

Original Paper

Transformation of Conservation Legislation in Japan

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Abstract

The purpose of this study is to grasp the transformation of conservation legislation in Japan, the features of conservation legislation, the key present issues and the influence of West European countries. Conservation legislation in Japan can be divided into five periods. In the first period (1868-1926), the first cultural property preservation legislation was established. In the second period (1926-1945), the protection of Natural Treasures was made more satisfactory and prevented them from being taken abroad. In the third period (1945-1966), the Cultural Property Preservation Law was enacted and maintained. In the fourth period (1966-1975), the Ancient Capitals Preservation Law was enacted to preserve historic landscape. Finally, in the fifth period (1975-present), the Conservation District of Traditional Buildings was introduced by the amendment of the Cultural Property Preservation Law.

Key Words: conservation legislation, historic buildings, historic environment, cultural property, Cultural Property Preservation Law, Conservation District of Traditional Buildings

1. Introduction

The first conservation legislation of historic buildings in Japan was *Koshaji Hozonhou* (Historic Shinto Shrines and Buddhist Temples Preservation Law) in 1897. This was repealed, and the new law, *Kokuho Hozonho* (National Treasures Preservation Law) enacted in 1929. In addition, *Shiseki Meisho Tenmenkinenbutsu Hozonho* (Historic Sites, Scenic Beauty and Natural Monuments Preservation Law) was enacted in 1919 and *Juyobijutsuhinto no Hozonnkansuru Horitsu* (Important Art Objects Preservation Law) in 1933 as the cultural property preservation correlated laws.

After the Second World War, the above-mentioned three laws in the inter-war period were unified, in 1950,

into the new law, the present effective, *Bunkazai Hogohou* (Cultural Property Preservation Law). Many historic cities and villages were gradually destroyed by urban development in the high-growth period of the 1960s, because this could not conserve historic landscape over a wide area, including natural surroundings or historic streets or villages. In this context, *Koto Hozonho* (The Ancient Capitals Preservation Law) was enacted in 1966 and *Dentoekikenzobutsugun Hozonchiku* (Conservation District of Traditional Buildings) was introduced into Cultural Property Preservation Law in 1975. At the same time, City Planning Law was also amended to introduce these new conservation areas.

These transformations of conservation legislation can be classified into five period as follows;

1. The first period (1868-1926): the first cultural property preservation legislation was established
2. The second period (1926-1945): the protection of Natural Treasures was made more satisfactory and prevented them from being taken abroad
3. The third period (1945-1966): the Cultural Property Preservation Law was enacted and maintained
4. The fourth period (1966-1975): the Ancient Capitals Preservation Law was enacted to preserve historic landscape
5. The fifth period (1975-present): the Conservation District of Traditional Buildings was introduced by the amendment of Cultural Property Preservation Law

The major conservation situation in each of these periods will now be considered (Figs.1 and 2).

2. The transformation of conservation legislation

(1) The first period (1868-1926): the first cultural property preservation legislation was established

After the Edo Shogunate which adopted the policy of isolation, *Meiji Ishin* (the Meiji Restoration) took place and the Meiji government was established in 1868. At that time, traditional art objects and historic buildings were demolished to be influence by Westernization, vandalism to old objects and the anti-Buddhist movement. In this social context, *Kokikyubutsuhozonho no Fukoku* (Historic Objects Preservation Proclamation), the first statutory step in the modern period to preserve historic art and craft objects was introduced in 1871. However, it excluded historic buildings from conservation. Then for historic buildings, the Historic Shinto Shrines and Buddhist Temples Preservation Grant was established by the Ministry of Home Affairs from 1880 to 1894.

The first law to preserve buildings, *Koshaji Hozonho* (Historic Shinto Shrines and Buddhist Temples Preservation Law), was enacted in 1897, influenced by the sudden rise of racial consciousness after the Shino-Japan War of 1894-1895. As a general rule in this, the buildings and treasures owned religious bodies were designated as *Tokubetsuhogo Kenzobutsu* (the Special Protection Building) or *Kokuhou* (National Treasures). This is the prototype of the present cultural property protection institution, and deal with the designation of institutions, methods of control, the opening designated objects to the public and government grants for repairs etc.

