

An Evaluation of the Capacity of Legal System to Facilitate Urban Development Program: The Case of Kwangju Squatters Relocation Program

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I. Introduction*

It was in the Spring of 1966 that the Special City of Seoul seriously began to think about the squatters as one of the major problems of urban development process. In April of 1966 Mr. Hyon-ok Kim was appointed the Mayor of Seoul; no sooner was he appointed than he announced that he would put more than 50% of the city's budget into "urban development projects." This signified a revolutionary departure from the tradition of the City administration in which almost 70% of the total budget had been spent for administrative operational expenditures. Within half a month since his appointment, the new mayor started six pedestrian under-passes and over-passes in the center of the city, extensions of five major arterial roads from the center into

outlying suburbs, and extensions of water pipelines into selected suburban communities. This is not only a speed but also a scale of work the city administration had never experienced before.

The Mayor, however, immediately found out that, wherever his "development projects" went, there were hundreds of squatter-dwellings to be cleared for other works to proceed. The new mayor's first reaction to the squatters was simply to apportion some tracts of publicly owned lands, mostly on the hillsides near the city center, for the squatters to relocate.

Thus, the City's initial encounter with the squatters was rather happenstantial. But by the summer of 1966 when hundreds of squatter dwellings alongside the Han river shore were swept away by one of the worst floods Seoul had ever experienced, squatter-housing as a whole became

* A great deal of information for this report was gotten through the writer's personal interviews of many people, including the government officials, real estate brokers, and the squatters, who did not want to be quoted: It is to respect their wish that the writer could not identify every source of information in the footnotes.

a serious political issue. A national election of both the President and the National Assembly was scheduled for May 1967. Prospective candidates in the election of both parties started to interfere with the city administration concerning the squatter-constituents.

During this period the mayor stopped all actions regarding the squatter-dwellings: and his staff were ordered to stop all clearance and relocation of squatters until a comprehensive study and planning was to be done. Politics for the national election had won a temporary victory by pressuring the city administration to keep the squatters from being cleared and relocated.

Whatever the cause of the mayor's sobriety vis-a-vis the squatters since the summer of 1966, a new phase of squatter housing policy was entered in the minds of the city's decision-makers since late 1966. They began to think about the program as a whole and try to formulate a squatter-housing policy as a separate package. For the first time a survey of total number of squatter-houses in the city was conducted.

It was found that, as of the end of 1966, the total number of squatter-houses in Seoul were 136,650 for 1,270,358 people and 233,535 families.⁽¹⁾ In the same year the total population of the city was estimated to be about 3.8 million. This is to mean that almost one-third of the city population were living as squatters. It also indicates that some 60% of the net population increase of Seoul in the period of 1956 through 1965 moved into squatter-dwellings. We also learn from the city's survey that the number of squatter-houses had almost tripled within five years since 1961,⁽²⁾ the rate of which is much higher than that of the over-all population growth of Seoul (6~8% per annum).

It was in consideration of such an order of magnitude of the problem that the City of Seoul formulated a package of squatter housing policy containing three alternative strategies: (1) to "legalize" the squatter-housing as they had been; (2) to redevelop by building multi-storied apartments on the spots where they had been, on a partial subsidy of the costs by government; and (3) to develop a new town in the suburb of Seoul to clear and relocate the squatters from Seoul. All the three programs were more or less to be implemented simultaneously. Adopting these three different programs in a package of squatter housing policy was based on the judgment that, in view of such a magnitude of the problem as above, no one program could feasibly meet the needs of the whole.

Largely on the basis of project-costs saving consideration, 46,000 housing units were decided to be "legalized"; about 14,000 housing units were to be demolished to be replaced by the "apartments"; and finally, about 76,650 houses were selected to be cleared and relocated into the new town.⁽³⁾

As our subject of inquiry is the third program, i.e., the new town project, the first and the second programs are to be outlined only very briefly in regard to the final outcomes.

First, "legalization" was not designed to do anything much more than giving building permits retrospectively after a certain degree of rehabilitation, for which the City subsidized approximately 50~70 dollars per house. As for those squatter-houses on privately owned lands, the rental arrangements of the lands with the owners were left to be worked out between the two contractual parties.

