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Chiang, Yen-Cheng

Department of Landscape Architecture, National Chiayi University

Sato, Noriko

Laboratory of Forest Policy Graduate School of Bioresource and Bioenvironmental Sciences,
Faculty of Agriculture, Kyushu University

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Landscape Preservation and Legalization: Japan and Taiwan as Examples

Yen-Cheng CHIANG^{1*} and Noriko SATO²

Laboratory of Forest Policy Graduate School of Bioresource and Bioenvironmental Sciences,
Faculty of Agriculture, Kyushu University, Fukuoka 812–8581, Japan
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Because of the high degree of urban development in Japan, rural populations have continued outward migration, causing a gradual decline in rural areas and the number of landscapes possessing historical and cultural value, thereby severely impacting the appearance of the overall landscape. The Japanese government proposed the Landscape Law in 2004, designed to promote the shaping of positive urban and rural landscapes and realize the “Beautiful Nation” concept and “Tourism-based Nation” policies. Taiwan also currently faces identical problems; the Construction and Planning Agency, Ministry of the Interior is promoting the establishment of a Landscape Law that has not been passed by the legislature. Thus, this study compares the Japanese and Taiwanese Landscape Laws from the perspectives of the legislative promotion process, regulatory and legislative system, and framework level by reviewing Japanese and Taiwanese literature relevant to landscape concepts. Furthermore, this study proposes recommendations for the future promotion of the Landscape Law in Taiwan. This study hopes that the establishment of the Landscape Law will facilitate the active improvement of current environmental landscape issues at various levels of government, address the neglect of the public toward landscape beautification and maintenance, and cultivate residents to habitually appreciate and beautify the environment.

Key words: landscape law, landscape planning, rural development, green space, regulation system

INTRODUCTION

A landscape refers to tangible scenes that are visible to the human eye. Some landscapes are produced through natural activity and effects (e.g., natural landscapes), whereas others are created through the human use of resources, such as cultural landscapes (Shinohara, 2007). Landscape quality impacts the quality of the environment; aesthetically pleasing, vivid, and unique landscapes are forms of scenic resources that provide leisure, recreation, viewing appreciation, and other uses for citizens. Taiwan has experienced more than 20 years of construction and economic development. The population and employment distribution are concentrated in urban regions, causing urban crowding and the development of metropolitan areas. However, by comparison, rural areas have been unable to respond to this restructuring and adjust to an industrial structure. Low employment and economic opportunities have resulted in problems such as emigration, an aging population, and the gradual abandonment of historical and cultural spaces. Additionally, the characteristics of local culture and natural ecology and scenery are gradually becoming lost. The conditions in agricultural villages are continually declining. Living quality is low and the gap between conditions in the city and those in the rural areas are expanding, impeding the comprehensive sustainable development of cities and rural areas (Chuang and Kuo, 2009; Huang, 2011). Thus, to actively address the problem of landscape destruction

and to cultivate habitual appreciation and beautification of environmental landscapes by citizens and subsequently improve overall living and environmental quality, on July 14, 2010, at its third reading, the Legislative Yuan passed the Rural Regeneration Act, a critical national policy that focuses on rural development. The Rural Regeneration Act clearly stipulates that historical structures and streets, special regional industries, and the natural ecology should be preserved. This year, the Construction and Planning Agency of the Ministry of the Interior also implemented a related regulation, the Draft Landscape Law. These two significant laws will have a deep and long-lasting influence on the future development of urban and rural landscapes in Taiwan (Chen, 2011). However, detailed rules relating to the implementation of the Rural Regeneration Act and the Landscape Law have not been passed. Thus, Taiwan’s urban and rural landscapes continue to lack a complete system of laws and regulations.

Japan has previously encountered the difficult situation currently confronting Taiwan, such as rapidly declining rural populations, aging residents, gradual deterioration and destruction of landscapes, a lack of successors in the agricultural industry, and ecological environment problems (Cheng, 1990, 1991). Therefore, the Japanese authorities are also seeking suitable countermeasures. On May 16, 2007, the Act on Promotion of Settlement and Interregional Exchange for Vitalization Rural Areas was promulgated in an attempt to preserve the diminishing countryside and mountainous areas. Additionally, on June 18, 2004, the Japanese government passed the Landscape Law, and the Rural Development Bureau of Japan issued the “Landscape Planning for Agricultural Promotion Areas” program and developed related systems to actively promote the preservation of natural, historical, and cultural resources, landscape maintenance, and

¹ Department of Landscape Architecture, National Chiayi University, Chiayi 60004, Taiwan (Visiting researcher)

² Professor, Laboratory of Forest Policy, Faculty of Agriculture, Kyushu University, Fukuoka 812–8581, Japan

* Corresponding author (E-mail: ychiang@mail.ncyu.edu.tw)

revitalization (Lin, 2010; Townscape Planning Research Institute, 2004). Therefore, Japan's experience in promoting and revitalizing landscapes and rural (mountainous) areas can serve as reference for Taiwan when promoting environmental landscape improvements for rural regeneration and when drafting the Landscape Law.

Study purpose

The countryside distributions of Japan and Taiwan are similar. Villages are situated from the coastal regions through to 2,000 m above sea level. Landscape preservation and rural development in Japan encountered similar difficulties and problems as those faced by Taiwan, and Japan has obtained considerable results. Japan's landscape regulations and systems have become increasingly comprehensive with laws such as the Landscape Law, the Landscape Planning for Agricultural Promotion Areas, the Act on Promotion of Settlement and Interregional Exchange for Vitalization Rural Areas, the Community Areas Development Act, and the Act on Promotion of Construction of Good Rural Housing (Rural Development Bureau, 2007; Chen, 2005; Ministry of Land, Infrastructure, Transport, and Tourism, 2004a). By acquiring documents from various Japanese governmental departments, this study has obtained further information on the promotion of these laws and their implementation for landscape planning and preservation. Research regarding Landscape Laws and related systems and institutions are rare; thus, they possess significant value for in-depth examination. In addition, because the Landscape Law involves multiple levels and it is difficult to employ quantitative methods to collect data on related topics, this study conducts a literature review to examine the development of Japanese and Taiwanese Landscape Law and their current statuses as a reference for future efforts to develop Landscape Law regulations and institutions in Taiwan.

The primary contribution of this study is the comparison of legal code relating to the landscapes of Japan and Taiwan with regard to several aspects of methodology and formulation, such as executive systems, standard administrative levels, regulation clarity, participation mechanisms, legislative review, and the execution sequence. This study examines the two countries and reviews Taiwan's weaknesses and resource insufficiencies to enable the rapid approval of the Landscape Law to protect special urban and rural landscape characteristics.

LANDSCAPE LAW DEVELOPMENT PROCESS

This study reviews relevant Japanese and Taiwanese literature, introduces the developmental process and systems of Landscape Law for both countries, and compares the differences. However, in light of the fact that the Taiwanese Landscape Law is currently being drafted and is yet to be passed, the sections on Taiwan are based on current landscape policies or proposals that have been promoted by the government.