Subsequently, the destruction of historic sites and natural monuments took place associated with urban development and economic growth and there was no preservation of historic buildings against this. So *Shiseki Tennenkinenbutu Hozon ni kansuru Kengian* (Historic Sites and Natural Monuments Preservation Proposal Draft) was proposed at the 27th Imperial Assembly of the House Peers in 1911 and *Shiseki Meishou Tennenkinenbutsu Hozonho* (Historic Sites, Scenic Beauty and Natural Monuments Preservation Law) was enacted in 1919.

- (2) The second period (1926-1945): the protection of Natural Treasures was made more satisfactory and prevented them from being taken abroad

Historic buildings owned by central or local governments, for example castles, and individuals were being ruined, because Historic Shinto Shrines and Buddhist Temples Conservation Law was applied for buildings owned by religious bodies only. For them, this law was repealed and a new law, *Kokuho Hozonho* (National Treasures Preservation Law), enacted in 1929. All historic buildings conserved by the former law were redesignated and previously undesignated valuable buildings owned by central or local government or individuals were designated for the first time.

Whilst designation was going on with National Treasures Preservation Law, some affairs to be taken undesignated important art objects including buildings abroad were happened. In this context, *Juuyobijutsuhinto no Hozonnikansuru Horitsu* (Important Art Objects Preservation Law) was enacted in 1933. This was the temporary legislation to prevent important art objects to be taken abroad. As buildings were able to be analyzed to be taken away, 299 buildings were designated.

The outline of preservation administration in the inter-war period is as follows. The affairs to authorize Important Art Objects and to designate Scenic Beauty and Natural Monuments were stopped. Emphasis was put on conservation of Natural Treasures, Historic Sites and other designated objects. Protection measures were instigated against air strikes, for example the putting of camouflage on buildings and reservoirs, fire prevention measure and the bullet proofing of walls.

- (3) The third period (1945-1966): the Cultural Property Preservation Law was enacted and maintained

The summary of preservation administration immediately after the Second World War is as follows. Moves to authorize Important Art Objects and to designate Scenic Beauty and Natural Monuments were begun again. *Oukyuushori 5 Kanen Keikaku* (Temporary Restorations Five Years Plan) for Natural Treasure buildings was implemented from 1948 to 1952. This plan became the prototype of current institution of the Important Cultural Property Restoration Grant.

The society was confused after lost battle and there was a danger that cultural property was being scattered, lost and ruined. At that time, the historic wall painting in Horyu-ji temple built 1200 years ago, a world heritage in Japan, was destroyed by fire. With this as a turning point, a new preservation law, *Bunkazai Hogoho* (the Cultural Property Preservation Law) was enacted in 1950. Three preservation laws before the war, the Historic Sites, Scenic Beauty and Natural Monuments Preservation Law, the National Treasures Preservation Law and the Important Art Objects Preservation Law, were repealed and unified into this law. In this, the designated objects are divided into two grades; *Kokuho* (National Treasure/Grade I) and *Juyo Bunkazai* (Important Cultural Property/Grade II). Subsequently, this law was amended. The first amendment, in 1954, was to state clearly the obligation of conservation to local government and to encourage the enactment of regulation to conserve by local government. The second amendment, in 1968, was to establish *Bunkacho* (the Agency for Cultural Affairs) as the lower branch of the Ministry of Education, Science, Culture and Sport.

- (4) The fourth period (1966-1975): the Ancient Capitals Preservation Law was enacted to preserve historic landscape

In the 1960s, the historic and natural environment were gradually destroyed by urban development. In ancient capitals, such as Kyoto city, Nara city and Kamakura city, a citizen's movement against demolition began. The preservation legislation, at that time, could not deal with the historic environment over a wide area. In this context, *Koto Hozonhou* (The Ancient Capitals Preservation Law) was enacted in 1966. This was a special

measures law to preserve historic and natural environments over wide areas in ancient capitals. City Planning Law was amended at the same time, and *Rekishitekifudo Tokubetsu Hozonchiku* (the Special Preservation Area of Historic Landscape) was established as a new zoning district in city planning area. Such areas were designated in Kyoto city, Nara city, Kamakura city, Tenri city, Kashihara city, Sakurai city, Ikaruga town and Asuka village. The preservation area enabled historic shrines, temples and their natural surroundings to be conserved, but historic streets and villages were excluded, because the central government concluded that it was difficult to make compensation for the loss inflicted by restriction on alteration or restoration or reconstruction of a large number of private properties.