At any rate, this program did not last long enough to assess the final outcome. It was

(1) Graduate School of Public Administration, S.N.U., *Administrative Cases*, 1970, p. 97.

(2) *id.*, p. 96.

(3) Source: The Special City of Seoul, Bureau of City Planning

evaluated later as the least successful of the three. No sooner was the legalization program announced than a great number of new squatters sprang up around the area in expectation of legalization. At one area surveyed by the city, some 1,000 new squatters were built within a month since the announcement of the program. Thus, the program as a whole was dropped in less than a year since its inception, right after the national election.⁽⁴⁾

The second program, i.e., apartments projects, has left a longer lasting impact than the first one. Unlike the first one, it did not legalize the squatter-housing as they were but demolished them to build entirely new structures of housing. Thus, new squatters did not dare to come in the area only to be demolished.

Nature of the joint financing was in the form of city governments's building the frames of the apartments and squatters paying the costs of filling the interiors. About 400 apartment buildings were built within two years since the beginning of the project. By late 1969, however, the rush of work began to be stalled by a series of events. A number of complaints began to be heard about faulty workmanship, such as leaking ceilings, broken water pipes, and dangerous foundations. Another obstacle was that the city could no longer find the lands to build more apartments on. After the first year portion of the project, the city had used all of its own property including some parts of municipal parks. It had then to depend on private property, which the owners were not too willing to sell to the city on the city's terms. The city tried to persuade other government agencies as well to allow their lands around the area to be used by the city but this was not successful, either.

In addition to such difficulties, indeed an unexpected tragedy befell the program; a whole building of one of the 406 apartments containing fifteen households fell apart in one morning of 1970 spring! Thirty-three persons were killed and forty odd others were injured. The whole city was in uproar against the apartment program. The entire program was criticized as nothing more than ramshackle. Loud cries were demanding that the "bulldozer" mayor should be held responsible for the tragic accident. The mayor eventually resigned.

The "bulldozer" mayor gone and with a new administration in the city hall, the Apartment Program was dropped. According to a recent newspaper survey of the status of this program, about 50% of the total dwelling units of the 406 apartments already built before the time of program termination are occupied by others than the squatters originally entitled to occupy them.⁽⁵⁾ The arrangements are either leases from the squatters or an transfer of titles.

Thus, the only survivor today of the three programs of squatter-housing policy is the new town development, which is for only 76,650 squatter-houses out of the total of 136,650 as of the end of 1966.

It was in such a context of overall process that the City of Seoul conceived and implemented the new town development program. For our purpose, however, of evaluating the real worth of the new town development program as *the* response by the government to the squatter housing problem, we need to add more to the background in reference to the overall urbanization trend of Seoul. It is to have a contextuality in our evaluation of this particular program in reference to its real impacts on the target population and to

(4) Demand for "legalization" is still sporadically raised to the city government, although the present administration has not been responsive to it since 1970.

(5) *Dong-A Ilbo*, May 9, 1972, p. 3

the nature of the problems as they are in reality.

Nowhere else in the world today is the rate of urban growth so rapid and intense as in the City of Seoul. The current trend of urbanization has started since the cease-fire of Korean War in the mid-50's. Seoul's average annual population growth rate since 1956 is estimated to be some 7-8%. Taking this annual average growth rate, one million or more population have been added to the city every three years since the population reached 3.8 million mark in 1966. And there is yet no indication that the growth rate will level off in the near future.

Out of 7-8% annual population increase, only a very small portion comes from natural growth, namely, less than 1.8% per annum since 1965. Thus, the main source of population increase in the city is immigration from other parts of the country. And surveys show that almost 80% of the immigrants indicate economic motives for coming to Seoul.⁽⁶⁾ And a majority of them are coming from rural communities, whose per capita income has increased but 130% from the period of 1965 through 1970 while the average urban community's per capita income has increased almost 240% in the same period.⁽⁷⁾ Coming into such an income gap even in terms of an average figure, it is not unreasonable at all to assume that the single most difficult problem the immigrants face when they come in to the city is housing.