Japan

Before detailing Japanese Landscape Law, we must first understand the background of the establishment of laws relevant to landscapes. After the Second World War, Japan considered the reconstruction and development of urban areas. With the rise of urban planning in the early twentieth-century, regional or local landscape establishment and protection began to appear. Japan has recently established complete norms and regulations for urban and rural landscape management based on regulations or institutions and laws that focus on landscape protection. The development of Japanese landscape laws can generally be divided into three primary developmental periods. Table 1 shows the process of relevant landscape law legislation.

The early period of urban landscape (Pre-1960)

With the gradual completion of the Japanese urban planning legal system and increasing public concern and emphasis on urban greenery and beautification, Japan's "Urban Planning Law" was created in 1919. During this period, although specific "landscape" concepts did not exist, the Urban Planning Law mentioned the concept of "scenic" and the partitioning of "scenic areas." The Building Standard Law refers to "aesthetic areas," implying that landscape concepts and methods had already begun forming. Subsequently, Japan gradually began promoting the "Urban Beautification Movement" (Cheng, 2008).

Landscape preservation development period (1960-1990)

After the Second World War, Japanese urban planning and establishment gradually began to prioritize economic benefit, causing the loss of distinguishing urban features. Thus, the government began reevaluating and considering the direction of future urban landscape development. Based on the Kamakura "Ancient Area Protection," the Japanese government passed the "Special Measures Law for Historical Conservation Areas" in 1966 and created specific guidelines and regulations for "scenic area" concepts outlined in the Urban Planning Act. In 1968, the government proposed the Kanazawa City Ordinance Concerning Conservation of the Traditional Environment, the earliest local landscape ordinance in Japan and the reference model for future Japanese landscape ordinances regarding development and implementation (Chen, 2005). Then, with the proposal of and amendments to a series of laws, such as the 1973 "Urban Green Space Conservation Act" and 1975 "Law for the Protection of Cultural Properties," the landscape protection consciousness of local administrative bodies and residents increased gradually.

Urban and rural landscape standards and regulations period (1990 to the present)

After the bubble economy ended, the high degree of Japanese urban development resulted in the continual outflow of rural populations into urban areas and subsequently caused an increase in urban housing demand.

Table 1. Developmental process of relevant Japanese and Taiwanese landscape laws and plans

Year	Japanese laws ¹	Year	Taiwanese laws ²
1911	Advertisement Enforcement Law	1964	Urban Planning Law
1919	Urban Planning Law enacted	1969	Statute for Development Tourism
1919	Scenic Area and Aesthetic Area System (Urban Planning Law). Historic, Scenic and Natural Monument Law	1971	Building Act
1926	First scenic area designation: Meiji Jingu Shrine	1972	National Park Law
1933	First aesthetic area designation: Imperial Palace	1974	Regional Planning Act
1950	Building Standard Law enacted	1982	Cultural Heritage Conservation Law
1966	Special Measures Law for Historical Conservation Areas	1993	Drafting of the National Land Use Planning Act
1968	Kanazawa City Ordinance Concerning Conservation of the Traditional Environment	1993	Council for Cultural Affairs promotes holistic community development or total community construction
1968	Kurashiki City Ordinance for Traditional Aesthetic Conservation (These ordinances were the first at the municipal level)	1994	Environmental Assessment Act
1969	Miyazaki Prefecture Ordinance on Roadside Landscape Beautification (first ordinance at the prefectural level)	1997	Construction and Planning Agency, Ministry of the Interior promotes urban and rural landscape scenic transformation movement
1973	Urban Green Area Conservation Act	2002	Executive Yuan execution of Challenge 2008 National Development Plan: “Water and Green Construction,” “Doubling Tourist Arrivals Plan,” and the “New-Home Community Development Plan”
1975	Revision of the Law for the Protection of Cultural Properties Groups of Historic Buildings Designation System implemented	2003	Promotion of “Landscape General Counsel” by each city and county government
1980	District Planning System created (Urban Planning Law)	2003	Promotion of “Transformation and Redevelopment of Urban and Rural Areas” and “Community Landscape Development”
1983	Urban Landscape Model Program created	2003	Completion of Landscape Law draft proposal amendment. Sent to Legislative Yuan for deliberation and review (not passed)
1988	Cityscape Environment Improvement Program created	2005	Landscape Law draft proposal sent to Legislative Yuan for further deliberation and review(not passed)
1995	Residents’ Green Space Program created (Urban Green Space Conservation Law)	2005	Cultural Landscape Registration and Abolition Review Law
2001	Basic Law for Promotion of Culture and the Arts (Building a Society that Appreciates Culture)	2007	Promotion of “One Town One Product” Plan
2002	Scenic Area Protection Agreement System (Natural Parks Law)	2009	Completion of National Land Planning Act draft proposal amendment, sent to Legislative Yuan for deliberation and review
2003	Policy to Beautify Japan	2010	Cultural Creativity Enterprises Development Law
2003	Landscape Impact Assessment System introduced	2010	Rural Regeneration Act
2004	Landscape Law, Revised Cultural Properties Protection Law, revised advertising regulations	2011	Rural Community Individual Home Renovation Grant Law
2004	Fundamental revision of the Green Law	2011	Rural Regeneration Community Covenant Bill

Source: ¹ Modified from Ikebe (2005); ² Laws and regulations database of the Republic of China (2012).

As such, urban development was forced to prioritize economic benefit at the neglect of urban landscape development and establishment, thereby having a serious impact on overall landscape scenery. Thus, the Ministry of Land, Infrastructure, Transport, and Tourism proposed the “Policy Outline for Building a Beautiful Nation” on July 11, 2003, to improve the maintenance of landscapes to a policy level of national significance, and to guide the formation and administration of specific policy. On July 31 of the same year, the “Tourism-based Country Action Plan” was set as a program for national development and a new set of standards were proposed for urban land-

scape building and establishment. In 2004, a specific law for national landscapes was passed—the “Landscape Law” (Chen, 2005; Ministry of Land, Infrastructure, Transport, and Tourism, 2005)

Following the passing of the law, the establishment of landscape administrative bodies and the application of landscape projects began to increase rapidly. By June 1, 2012, the number of legally registered landscape administrative bodies and landscape projects reached 557 and 338, respectively (Ministry of Land, Infrastructure, Transport, and Tourism website, 2012, Table 2). In addition, private business groups began sponsoring activities

Table 2. Current status after the implementation of the Landscape Law

Content	Numbers
Landscape plans	338
Landscape councils	13
Buildings important for landscapes	252
Trees important for landscapes	467
Landscape agreements	21
Landscape districts	35
Quasi-landscape districts	3
Landscape management organizations	90
Landscape administrative organizations	557

Source: Ministry of Land, Infrastructure, Transport, and Tourism (2012)

related to community culture. Other than historic and traditional towns, regular cities and regions began establishing landscape ordinances, such as those of Kobe City, including landscape ordinances, community charters, construction or architectural agreements, and greening agreements. Self-realization was achieved through environmental declarations and assistance from central reorganizing and outfitting projects such as the "Historic Area Environment and Street Maintenance Plan" and "Regional Housing Plan" of the Ministry of Construction, and the Environment Agency's "Comfortable Environment Maintenance Plan" was integrated (Chen, 2007). During this period, urban landscape management gradually improved overall urban and rural landscapes through previously accumulated experience and complete legal ordinances and institutions.