(5) The fifth period (1975-present): the Conservation District of Traditional Buildings was introduced by the amendment of Cultural Property Preservation Law

Sudden urbanization and modernization in the high-growth period since 1960s was increasingly destroyed the features in the historic environment. The Ancient Capitals Preservation Law was applied only to ancient capitals, and even in ancient capitals save historic streets and villages were excluded. Some pioneering local governments enacted their own regulations to conserve historic environment especially in the 1960s and 1970s. In this context, the third amendment of the Cultural Property Preservation Law, in 1975, was enacted to introduce *Dentotekikenzoubutsugun Hozonchiku* (Conservation District of Traditional Buildings - CDTB). City Planning Law was also amended then and the CDTB, a new zoning district in city planning area, made it possible to conserve historic streets. In addition, the CDTB is also be able to be designated to villages outside the city planning area. Almost 100 districts were investigated by central government grants and 46 districts are designated as CDTBs in 1997. The number of CDTB is generally increasing two or three a year.

The major conservation policy, after the introduction of CDTBs in 1975 up to the present, is summarized in four points: landscape correlated regulations was enacted by local governments, not only for conservation but also for improvement and creation when developing, urban redevelopment grant for conservation was introduced, *Kindaikaisan Sogochosa* (Modern Heritage Comprehensive Investigation) was established, and *Tourokubunkazai Seido* (Listed Cultural Property) was introduced. These are summarized as follows.

First, from the 1970s, it was important in historic cities not only to conserve but also to add modern design harmonized with historic townscape when developing. Later a large number of local governments enacted their own landscape regulation that enabled local conservation areas to be designated. Secondly, some types of urban redevelopment grants to conserve historic buildings were introduced by the Ministry of Construction in the late 1980s and early 1990s. Thirdly, though little modern heritage had been designated before, its value was now gradually recognized. In this context, *Kindaikaisan Sogochosa* (Modern Heritage Comprehensive Investigation) was established by the Agency for Cultural Affairs in 1990 and it continues now. In the 1990s, modern heritage, especially in connection with industry and civil engineering, were gradually designated. Fourthly, designation of historic buildings has been limited, because of the shortage of government budget. People who took an interest in conservation, especially local government, architects, planners and local amenity groups, could obtain insufficient information on the alteration or demolition of undesignated historic buildings. In this context, *Torokubunkazai Seido* (Listed Cultural Property) was introduced by the amendment of Cultural Property Preservation Law in 1996 to complement current conservation institution. The above is the major part of transformation of conservation legislation in Japan.