In many cases, squatting may be the only answer in the city where the land price has increased at an average rate of 27.6% per annum since 1960⁽⁸⁾, twice as much as the general commodities price index increase rate. Besides, it was only in the mid-60's that the arterial transportation lines in the city began to be extended from the center beyond three km. radius ring, so that many of the immigrants at the time when there had already been some three million population had to settle near the center of the city where the land prices were prohibitively expensive for them to legally afford. The housing market of the city as a whole has not improved significantly for the past ten years, either. As of the end of 1971, about 52% of the total number of families have to share their houses with other families.⁽⁹⁾

These are the kinds of facts and trends that have been generated and will continue to exist over a long period of time. These are also the trends that have been generated and will be generated in the process of nation-wide structural transformation of economic and social institutions.

According to the city's own survey of the trend of squatter housing conditions since 1961, the number of squatter-houses have continuously increased; so has it been even after the massive squatter housing programs of 1966 including the new town development program were implemented. See the following table:

Annual Increase of New Squatter-Houses

until 1961	1962	1963	1964	1965	1966	1967	1968	1969
55,887	19,254	15,364	17,727	20,412	8,006	55,721	36,480	40,214

Source : The Special City of Seoul, Bureau of City Planning

(6) Tai-Joon Kwon, "Staging the Development of Seoul for the Future," *Korean Journal of Public Administration*, Vol. VII, No. 2, 1969, pp.357-359

(7) *Dong-A Ilbo*, Dec. 30, 1971, p.2: Transcription of the Economic Planning Board's Report on the progress of the 2nd five year Economic Development Plan.

(8) Source: The Korean Appraisal Board, *National Land Prices Survey*, 1970.

(9) *Dong-A Ilbo*, Dec. 30, 1971, op. cit.

Some 250,000 population clearance and relocation in the face of 100,000 to 200,000 new squatter-population every year for the past ten years to come is only a very meager venture to cope with the whole problem.

II. Objective and Scope of Study

(1) The objective of the present research is to evaluate the modes of interaction between "legal system" and government planning and development activities compelled by rapid urbanization. A hypothesis in the study is that there is a lag between the legal system and the needs of planning-development activities to cope with the rapid urbanization process. We are to find out such a lag; and the degree and types of lag as we find is to be the basis of our own evaluation of the capacity of the legal system to facilitate urban development.

As stated in the foregoing section, the residential squatting phenomenon in Seoul is no doubt the most illustrative case of rapid urbanization today in Korea. And fortunately for our purpose, the government has responded in a massive scale to the squatting problems at the time of our research. The Kwangju Resettlement Project is indeed a live case of the kind of interaction between law and the government planning-development activities compelled by rapid urbanization.

(2) To anybody who attempts a sociological survey of law in action, however, the fundamental problem is how to define the "law" to observe in the field. Should the law be observed as it is codified, i.e., "written" down in the official document of laws? Or, should we search beyond the code-book for empirical evidence of conformity of participants behaviors in reality? The trend today in academic circles is in favor of the latter. Harold Lasswell for one suggests to define

"law" in terms of "authoritative and controlling *expectation*"⁽¹⁰⁾ about who, acting how, is justified in making enforceable decisions." This definition suggests that we should focus our attention on some sorts of psychological elements in the minds of people to find out what the law is and how it operates. It further assumes that there is a stable set of norms of conduct in a society that provides the basis for individual *expectation*.

However, in a society where we assume the underlying norms of justification are unstable or in flux, defining the law as commonly shared norms of expectation may not be a fruitful way. There is the dilemma of defining "law". One cannot trust what is "written" down as to its real meaning, exactly because the unwritten underlying norms of reality are in flux. By the same token, one may not take the "expectations" of individuals as the law, as they are not shared by many and so ephemeral.

But this dilemma may indeed explain the reason why so many new laws are *written* down in order to establish authorities anew in the modernizing societies today, even though most of them become obsolete or forgotten by many so soon. That is, the ritual of "writing" them down in official documents is so significant that the real expectation may be that a law *by being written down* can create such expectation as Lasswell meant to say. At least this is our assumption in this study; and therefore we prefer focusing on the "written" laws.

(3) As this is a problem-oriented evaluation of the legal system, we need to have a conceptual framework of defining the problems, within which we define the boundary of relevant legal system as well. The conceptual framework is a sort of cut-off horizon of inquiry into the problems in reality on the one hand for the expediency of our

(10) Harold Lasswell, *A Preview of Policy Sciences*, New York: Elsevier Pub. Co., 1970, p. 99

research work; and it is also to organize seemingly unrelated events as occurred into a discrete set for our analysis.