Taiwan

In the past, the results of expanding economic development in Taiwan has not resulted in improvements in the quality of the living environments; however, it has extended the living environment under worsening conditions. A reason for this is the neglect of the management of urban and rural development under the premise of developing the economy and society, and the maintenance and reconstruction of urban and rural scenery. To improve the environmental landscape, the Construction and Planning Agency, Ministry of the Interior began promoting the urban and rural landscape scenic transformation movement in 1997, the "Creating New Urban and Rural Landscape Action Plan," and the "Extension of Domestic Demand Program – Creating New Urban and Rural Landscape Plan" in 1999. The agency and ministry attempted to encourage and uncover local characteristics through the assistance of the abovementioned plans, and to improve urban and rural environmental landscapes, thereby improving national competitiveness and the competitiveness of urban and rural areas (The Construction and Planning Agency, Ministry of the Interior, 2010a).

The objective of Taiwanese landscape legislation or legislation of the Landscape Law is to utilize the estab-

lishment of institutions to provide a legal basis for government departments and citizens to actively manage and improve environmental landscapes and augment the overall quality of living environments. This is done to facilitate various environmental landscape transformation projects and tasks. The focal point of the Landscape Law draft proposal includes the prompting of government departments to strengthen landscape conservation, management, and maintenance, the encouragement of communities to actively participate in landscape improvement, and the establishment of stable financial sources for landscape maintenance and improvement (The Construction and Planning Agency, Ministry of the Interior, 2010b). In addition, regulations relevant to improvements, maintenance, and punishments regarding landscapes are also strengthened.

With regard to central government promotion, the Ministry of the Interior submitted the Landscape Law to the Legislative Yuan for review in July 2003 and March 2005; however, because review was not continued on the appointed date and the act was rejected, to strengthen domestic landscape regulations, the Ministry of the Interior submitted the Landscape Law draft again in the hope of rapidly completing the legislative process. In recent years, legislation that is more relevant to the Landscape Law is the Rural Regeneration Act. After the passing of the act in 2010, the "Rural Community Individual Home Renovation Grant Law" and the "Rural Regeneration Community Covenant Bill" were passed in 2011. With regard to local government promotion, since 1993, the Council for Cultural Affairs (now the Ministry of Culture) began promoting holistic community development or total community construction that incorporates landscape improvement concepts into communities. In 2003, each city and county government began promoting landscape general counsel (Table 1) to manage and control landscape-related projects and ensure the quality of local landscapes.

LANDSCAPE LAW SYSTEM AND HIERARCHICAL STRUCTURE

Japan

To promote the formation of high quality landscapes in cities and rural villages, the Japanese government began to rectify problems caused by high-rise residential buildings, outdoor advertising, and wireway clutter, including the fact that buildings and their additional external ancillary facilities and spaces created significant landscape deterioration problems. As previously stated, the Landscape Law was announced in 2004 and came into effect on December 17 of the same year. The Landscape Law is divided into the following seven sections: General Provisions, Landscape Plan and Implementation, Landscape Areas, Landscape Agreements, Landscape Maintenance Institutions, Miscellaneous Provisions, and Penalties. The law comprises a total of 107 articles. According to Landscape Law regulations, prefectures, cities, towns, and villages can formulate "Landscape Plans" and assign specific "Landscape Areas" at the local or city,

town, and village level. An area within a Landscape Area can be further designated as a “Landscape Agricultural Revitalization Regional Development or Maintenance Plan Area,” a significant legal foundation for the development of aesthetically pleasing rural landscapes. The implementation of the Landscape Law was accompanied by the passing of the “Law on Outdoor Advertising Materials” and “Law on Urban Green Space Protection.” These three laws are referred to as the “Three Laws on Landscape and Greenery.” To provide the varying needs of local areas, towns, etc., alongside the implementation of these laws, the “Landscape Law Utilization Guide,” “Urban Green Space Conservation Act Utilization Guide,” and “Urban Park Utilization Guide” were developed to provide institutional-based utilization direction and directive principles (Ministry of Land, Infrastructure, Transport, and Tourism, 2005). Related content is as follows:

Legal or regulation system

(1) National level

● Policy Outline for Building a Beautiful Nation

In July 2003, the Japanese Ministry of Land, Infrastructure, Transport, and Tourism formulated a “Policy Outline for Building a Beautiful Nation” based on the “Beautiful Nation” concept as a national level guidance policy to promote the concept of good landscapes to an important position as a basic national policy (Ando, 2008).

● Landscape Law

The Landscape Law is the first specific Japanese law on landscapes that explicitly defines landscapes as a form of shared wealth held by Japan’s citizens and regulates the responsibilities and authority of national or local government officials in the process of maintaining landscapes. The Landscape Law also defines landscape plans, operating mechanisms, and related penalty measures.

● Three Laws on Landscape and Greenery

The Ministry of Land, Infrastructure, Transport, and Tourism combines laws and regulations relevant to landscapes into a single framework to construct the so-called Three Laws on Landscape and Greenery system including: the Landscape Law, Landscape Law implementation law maintenance and other related laws, and amendment laws such as the Law on Urban Green Space Protection (Ando, 2008; Chang, 2011; Kishida, 2005; Ministry of Land, Infrastructure, Transport, and Tourism, 2005). The purpose of these laws is to emphasize the cooperative relationship between various levels within the urban planning legal and regulation system and to encourage mutual communication and coordination between relevant laws to provide broader legal support for landscape management (Fig. 1).