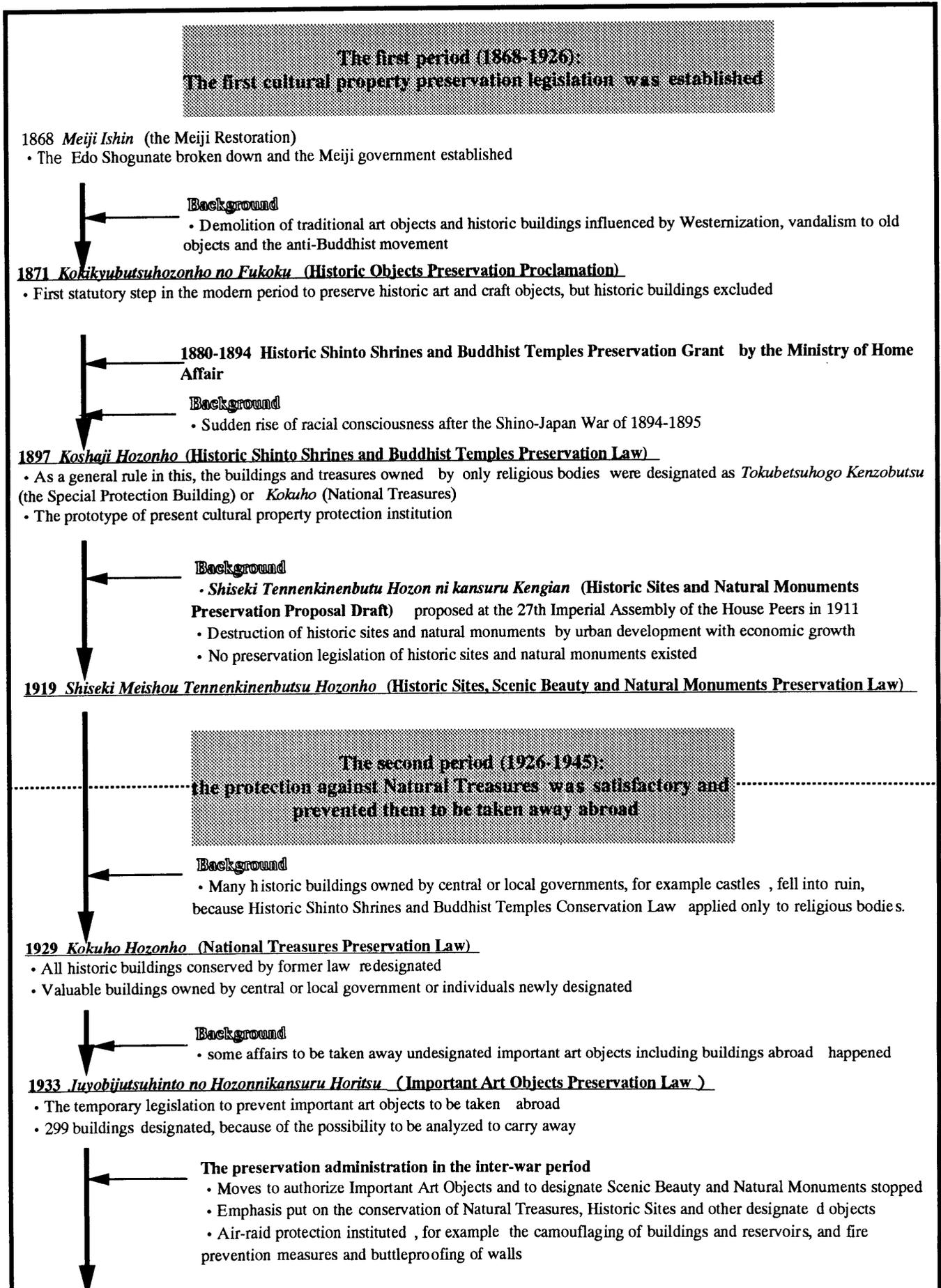


Fig.1 The transformation of conservation legislation in Japan (1868-1945)