First of all, we limit our inquiry to the governmental intervention. That is to say, we are not to go to what had happened to the squatters problem before the City of Seoul government initiated the idea of the Kwangju resettlement policy, except the brief descriptive outline of the flow of major events as included in the foregoing section. Thus, our initial point of inquiry starts from the inception of the idea for the Kwangju policy on the part of the Seoul city government. Our final phase is the set of events that we could observe in Kwangju concerning the government's activities to manage the projects as implemented and to control the resettlement process as planned.

Between the inception of a proposal and its ultimate implementation, we conceptualize the events as discrete sets of overlapping temporal stages that lead to the final outcome of resettlement. The temporal stages are: (1) *Inception of the Proposal* (2) *Designing the Plan* (3) *Institutional Sanction* (4) *Resources Mobilization* and (5) *Control*.

For (1) through (3), our focus of inquiry is on the *scope of participation* by different groups of people from in and outside of the government and their *relative leverages* in shaping the final outcome as it is today. For (4), it is on the *criteria* as adopted by the policy makers in *allocating the resources* necessary in order to produce the outcome. And finally for (5), our focus is on the *effectiveness* of different control measures the government employed to achieve the objectives of the projects as it was intended.

In terms of legal institutions, provisions for participation can be identified as provisions of

authority and of *modes of operation* thereof. In other words, "who, acting how, is justified in making" particular decisions is the form of provision of participation in terms of law.

The second issue, i.e., criteria of resource allocation, in terms of law is of *provisions for "rights" and "obligations" of different participants and beneficiaries in sharing the outcomes of the program as well as sharing the necessary costs* of the planning-implementation process.

The last one, namely, effectiveness, is in reference to the legal *provisions for enforcement of various control measures* by the government in order to achieve the objectives of the projects.

III. Participation in Planning

1. Inception of the Proposal

Our interviews with the participants in the planning process indicate that the initial inception of the idea of new town development for squatters relocation came from the then mayor of the city.⁽¹¹⁾ It was only after about two months since his appointment in 1966 that he ordered the City Planning Bureau to study and plan on the possibility of acquiring some land in the outskirts of Seoul and build a new town for the squatters resettlement. The mayor's directives for planning was such that an initial action should take place before the winter came. Thus, there were only about four to six months (the mayor had been appointed in April of 1966 and the winter would come around December) for his planning staff to study the problems and prepare a plan.

In view of such a time span the mayor allowed for a plan to be generated and initiation of implementation to be undertaken, one cannot but presume that no formal hearing for any length

(11) This was further confirmed by the mayor himself in our interview after his resignation,

of time on the proposal and the plan thereof had been anticipated by the city government.

Any system of law intended to secure greater public participation in the process of planning must begin with the problem of notice. Unless there is some way that interested persons can find out about proposals before they are adopted, intervention will usually come too late. On the other hand, however, the problem of notifying the interested persons about any proposal of such a scale as the Kwangju project is complicated by two important factors: One is the problem of how to control the premature speculation on anticipated sites of development, which may upset any program feasibility even before planning; and the other is to define the boundary of interested participants.

It was almost a consensus of the planners in the city government that any form of information leak substantially prior to the adoption of a plan to the public would make the plan economically unfeasible for implementation in Seoul. The planners in Seoul were not much concerned about the second problem, i.e., the definition of interested persons to be informed so much as the first problem.

Considering the fact that the government is the only major land developer outside the already congested area of the city where the pressure of the tremendous rate of recent immigration has to be induced into, one may never foresee what kinds of impacts a piece of information about the government's intention will have on the land prices of the possible sites of a development project. The land price increase rate in Seoul as a whole in the past ten years has been some 27% per annum. This average figure includes the price changes in the already congested areas of the town where the price changes have been more or less stabilized. Thus, the lion's share of the land price change comes from the outskirts

of the city, where the particular squatters relocation as envisioned was included. In such a context, one could not dismiss lightly the planners concern for not disrupting the chance of economic feasibility of the plan by making it public at an earlier stage.