(2) Local level

● Landscape plans

Landscape plans are the primary plans for promoting landscape polices by landscape administrative areas

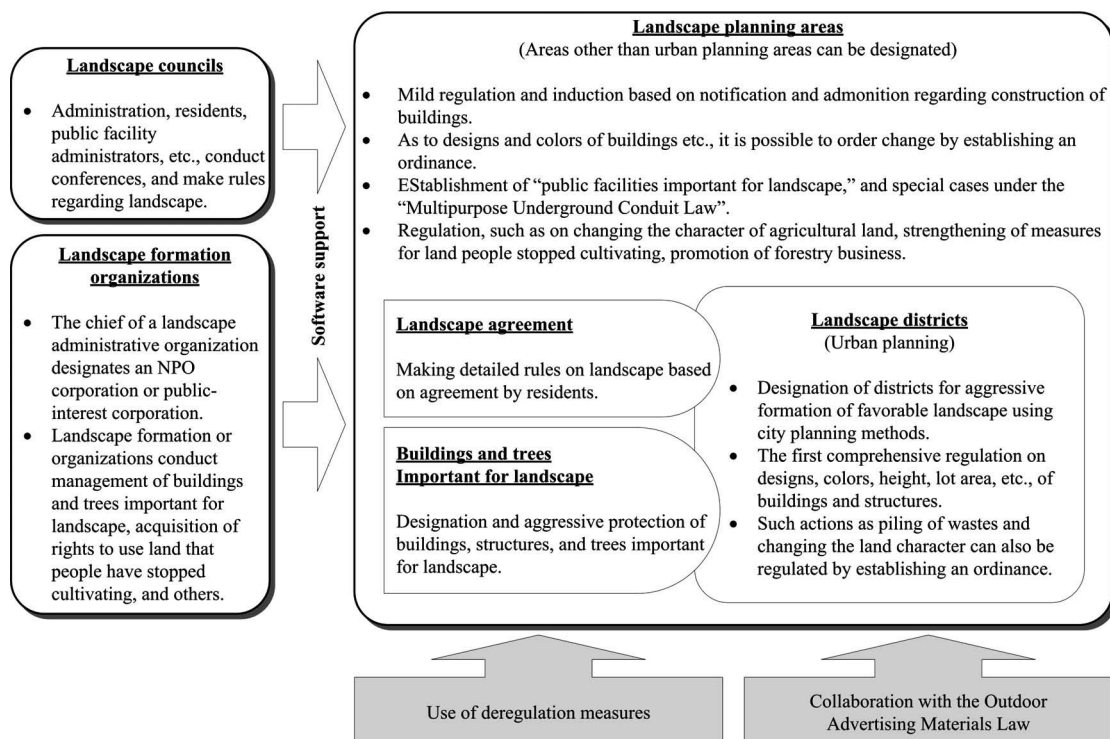


Fig. 1. Japan Landscape Law.

Source: Ministry of Land, Infrastructure, Transport, and Tourism (2005)

and are divided into required items and selective issues. Required items include the following: the definition of the scope or range, the direction and plan for landscape shaping, restrictions, and appointed or designated principles for significant landscape buildings and trees. Selective issues include the following: restricted categories and restrictive items for outdoor advertising materials, standards on the maintenance items and usage of key public landscape facilities, formulation of basic items for landscape agricultural revitalization area preparation and maintenance planning, and the certification standards for the Natural Parks Law (Ministry of Land, Infrastructure, Transport, and Tourism, 2005, Fig. 2).

The implementation of a landscape plan must be conducted through public hearings and resident participation mechanisms. If urban planning areas or quasi-urban planning areas are involved following the consideration of the landscape review hearing, the landscape plans must be decided after considering the opinions of the urban planning review committee and direct-controlled municipalities and counties.

The determination of the scope of the landscape plan must be conducted using a 1:2500 ratio drawing plan as the standard to facilitate the identification of the scope of the area and ensure landowner rights and interests (Hiroshi, 2005). The scope of the area can include holis-

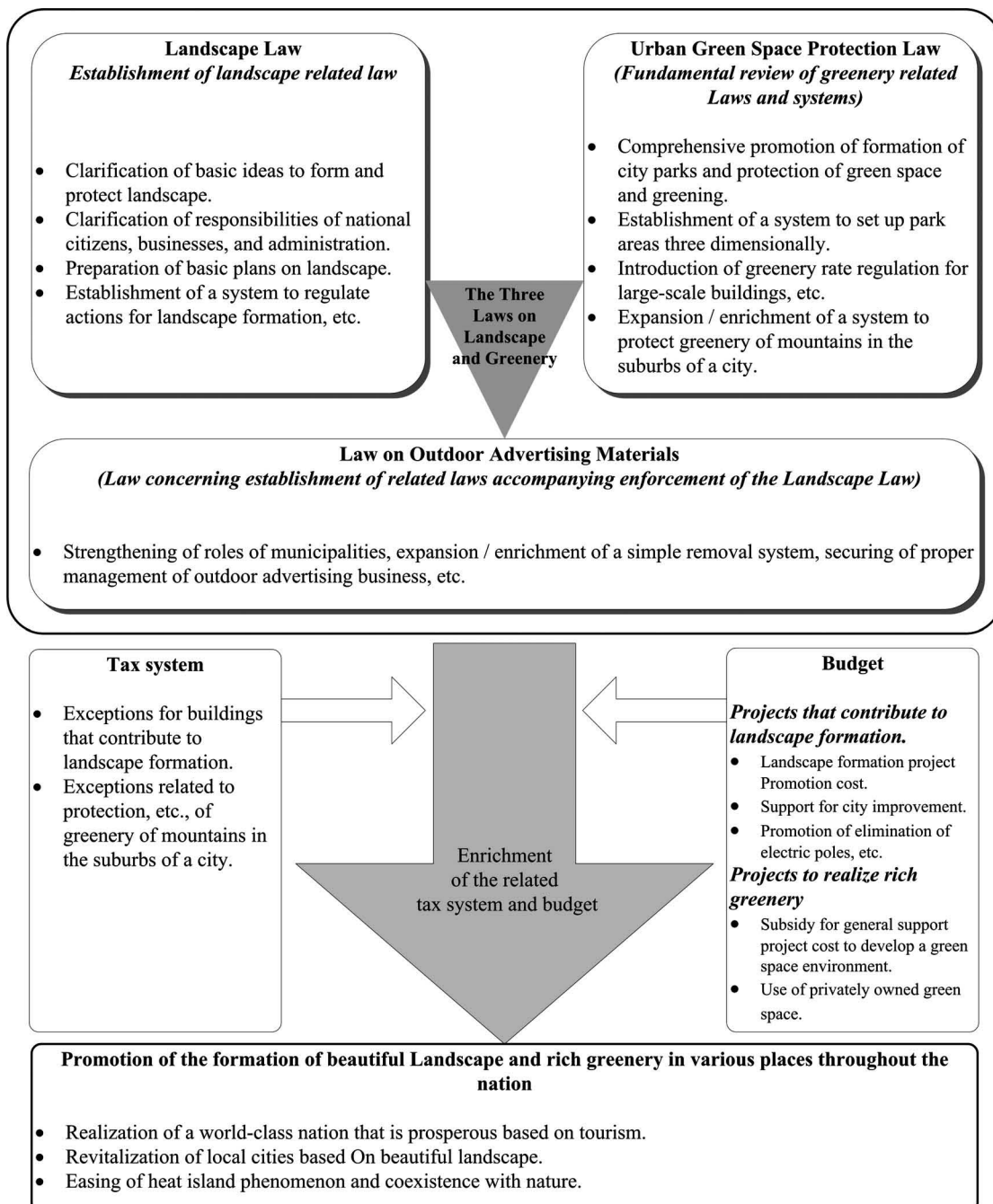


Fig. 2. Three Laws on Landscape and Greenery.
Source: Ministry of Land, Infrastructure, Transport, and Tourism (2005)

tic landscape areas of cities, villages, and other human settlements. Five points are included within area principles:

- ◇ Areas with excellent landscape protection and security must be developed.
- ◇ Areas possessing natural, historical, or cultural local characteristics.
- ◇ Border areas or traffic nodes between different areas.
- ◇ Residential development or holistic development project areas.
- ◇ Poor areas exhibiting improper land or agricultural use.