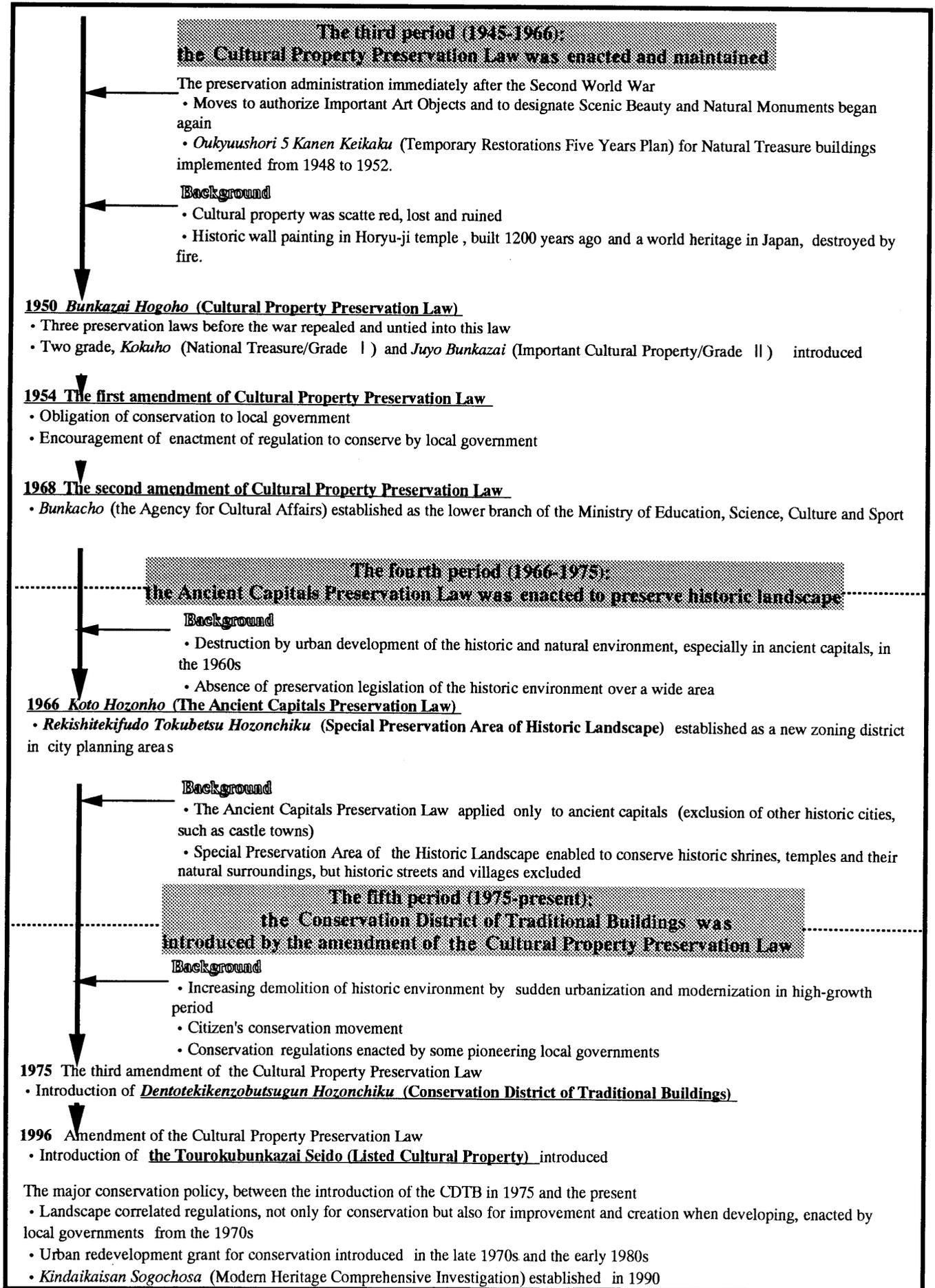


Fig.2 The transformation of conservation legislation in Japan (1945-present)

3. The features of conservation legislation in Japan

(1) The priority of property rights

In Japan, the priority of property rights over all else is enshrined in the Constitution. The major reason why the property rights have priority in the current effective law, the Cultural Property Preservation Law of 1950, is the shortage of central government funding to enable compensation for to be provided for losses of property rights. When an historic building is designated as an Important Cultural Property, it is legally enforceable by the Minister of Education, Science, Culture and Sports. However, in practice, designation is limited to buildings that the owners consent to being designated. It is impossible to designated a CDTB compulsorily. Local government can designate a CDTB with the consent of residents and owners. In Japan, owners of historic buildings designated as both an Important Cultural Property and a CDTB can obtain reduction of taxes, as the compensation for the control. The priority of property rights makes it difficult to conserve private properties. People tend to prefer private benefits to public benefits conferred by conservation.

(2) The policy of concentrating on the conservation of major historic buildings

Since the designation system was introduced in the first conservation legislation on historic buildings, the *Koshaji Hozonhou* (the Historic Shinto Shrines and Buddhist Temples Preservation Law) in 1897, it put emphasis on the conservation of designated buildings. Because of the shortage of central government funds for conservation, the designation was always applied sparingly, and it generally did not relate to undesignated buildings. Besides, as the listed buildings system was not introduced until 1996, it was generally difficult to obtain the information on the alteration or demolition of undesignated historic buildings. In this respect, it is encouraging that local governments now designate buildings as Cultural Property that are undesignated at national level, and *Torokubunkazai Seido* (Listed Cultural Property) was introduced by the amendment of the Cultural Property Preservation Law in 1996 to complement current conservation legislation.