It was a deliberate policy on the part of the city's planning staff and the mayor to keep the proposal secret until the last moment. Fortunately for the city's planning staff and the mayor, there was no provision in the law of planning that requires the *proposals* to be made public, nor to notify to any particular group of interested persons including those who would be directly affected by the plan implementation.

It would indeed be rare to find any legal system that requires the preparation of a plan to be made public or to be notified to interested parties. The ordinary pattern is rather to require the government to prepare a master-plan and make the *plan* public or to present it to a hearing before interested persons.

The point here is, however, that virtually nobody, except the mayor and his handful of planning staff, participated in formulating specific proposals of the plan, even as a matter of political process. The city's administrative measures to keep the proposals under cover until the legal sanction of the plan could not have been as effective as it was, if there had been a municipal legislature elected by the constituents of the city including the people to be affected by the program. That is to say, there was no regular channel of the general constituents political pressure for information or bargaining. Hence, insofar as the planning law does not specifically provide for channels of participation in the early stages of planning, nobody can as of right intervene in the process.

There was, however, a sudden, accidental turn of the events in the summer during the plan

preparation. It was the dreadful monsoon flood that brought about the turn. It was one of the worst floods Seoul had experienced in recent years, that swept away hundreds of squatters alongside the Han river shore; and thanks to this natural catastrophe, the squatters' problem became the hottest political issue from that moment until the national election in early 1967.

Prospective candidates in the election of both parties started to interfere with the city administration's resettlement planning process. Most of the politicians were in favor of leaving the squatters where they used to be. Responding to the pressures from the politicians, the central government also through the Ministry of Home Affairs (the national election administration agency) pressured the city to leave the squatters as they were at least until the next spring.

On the other hand, newspapers, perhaps the sole media of "public opinion" in Korea, started accusing the city administration of not presenting "permanent solutions" to the squatter problems. Interestingly enough, unlike the politicians the general tone of the news media editorials then was that the squatters should be cleared away from the face of the city.

If we are to compare the sensitivities of the politicians as candidates in the coming election and of the news media to the immediate demands of the squatters, the bet would better be placed on the political candidates.

We could not find any information that squatters organized themselves to take advantage of the opportunities of participation either via the candidates or the news media. The dominant pattern was rather that the election campaigners went out in the squatter-quarters to poll the attitudes of the squatters and related them to the city administration in barter of their votes.

This form of participation was indeed effective for at least a while. The mayor of the city

stopped all the actions and planning regarding the squatter problems until the national election. Official reason for the suspension of work was that a more comprehensive study of problems was to be done. Indeed, the mayor's planning staff members gained a bonus of relief from the pressure of work as previously directed; and they recall today that they had a little more time to study the problems better. The planning work of course eventually resumed after the election and the plan was completed by late 1967.

In this brief episode of participation, we see two issues of law: One is that, even without specific provisions for participation in the planning laws, the democratic constitutional process may effectively facilitate participation by citizens in a planning process. The other point goes to the question of democratic structures, i.e., the problem of organization of the constituents and the relationship between the political offices and the planning administration.

The two issues are of course interrelated. The short life of citizen's participation in Seoul's squatters resettlement planning, though very effective, can be assumed to be due to the lack of any organization on the part of the participants; and also, the fact that the political pressures from the election candidates did stop the whole process of planning, though temporarily, but did not appear to have any long lasting constructive effects after the planning was resumed, may be due to the nature of legislature designed for planning, that the legislature would perform only general functions of arbitration and oversight and the remainder of its work would be carried out by specialized agencies of the administration.

In the case of present day Korean planning process, any adverse effect of the second issue can be aggravated because of the fact that there is no local legislature which can keep a constant channel of communication with the administration.