- Landscape agreements

Landscape agreements are supplements to the landscape plans and are a community declarations autonomously decided and developed by landowners and other private organizations or groups, including autonomous agreements on landscape-related issues or items, such as regional or area buildings, green area, structures, advertising billboards, open car parks, colors, and materials (Ministry of Land, Infrastructure, Transport, and Tourism, 2004b; Nishimura, 2005). The passing of autonomous private agreements helps improve landscape quality control within an area; even if land ownership changes, the landscape agreement remains effective.

- Landscape guiding principles

To facilitate the formation of excellent landscapes, local governments establish norms and standards for elements such as building form and color. These are landscape management guidance plans or policies developed by local autonomous groups. Landscape guiding principles can control significant areas, colors, and outdoor advertising materials in landscape plans (Kishida, 2005; Nishimura, 2005). Landscape guiding principles are similar to the operational content of landscape plans, as well as the operational tools for implementation.

- Promotion system and encouragement measures

To promote and encourage landscape management operations, the Japanese government has allocated funds for the “Landscape Formation Promotion Fees” in its Public Works fees financial budget. The implementation of tax breaks and government subsidy policies were executed in relation to active landscape construction and related promotion behavior (Fig. 2). In addition, to stimulate a national consciousness on landscape development or establishment and protection, the government declared that June 1 of every year is national “Landscape Day” and implemented excellent landscape case selections or awards such as the “Charming Street Area Prize.” Furthermore, the government promotes the cultivation of resident landscape consciousness through diverse educational and promotional activities, and has established the “Landscape Education Department” and “Landscape Popularization and Inspiration Department” and other promotional work and recognition awards (Nishimura, 2008).

Hierarchical framework

(1) Landscape Administration and Management Organizations

The central management department is the Ministry of Land, Infrastructure, Transport, and Tourism. However, there is also coordination with relevant administrative organizations such as the Ministry of Agriculture, Forestry, and Fisheries, and the Ministry of the Environment. The park/green space landscape division of the Ministry of Land, Infrastructure, Transport, and Tourism is responsible for urban landscape management duties (Architectural Institute of Japan, 2005; Hiroshi, 2005). Local urban landscape management is conducted by local government urban development or maintenance authorities. Urban development or maintenance authorities are further divided into various departments or divisions based on operational content.

(2) Landscape administration bodies

Landscape administration bodies are administrative institutions that are tasked with the execution of landscape administrative authority and are the primary operating party in landscape management and control behavior. The Landscape Law states that legal direct-controlled municipalities (population greater than 500,000) and core cities (population greater than 300,000), as well as other local autonomous bodies with the right to independently administer (government ordinance city or core city), can act as independent landscape administration bodies, whereas other areas are governed by their corresponding prefectural governments (Architectural Institute of Japan, 2005; Hiroshi, 2005). In addition, with the agreement of the corresponding prefectural government administrative department they are controlled by, lower level city, town, and village administrative organizations are able to independently perform landscape administrative body duties for that area.

(3) Landscape councils

Landscape councils are organizations established to facilitate the achievement of urban landscape agreements and primarily comprise relevant organizations and individuals, such as landscape administration bodies, public facility managers, landscape development or maintenance organizations, other related public organizations, public welfare managers, and residents. The primary function of landscape councils is to conduct multi-party negotiations on landscape content that must be agreed upon or declared beforehand based on relevant legal ordinances, and to finally pass the content and reach consensus (Architectural Institute of Japan, 2005). After an agreement is reached and approved, relevant personnel have a duty to adhere to and implement the agreement.

(4) Landscape development and maintenance organization

Landscape development and maintenance organizations are non-profit organizations (NPOs) and public welfare legal entities and groups (such as Architects Associations and Greenery Associations) appointed by

landscape administrative bodies. The primary duties of landscape maintenance organizations is to provide professional information and technical assistance relating to landscape creation for residents, and to perform the daily management and maintenance of significant buildings, trees, and other public facilities in landscape areas. Finally, landscape maintenance organizations also assist landscape construction management departments in conducting relevant surveys and research (Nishimura, 2007).

(5) Other participants

Holistic landscape management and operation requires landscape administration bodies and the proactive communication and interactions between relevant participants, such as developers, experts and scholars, and residents. Articles 3 to 6 of the Landscape Law explicitly state that relevant participants engaged in landscape construction and establishment must be responsible for policymaking and policy implementation, and developers and residents must actively participate in the management system and provide assistance regarding the landscape management of national and local public organizations or bodies (Ministry of Land, Infrastructure, Transport, and Tourism, 2005).

Taiwan

To protect and maintain natural and cultural landscapes, improve urban and rural scenery, and develop high quality living environments, Taiwan formulated the Landscape Law, divided into the following 7 sections that comprise a total of 27 articles: General Provisions, Planning and Management, Improvement and Maintenance, Rewards and Participation, Evaluation and Costs, Punishments, and Supplementary Provisions (The Construction and Planning Agency, Ministry of the Interior, 2010b).

Legal and regulation system

The Landscape Law draft primarily specifies landscape plans for three tiers, including the county and city level “Landscape Framework Plan,” the focus landscape area “Focus Landscape Plan,” which emphasizes planning management, and the focus landscape area “Landscape Improvement Plan,” which emphasizes improvement and maintenance. The content and positioning of landscape plans at each level differs and primarily emphasizes the convergence and linking with existing urban planning institutions and formulates and promotes landscape plans through a hierarchical structure (The Construction and Planning Agency, Ministry of the Interior, 2010a, b).

