. Still it is undeniable that uncertainty of the mean values decreases its validity as a norm. Therefore, there may not be many areas where the average citizen can be positively applied as a scientific standard. It does not deny, however, the normative or prescriptive validity of the average citizen. It can still be applied to many areas in a passive way even now. For example, it can be said that only a few exceptional citizens like lawyers and government officials can understand project

authorization as the authorization of compulsory land acquisition, while the average citizen cannot. The same is true of the citizen who can get public information only through a little notice on the bulletin board in front of a city office, and of the citizen who can make use of a 3,000 sp. meter land for his personal residence or shop. We average citizens agree that the idea of the average citizen can be thus applied passively to broader areas. The theory of expectation possibility in the Criminal Law is explained thus: "Although the actor is able to take responsibility of his action and is aware of the illegality of the result, sometimes he cannot be expected to take another action. In such a case it is impossible to accuse him and it must be judged that he is not responsible according to the Criminal Law."¹³⁾ In other words, it is actually applied to many fields as a theory of expectation impossibility. This theory emphasizes psychological facts, which the normative theory of responsibility overlooked, and tries to make "the theory of criminal law as the learning of the norm "something adaptable for human existence".¹³⁾ This has something in common with Max Weber's Verantwortungsethik including "durchschnittliche (average) Defekten der Menschen".¹⁴⁾ It tries to reintegrate ideas or idea cognition and facts or fact cognition from a practical viewpoint, and in this sense it ultimately aims at the same as I aim at. Senjin Saeki, who completed this theory systematically in this country, was also one of my respected teachers when I was young.

1) Keiichi Matsushita, *Toshiseisaku o Kangaeru* (On the City Policy) pp. 81-82.

2) *ibid.*, p. 82.

3) *ibid.*, p. 142.

- 4) *ibid.*, p. 111.
- 5) E. Barker, *Development of Public Services* p. 70.
- 6) *ibid.*, p. 67.
- 7)&8)&9) *ibid.*, p. 73.
- 10) Matsushita, *op. cit.*, p. 113.
- 11) *ibid.*, p. 112.
- 12) Barker, *Development*, p. 65.
- 13) Saeki, *Keiho ni okeru Kitaikanosei no Shiso* (Vol. I)
(The Theory of Expectation Possibility in the Criminal
Law) 1947, p. 2.
- 14) Max Weber, "Politik als Beruf" in *Gesammelte Politische
Schriften* (Muncheu, 1920), S. 442.

CONCLUSION

The time has finally come to put an end to my article which started with the system of project authorization in the Land Expropriation System. I know many problems are yet to be solved. I have presented the idea of the average citizen and detailed classification of the citizens related to it. It is because I believe that there are some basic trends opposing one another in a dilemmatic way in today's citizens' mind and lives, where problems appear opposing each other in a dilemmatic way, and that the principles or theories to solve them oppose one another in a dilemmatic way, too. Therefore, government functions, which are expected to solve social problems, have to solve them individually according to various citizens' need case by case. If this idea of mine is right, however hard we may try to let the citizen control government functions, limitless expansion of the government functions will be required. Or rather, the harder we try, the bigger expansion will be required.

Then, how can it be solved? This should be a big problem at the present time, too. In this country, because the national government does not trust the prefectural governments, which do not trust the local governments, which do not trust the citizens, each government tries to keep its own functions to itself. This traditional attitude will be a big question. Such a traditional attitude should be stopped by the citizens, but there are a lot of problems on the citizens' side, too. The citizen's political maturity, education or discipline will be a big question. And it is the most important task of today's Public Administration to allot what kind of public functions or services must do as responsibility, to the national, the prefectural, the local government, the community, the citizen's groups and the citizen himself. When this task is challenged and solved based upon all the citizens' agreement, it will be possible to discuss the democratic public administration. The theory of dilemmatic society, the theory of government responsibility or functional allotment, the theory of the citizen's maturity and so forth are yet to be solved.

(December 15, 1974)

* * * * *

The above three articles were published fifteen years ago in a book, *The Average Citizen and Government Functions: Citizen and Expropriation*. It may contain something obsolete and immature. What I propose there is, however, still up-to-date, and the pathological phenomena in the citizen-bureaucracy relations which I point out have not been remedied. On the contrary, due to the recent rapid expansion of government functions, they are getting worse. In this sense, I consider it significant enough to publish these papers in English.

In order to make up for the obsolescence and immaturity of the book, I have published the following ten books in the past fifteen years. *The Present Public Problems and the Citizen: the Average Citizen's Political Maturity* (Gyosei, 1978), *Public Servant as Vocation: its Physiology and Pathology* (Komushokuin-kenshukyokai, 1978), *Interdisciplinary Approach: Theology, Medicine, Law, Architecture, Public Administration, Political Science* (Gyosei, 1980), *The Study of the Local Citizen's Autonomy: Regionalism as a Civil Discipline in Interdisciplinary Approach* (Komushokuin-kenshukyokai, 1981), *Local Community and College: Establishment of the Cooperative System of Citizen, Public Official and Scholar* (do., 1982), *Esashi-Oiwake and Japanese Democracy: Reconstruction of Democratic Political Theory from Local to National* (do., 1983), *Of Public Administration Reform* (do., 1984), *The Theory of Local Society based on Self-History* (Nihon-hyoronsha, 1986), *The Theory of Public Service and Responsibility* (Komushokuin-

kenshukyokai, 1989), and *On the Citizen-bureaucracy Relations in Japan* (do., 1990).

In the last book, I say the citizen-bureaucracy relations in Japan are hardly different from what they used to be in the prewar era. I observe that bureaucratic power is sophisticated apparently, but substantially, it is strong enough to control citizens as it likes. Therefore, I point out a number of instances in which citizens must accept the bureaucrats' unreasonable words and behavior. I cite instances and prove that the professionals such as lawyers, licensed accountants, licenced judicial scribes, and licenced administrative scribes mostly stand on the side of bureaucracy, while they are expected to correct the pathological phenomena on citizens' side. Finally, I examine measures to solve and reform these problems. This may be my last work on Japanese bureaucracy which I have been studying for half a century. I hope some day its English version will be published.

February 19, 1990 (My seventy-third birthday)

Tadao Adachi