Any further evaluative statement concerning the two issues of participation is left over to the concluding part of this report. But one point here to make with respect to the relationship between the legislature and the planning administration is that, even assuming there is a local legislature, the present laws of planning in Korea, or perhaps anywhere else, are far from sufficient in linking the political process and the planning administration. As far as the present City Planning Law of Korea, which bears upon the particular process we are dealing with now, is concerned, the only requirement is that there be an *advisory* hearing of the plan before the Local City Planning Committee that consists of "*experts*" in and from outside of the administration.⁽¹²⁾ As the practice and expectation of recruiting any outside members of the advisory committee has been in favor of solely professional credentials of one's expertise in the field of "planning", this group cannot be expected to "represent" a wide list of values, beyond the consideration of technical feasibility. Besides, this writer was not able to find any piece of in-depth studies about the conditions of the squatter communities either by any of the advisory committee members or any other researchers during or before the public controversies over the city's resettlement policy. That is to say, there was no basis of knowledge upon which we could expect even some degree of personal sensitivity from the members of the advisory committee to the wider spectrum of interests and values involved.

2. Designing the Plan:

Participation and Criteria

We have already dealt with a part of the designing process in terms of who participated in materializing the idea of the specific relocation

program. Here we are to examine the planners' perception of the problems and the kind of information collected and input into preparing the plan.

The planners' perception and approach in surveying the problems seem to have been affected very much by two considerations: that is, one, political feasibility in terms of the immediate past's pressures of party politics and the other, economic feasibility in terms of the city administration's capacity to mobilize necessary resources for the plan implementation. It was the writer's conclusion from various interviews with the members of the city's planning staff that they were more constrained by the latter consideration than the former.

The most basic information they collected consists of numerical breakdown of different categories of existing squatter-houses on the basis of physical and legal conditions and the total number: As of the end of 1966, the total number of squatter-houses were found to be 136,650; and they were classified into three different groups in reference to (1) legal status of the lots, i.e., public or private; (2) year of construction; and (3) the quality of construction materials.

Information (1) and (2) was deemed necessary for determining which ones to clear and the time schedule of clearance. This survey was based on the decision made at the mayor's office that not all the squatters would be cleared but a part of them.

As far as we could identify in the interviews with the city's planning staff, the reason why the information about the legal status of the land, i.e., public or private, on which the squatter-houses were built, should be the basis of decision for clearance and the order of timing thereof was not quite clear. The decision in fact was made to

(12) The City planning Law, as amended Jan. 19, 1971, Art. 75

the effect that those on the public land should go first. Interestingly enough, there was little evidence of private landowners pressuring the city to clear the squatters on their land first. Some suggested that the decision to clear the public land first was prompted by the need that most of the city's public works within the city boundary were undertaken on the publicly owned land. In other words, the squatters resettlement program was to help other public works projects of the city by clearing the sites therefor.

The second set of information, i.e., when the houses were built, was to respect the "vested interests". This vested interests consideration has a great deal of political and social implications as for the feasibility, political as well as economic, of the resettlement program. Politically, it was to safeguard the credibility of the government. That is, in the past, including the immediate past of the election year, the city government has frequently raised the expectation of the squatters, to be allowed to stay where they had been, by various political gestures, which used to be called "legalization measures." Socially, those who had been there for longer period are the ones who are more settled ones in the community and usually have more stabilized economic conditions as well as better physical conditions of the housing.

The third set of information, i.e., the quality of the housing materials, was to determine the

possibility of rehabilitation for those squatters which were not to be relocated or demolished.

No further surveys other than the three sets of information were conducted at least for deciding which ones to be relocated and which ones to stay.

Physical design: The new town was designed as a self-contained, full-scale city, including school system from primary to senior high schools, all the necessary public utilities facilities, and sufficiently large-scale industrial estate aiming to employ all the labor force in the town. The residential use area was divided evenly into some 720sq. ft. for each housing lot.⁽¹³⁾

The design of such a self-contained town was to achieve the objective of dissipating the population of Seoul proper into the new town and not just to make a bed town of Seoul. The industries in the industrial estate within the town were expected to employ 42,000 workers by 1974 from among the residents of the town. As the target population of the town was 350,000 and if we divide them by five person-family units, some 60% of all the families of the town will have at least one person to be employed in the industries within the town.

Clearance and relocation was to be carried out in a spread of a five year period starting from 1969 as in the following:⁽¹⁴⁾ The remaining some with the physical facilities projects construction and predicted job opportunities is also carefully

	1969	1970	1971	1972	1973	Total
Households	3,500	11,500	20,000	15,000	5,650	55,650
pop.	20,000	55,000	100,000	75,000	28,000	278,000

70,000 population out of the target 350,000 were to be filled by voluntary movement of people into the town, including those who would come to do

business in the commercial zone and in the industries.