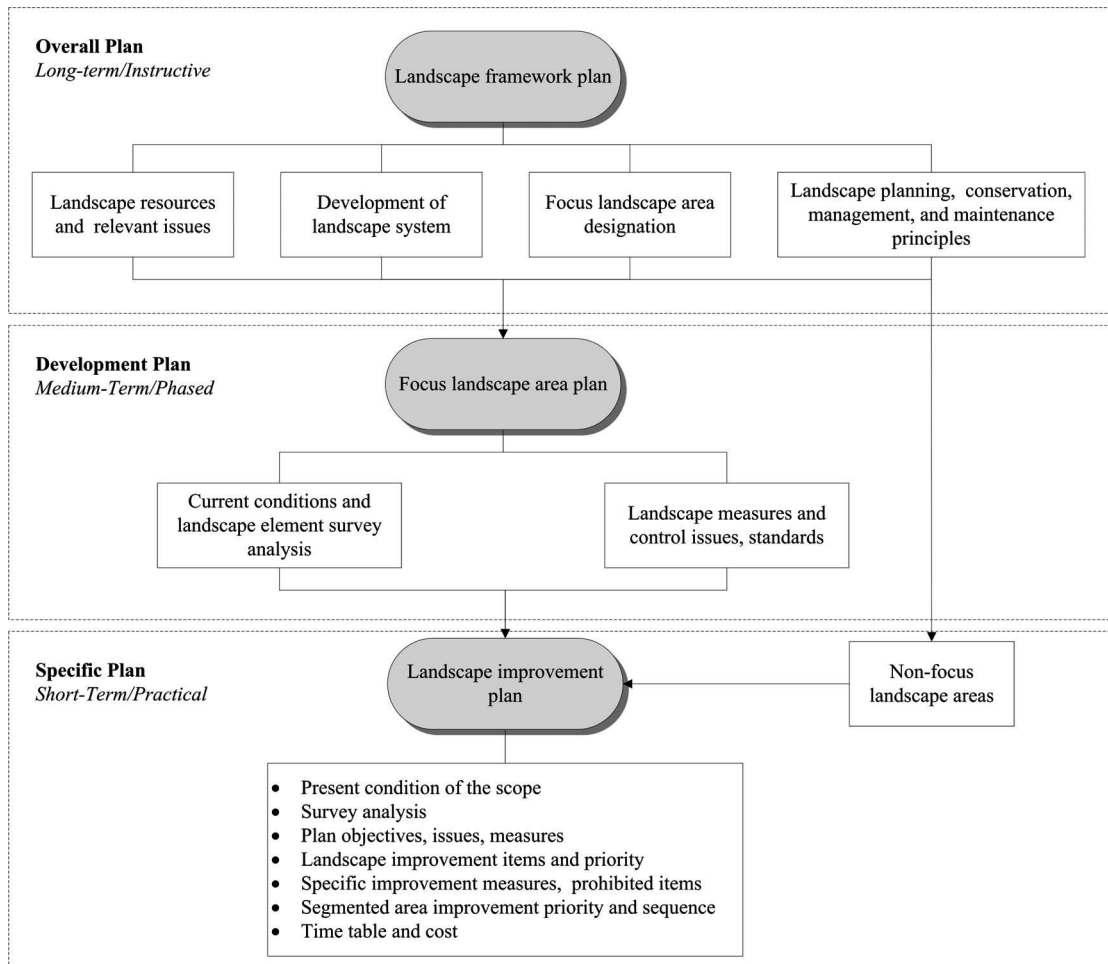


Fig. 3. Three-tiered Landscape Law plans.
Source: The Construction and Planning Agency, Ministry of the Interior (2010a)

(1) Landscape plan

Landscape Framework Plan: Guiding plan formulated to construct direct-controlled municipality, county, and city landscape resource systems and specify focus landscape areas. To impel government departments to strengthen the conservation, management, and maintenance of landscapes, local government formulated the “Landscape Framework Plan” as the basis for promoting landscape planning, conservation, management, maintenance, and other controls. For areas requiring improvement due to landscape destruction or fears of landscape destruction, local governments or central target purpose authorities formulate landscape improvements plans to implement landscape improvement tasks.

Focus Landscape Plan: Strengthens the conservation, management, and maintenance of focus landscape area resources.

Landscape Improvement Plan: Concrete action plan formulated to improve focus landscape areas or other areas requiring landscape improvements (Fig. 3).

(2) Public participation mechanism

The construction, repair, or adoption of management and maintenance for future parks, green areas, plazas, pedestrian walkways, footbridges, underpasses, elevated bridges, and other public spaces or facilities, as well as the installation of street furniture and operations management. The above items will draw upon and import civil power and employ citizen participation. At the same time, to encourage communities to develop and improve their own residential environments, the public is required to designate specific area scopes, establish organizations, formulate landscape improvement plans after gaining the consent from a specific proportion of land and building owners, and then submit an application to local government authorities, as well as apply for financial assistance based on necessary expenses from the local government (Liang, 2007).