(3) The comprehensive legislation

As mentioned above, before the Second World War three preservation laws were repealed and unified into the Cultural Property Preservation Law. In this law, the Cultural Properties are defined as follows:

1. Tangible Cultural Properties
 - (1) Buildings
 - (2) Art Objects
2. Intangible Cultural Properties (plays, music, applied fine arts etc.)
3. Folk Cultural Properties
 - (1) Tangible Folk Cultural Properties (the manners and customs, and folk art related to food, clothing and shelter, livelihood, religious faith and annual events etc.)
 - (2) Intangible Folk Cultural Properties (Clothes, instruments and buildings used by the events related to Tangible Folk Cultural Properties)
4. Monuments
 - (1) Historic Sites
 - (2) Areas of Scenic Beauty
 - (3) Natural Monuments
5. Conservation District of Traditional Buildings

This legislation facilitated conservation both of tangible and intangible properties, whereas in West

European countries conservation legislation for tangible and intangible objects has been enacted separately. In contrast, the Cultural Preservation Law includes comprehensive objects. The fact that the Tangible Cultural Properties, for example buildings, monuments, and the CDTB have been combined with intangible properties reflects a tendency in Japan to view culture and cultural objects as interrelated.

4. The key present issues

(1) The small number of areas and buildings conserved

Almost 3,300 buildings have been designated by central government as Important Cultural Property - 1,900 buildings by prefectures and 5,600 buildings by cities, towns and villages. The number is gradually increasing each year, but the total is markedly less than in England, which has more than 440,000 buildings designated to date. Similarly, in the case of CDTBs, only 46 have been designated by local government and although the number is increasing two or three each year, the total is obviously much less than in England, which has been more than 8,000 conservation areas designated. It is therefore important to increase conservation, especially the conservation of modern heritage, for example modern architectures and structures connected with industry and civil engineering.

(2) The conflict between the needs of the town planning side and those of cultural property preservation in central and local government

In Japan, City Planning Law is under the control of the Ministry of Construction, and the Cultural Property Preservation Law is under the control of the Ministry of Education, Science, Culture and Sports. There has been conflict between the town planning side and cultural property preservation side in central and local government, especially during the growth period of the 1960s. The Ministry of Construction, the department of planning in local government, and the economic world generally preferred redevelopment of the historic environment to conservation at that time, and the Agency for Cultural Affairs, the lower branch of the Ministry of Education, Science, Culture and Sports, had not enough power to argue against the Ministry of Construction about conservation then. When the CDTB was introduced by the amendment of the Cultural Property Preservation Law and City Planning Law in 1975, the Ministry of Construction recognized the CDTB as a new zoning district in the city planning area, but they were not initially active for designating the areas. Since the 1980s, the Ministry of Construction has instituted urban redevelopment grants for conservation, and the relationship between the two ministries is gradually improving now, but it is still the biggest the problem in Japan.

5. The influence of West European countries

When the CDTB in 1975 and Listed Cultural Property in 1996 were introduced, the conservation legislation in some West European countries, especially the United Kingdom, France, Italy and Germany was investigated by Japanese researchers. Because of the difference in social system, history and culture, it was difficult to introduce directly, but it was obvious that some West European conservation legislation including United Kingdom (especially England) was relevant to Japan. Japanese conservation legislation influenced that in the East Asian countries of Korea and Taiwan. And now, there are many requests from other Asian countries to Japan to cooperate in conservation projects.

6. Conclusion

The first conservation legislation on historic buildings in Japan, *Koshaji Hozonho* (Historic Shinto Shrines and Buddhist Temples Preservation Law) was enacted in 1897. Then three laws were enacted in the inter-war period. After the Second World War, former laws were unified into the present effective law, *Bunkazai Hogoho* (Cultural Property Preservation Law) in 1950. As this law could not cope with area conservation, *Koto Hozonho* (The Ancient Capitals Preservation Law) was enacted in 1966 and *Dentouekikenzobutsugun Hozonchiku* (Conservation District of Traditional Buildings) was introduced into Cultural Property Preservation Law in 1975. Conservation legislation in Japan can be divided into five periods. In the first period (1868-1926), the first cultural property preservation legislation was established. In the second period (1926-1945), the protection of Natural Treasures was made more satisfactory and prevented them from being taken abroad. In the third period (1945-1966), the Cultural Property Preservation Law was enacted and maintained. In the fourth period (1966-1975), the Ancient Capitals Preservation Law was enacted to preserve historic landscape. Finally, in the fifth period (1975-present), the Conservation District of Traditional Buildings was introduced by the amendment of the Cultural Property Preservation Law. Three features of conservation legislation in Japan are the priority of property rights over all else are guaranteed, the policy of concentrating on the conservation of major historic buildings, and the comprehensive legislation. The key present issues are the small number of areas and buildings conserved and the conflict between the town planning side and the cultural property side in central and local government.

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