

# Environmental Rights in Japan

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When someone discharges the waste water which occurs in factories into the sea, his developmental interests clash with the fishing rights and citizens' interests in coast, for example those interests to enjoy beautiful scenery or sports. The same interests clash happens when a coastal area is reclaimed for construction of industrial sites, or when such a structure as the Seto Big Bridge is built on a coast. Many of these works shall not be carried out, unless the licence to do so has been given. In the process of giving the licence the administrative organ lets the enterpriser enforce an environmental impact assessment, and considers to adjust the interests. On that occasion it is apt to be considered that the developmental interests are legally protected, but the citizens' environmental interests are not so. Therefore the developmental interests are made too much, and environmental destructions are easily allowed.

In order to correct the unbalance, we must construct the notion 'environmental rights', which means that each rightful person may use a specified environment, with the same contents and in the same way as any other rightful persons may use it, in short, rights of a private-common use. Environmental rights includes the protection of citizens' interests in natural public property, such as a public sea area, a natural seashore, or a reef, for enjoying beautiful scenery or sports. The details and method of use may be decided by a majority of the persons who may rightfully use the same environment. An old practice correspond to the use that the environmental rights consists of. The use can be changed only when a large majority of the many rightful persons concerned agree to change it. The proper procedure to decide for changing the use is the administrative procedure in which each rightful person may participate. And each rightful person may demand of injunction against those who disturb the use.

We must confirm that the administrative procedures for licencing to the work which will make impacts on the environment, have a side of changing the use. So each citizen must be authorized to participate in this process, and may demand of such an administrative decision as corresponding to the wills of a large majority of the citizens. Competing values and interests concerning the environment will be rightly assessed and adjusted just under that notion 'environmental rights'.