(3) Landscape management and maintenance fund

To establish a stable financial source for landscape

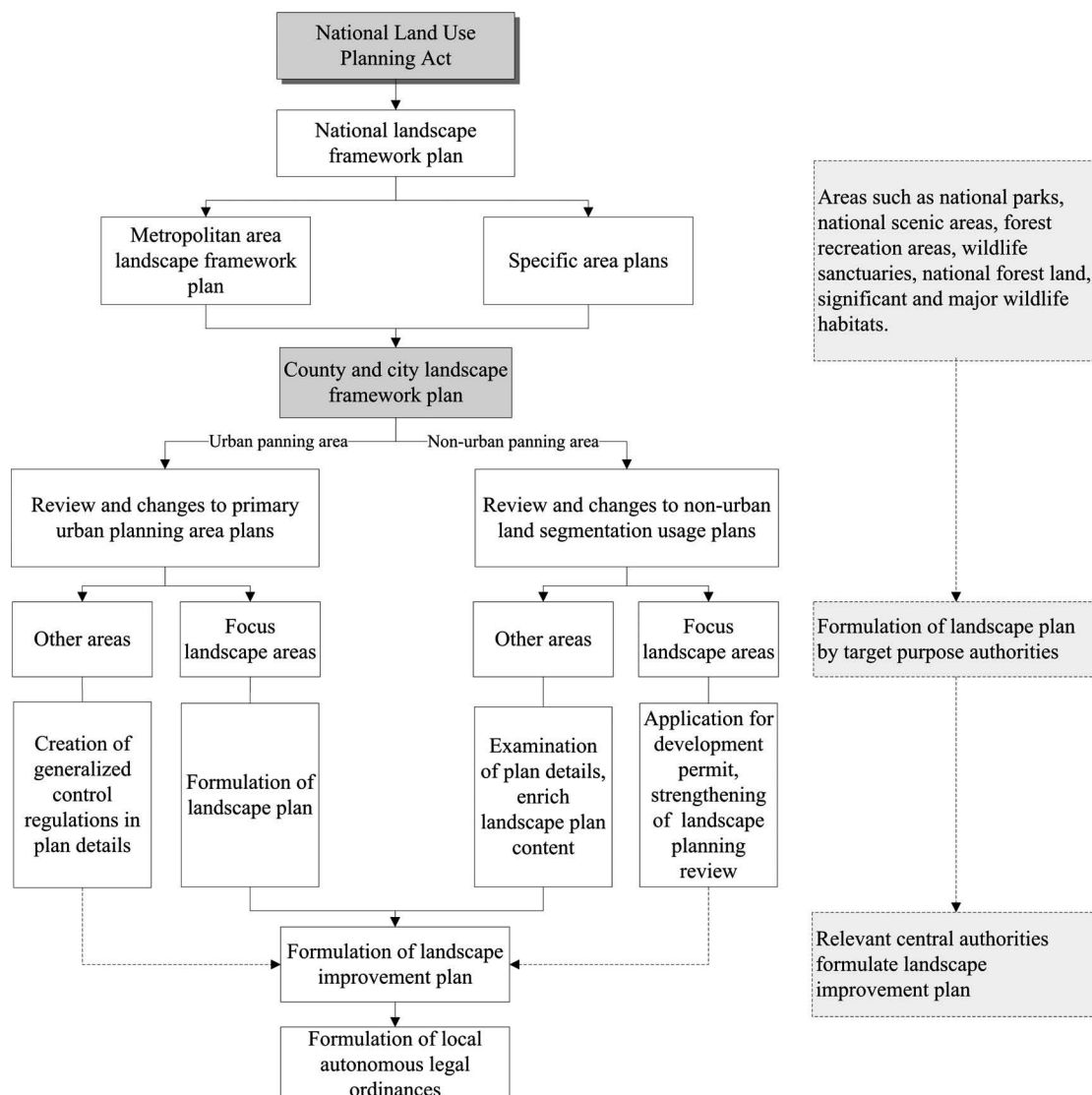


Fig. 4. Landscape Law under the National Land Use Planning Act (Draft) framework.

Source: Modified from the Construction and Planning Agency, Ministry of the Interior (2010a)

Table 3. Comparison of Japanese and Taiwanese Landscape Law

	Japan	Taiwan
Normative/Regulation level	Comprehensive (Each item is described in a plan)	Synoptic (Three tiers and content items)
Clarity of content	More detailed (7 Sections, 107 Articles)	Unclear details (7 Sections, 27 Articles)
Landscape plan content	Issue-based holistic considerations, more rigorous determination	Three-tiered landscape plan; requires coordination with other plans for execution.
Administrative system	Landscape council and Landscape maintenance or development institution as the management mechanism and target	Competent authorities with urban planning mechanism execution
Legal review	Relevant laws and ordinances with amendments	Increase of laws

maintenance and improvement and ensure sufficient local finances, the Ministry of the Interior Landscape Law draft also includes the legal basis for the establishment of a “Landscape Management and Maintenance Fund.” In the future, after large advertisement volume in focus landscape areas reach a certain scale, advertisement owners or users can be charged with “Landscape Impact Fees” by permit holders verified and screened by the local government authority (The Construction and Planning Agency, Ministry of the Interior, 2010b). With regard to the violation of landscape control regulations, behavior that results in landscape degradation or destruction, or activities that are incompatible with landscape improvement plan implementation for landscape improvement and maintenance, will be addressed with warnings, improvement deadlines, and continuous fines or penalties until improvement is achieved. This will be done in the hope of improving past public neglect of environmental landscape beautification and conservation ideas. It is anticipated that these measures will gradually cultivate habits among citizens to appreciate, protect, and beautify environmental landscapes.

Hierarchical framework

The Landscape Law under the National Land Use Planning Act (draft) framework is shown in Fig. 4.

To summarize the content of Japanese and Taiwanese Landscape Law, we have developed a comprehensive comparison table (Table 3). The table results show that the regulations detailed in the Japanese Landscape Law are clearer and cover a broader scope, and implement bottom-up operational procedures. Conversely, numerous details are unspecific and are merely fragmented principle-based regulations within the Taiwanese law; the mechanism for public participation is unclear or not clearly regulated and several relevant complementary laws have not been formulated. These factors may cause poor implementation in the future.

IMPORTANT CHARACTERISTICS OF JAPANESE LANDSCAPE LAW

Based on the discussed promotion process, content, legal framework or system, and hierarchical structure of the Japanese and Taiwanese Landscape Laws, this study presents the following characteristics of Japanese

Landscape Law as a reference for future Taiwanese legislation or practice of landscape law. These characteristics can be roughly divided into national, regional, and local (public) levels for discussion.

National level

Position in the current legal and regulation system

Before the establishment of the Three Laws on Landscape and Greenery, the protection and shaping of Japanese landscapes relied on individual institutions of particular laws, such as urban planning law or the Historic, Scenic, and Natural Monument Law, to implement aesthetic and scenic areas and traditional settlement preservation areas and execute local government independent landscape ordinances to conserve and maintain landscapes in various regions. However, because of the inconsistent outlook on landscape protection and management among different regions, local taxation and financial difficulties, and lack of legal sources for the accountability of ordinances, the efficiency and efficacy of promotion processes in various regions was low (Chen, 2007). Thus, the establishment of this law clearly defines the legal and institutional position of landscape protection and development or shaping. In addition, the implementation of the Landscape Law further constructs and amends the legal regulations for Japanese landscape construction management.

- (1) National Land Development Law, National Land Use Planning Act, and National Highway Construction Law etc.
- (2) Landscape Law and relevant laws, such as the Urban Planning Law, Natural Parks Law, Natural Environment Protection Law, Agricultural Development Stimulation Law, the Forest Law, and Land Acquisition Act etc.
- (3) Special Laws, such as the Special Measures for Historical Conservation Areas, Law on Urban Green Space Protection, and the Urban Park Act

The primary purpose of the Taiwan Landscape Law draft is to legalize the entire landscape authority framework, landscape framework plan, and determination of focus landscape areas, and includes the organization and management of the abovementioned items. Currently, numerous government departments have budgets or execution plans for landscape projects, although they are not integrated. The legalization of the Landscape Law

will ensure a stable operating mechanism for county and city governments and related executing organizations.

Integration of legal ordinances and ministries

The administrative institutions and organization of Japan's National Land Plan show a high degree of completeness and superior communication and coordination among various levels of government institutions, central and ministry governments, cities, towns, and villages, and within organizations. The most significant development of the Japan Landscape Law is the integration of the mechanisms of the Ministry of Land, Infrastructure and Transport (similar to the Taiwanese Construction and Planning Agency), Ministry of Agriculture, Forestry, and Fisheries (similar to the Taiwanese Council of Agriculture), and the Ministry of the Environment (similar to the Taiwanese Environmental Protection Administration). This law integrates urban production green spaces managed by the Ministry of Agriculture, Forestry, and Fisheries, including the protection of cultural assets and the establishment of reward and punishment standards. The law uses flexible norms and laws to emphasize local qualities to promote the formation of high quality landscapes in urban and rural areas and the creation of "Landscape Plans" suitable to local characteristics based on local natural, historical, and cultural aspects (Cheng, 2008).

Regional level

Clear landscape plan specifications and regulations

The meaning and objective of the Japanese landscape plans are clear, with specific regulations and landscape agreements regarding area designation, facility establishment, and identification principles (trees, buildings, important public facilities). The overall area development direction and vision is clearly implemented with bottom-up operating procedures. Conversely, the three-tiered Taiwanese landscape plans within Landscape Law primarily introduce principle explanations, although the meaning of regulation content items and identification principles are unspecific. Furthermore, the levels of participation are unclear and government agencies have sole authority.

Driving local tourism and invigorating the economy

In 2004, the Japanese National Land Council land policy and plan proposed landscape planning based on coordination between Landscape Law development and national land policy to form excellent landscapes. This law facilitated the development of landscapes in urban and rural areas, consequently improving the quality of citizen living environment quality, stimulating the economic development of the tourism industry, and the realization of the "Tourism-based Country" strategy. For example, the Ise City government, located in southern Mie Prefecture, actively promotes local cultural landscape preservation, removes poor landscapes and advertisement materials, and has established an underground telephone pole network. Between 1992 and 2002, the number of tourists to the local area increased from

350,000 to 3 million (Ando, 2008).

The focus on rural areas

The objective of the Japanese Landscape Law is not only the improvement of urban landscapes, but also the promotion of landscape preservation in rural areas. Problems such as rural population outflows resulting from urban development, shifts in traditional industries, and reductions in the size of agricultural areas have led to the gradual forgetting of local history, culture, landscapes, festivals, and significant monuments. Section 5 of the Landscape Law details the Landscape Agricultural Revitalization Regional Development or Maintenance Plan Area. This section stipulates the agricultural revitalization areas within the landscape plan areas of cities, towns, and villages, and denotes that to achieve the plan and ensure the preservation of local landscapes the Landscape Agricultural Revitalization Regional Development or Maintenance Plan Area was developed (Articles 55 to 59) (Architectural Institute of Japan, 2005). Although Taiwan currently has the Rural Regeneration Acts to achieve rural landscape preservation objectives in rural areas, it is a legal ordinance under the Council of Agriculture; therefore, it differs from the Japanese Landscape Law that integrates various ministries. Thus, in the future, the execution of this law may face inter-organization communication problems.

Introduction of the color plan

Environment color refers to environmental qualities and historical memories. Japanese Landscape Law stipulates that the "color" of landscape areas must be carefully considered to achieve harmony with surrounding landscapes and represent the unique local culture (Nippon Color & Design Research Institute, 2008). In 2008, the Executive Yuan's Council for Cultural Affairs (currently the Ministry of Culture) began promoting the "Taiwan Life Arts Movement Program" Urban Color Project that encouraged governments of direct-controlled municipalities, cities, and counties to promote color system planning studies within their jurisdiction, organize urban color, and establish city color systems to enhance the new aesthetic images of daily use items, spaces, and environments, and further promoting overall tourism benefits. However, the Taiwan Urban Color Project is promoted by the Ministry of Culture and does not possess any clear legal control. Thus, future changes in policy that cause the cancellation of this project may result in disorganized environment color.

Local (public) level

Realizing public participation

A key problem relating to public participation is primarily a lack of channels for expression during the formulation process, causing citizens closely tied to the decisions of administrative authorities to be dominated and governed by policy. Furthermore, a lack of proper participatory mechanisms and public consciousness and awareness are also problems. According to the Japanese Landscape Law regulations, landscape planning must fol-

low relevant procedures to ensure that landscape plans can respect and reflect the opinions of all stakeholders. A public hearing should be held before the planning process to sufficiently understand the position of residents. A "Landscape Coordination Committee" should be organized, including administrative, tourism, industry and commerce, agriculture, forestry, fishery, power, communications, railroad departments, and other public organizations and groups in addition to local residents (Section 1 Article 9 to Article 15) (Ministry of Land, Infrastructure, Transport, and Tourism, 2005).

Private landowners and tenants of designated landscape areas can create a legally binding "Landscape Agreement" with unanimous consent that clearly defines the scope of land usage, items of consideration, expiration date, and punitive measures (Section 4, Articles 81 to 84). "Landscape Agreements" and "Landscape Maintenance Institutions" are resident-driven organizations that complement government landscape administration departments, exert significant influence over the conservation and management of local landscapes, and reflect mutual cooperation effects.

Survey of Significant Landscape Buildings and Trees

Landscape preservation can be conducted on a regional scale and can also be achieved on a small scale, such as through buildings or cultivation. These items may contain numerous local historical and human or cultural stories. Japanese Landscape Law stipulates that buildings or trees within landscape plan areas contribute significantly to the formation of excellent landscapes. As such, they can be designated as significant landscape buildings or trees through a proposal to the leader of the local authorities (Articles 19 to 35) (Chang, 2011). There are currently 719 registered significant buildings and trees in Japan (Table 2), a number that is continuing to increase. Significant buildings or trees facilitate the expansion of landscape preservation from specific points to lines or areas/planes.

Cultivating Public Philosophies or Ideas toward Landscape Protection

Although the promotion of landscape maintenance philosophy or ideas in Taiwan has gradually led to the realization of the significance of urban and rural landscape maintenance, the important position of urban landscape maintenance on the legal level must be strengthened and the quality and technical skill of urban and rural landscape maintenance and related planning personnel improved. Simultaneously, effective promotion and encouragement measures should be pursued to help residents truly contact and participate in the building and establishment process of urban and rural landscapes to cultivate their landscape consciousness.

Improving the Quality of Living Environments

The formation of superior landscapes is the responsibility of all citizens, as specified by Japanese Landscape Law. High quality landscapes improve basic public facilities in our lives and promote environmental protection

awareness. This allows residents to rediscover local landscape qualities, arouses and awakens their feelings toward their local environment, and improves the quality of public living environments.

CONCLUSION

The comparison of Japanese and Taiwanese Landscape Laws shows that Taiwanese landscape measures are dominated by principle-based regulations that include general levels, with proposed preservation plans attached to public sector development plans. However, landscape preservation plans do not have binding legal power. Conversely, Japanese Landscape Law defines small-scope cities, towns, and villages as the primary focus of landscape maintenance, with residents having crucial roles in determining landscape plans; bottom-up execution procedures are truly implemented. Landscape maintenance includes traditional buildings, natural scenery, cultural landscapes, and trees. Although landscape regulations exist in specific Taiwanese historical preservation areas, conflict with urban development philosophy frequently leads to disorder and a failure to achieve landscape preservation. This may be the result of low quality content of regulations, a lack of tools, and low execution ability. To address these obstacles, the Taiwanese government should integrate various organizations and unify urban and rural landscape management and administration. It should begin from amendments of a legal nature and level and more clearly define standards and regulations to create a basis for control and preservation. Furthermore, the government should provide suitable compensation measures for landscape maintenance to improve preservation intent and willingness.

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