Synchronization of the population movement

(13) The Special City of Seoul, *Kwangju Area Development Project Plan*, 1968, p.13

(14) *ibid*, p.6

considered.

If there had been any difficulty with respect to feasibility of the synchronization, it would have been in relation with the job opportunities. Most of the other urban facilities were to be built by the government itself; and, therefore, it was of synchronizing with the government's own public works programming process. But the industries were only to be "induced" by the government by the help of the private sector.

It was conceded by the city planners that, at the time of planning, there was no definite means of inducement of the private sector industries except selling the land for a relatively cheaper price to them, providing one or two utilities facilities and/or a partial subsidy of finance out of a relatively small fund the city government manages for supporting the small-medium industries in Seoul.

At the time of planning, the national government had under consideration a national legislation for regional industrial distribution, which was eventually adopted by the National Assembly in 1970 under the title of Local Industrial Development Law. However, planners at Seoul city were not yet certain of the full implications of the proposed legislation then. In other words, proposal itself was not enough to provide a minimum degree of certainty for the future of industrial inducements policy.

At any rate, this is a good example of the problem of having a minimum degree of institutional stability of the control mechanism of the private sector's market as a prerequisite of effective planning in collaboration with the private sector. A similar problem will be discussed later in regard to the government's control of land market in the Kwangju project site. The issue involves two critical problems in planning a

large-scale development project: one is that of "tooling-up" the necessary mechanism of the kind of institutional stability prior to a planning process and the other is that of distributing and coordinating the responsibilities of such "tooling-up" among different levels of government.

Distribution of development benefits: This facet of planning involves establishing a set of proper criteria of how to allocate the costs and benefits of the Kwangju development projects among different groups of population involved in the projects. A part of the issues will be discussed later in connection with the financing stage; and here the focus is on the benefits distribution side.

First of all, the plan in itself clearly indicated that the lion's share of the benefits from the project should go to the relocated squatters. The residential land to be developed by the government would be sold to the relocated squatters rather than distributed free, only in order to defray the very minimum cost of development. It was planned to charge only such expenses of development as (1) the land purchase cost, (2) housing lot development cost including the utility lines construction and the access road; and (3) "administration cost". Among these three items of cost, the first land cost was expected to outweigh the other two items; therefore, every effort was to be made to pay the cheapest possible price in acquiring the land. This was to have the farmers who had owned the land, to bear the cost to a greater extent than anyone else. As we have discussed earlier, because the plan including the location was not known to the public until the last moment, the original landowners of Kwangju, mostly farmers, had not had any chance at all to raise their land prices in expectation of the development values to be accrued to their land.⁽¹⁵⁾

Depending on specific locations of individual

(15) The landowner-farmers were paid about \$1 per 36 sq. ft. ("pyong") in their sales transaction with the City.

lots, the land purchase cost eventually turned out to take about half to a little more than one third of the total price charged to the incoming squatters.

Another group which were given the same kind of preferred treatment are the industries. The price of the land to be sold to the industries was also determined on the same criteria as applied to the relocated squatters, although the absolute amount of the price was of course much higher for the industries because the cost of development of industrial estate was much higher than that of a housing lot.

On the other hand, the commercial lots users and voluntary settlers were to be charged on the basis of "on-going market" prices whatever it would be at the time of bidding.

It was also planned that, for the relocated squatters and the induced industries, installment payment would be allowed; but not for the commercial users and the voluntary settlers. The latter two groups were also to bid for the purchase in competitive bidding, whereas the relocatees and industries were selected by the government.

Not unlike any cost-and benefit sharing scheme of public project, this facet of the Kwangju development program is very much tied with the financing facet of the planning process, which we will deal with later in a fuller scope. It is this writer's overall conclusion that the benefits distribution scheme was determined by the financing constraints of the city government more than anything else. This conclusion is confirmed through investigation of the implementation process of the benefits distribution to the relocatees, which

eventually distorted a great deal of the overall objectives of the plan.

3. Institutional Sanction:

Authority and Participation

This is a stage in the Kwangju planning process where the written law is explicitly invoked. The invocation is in regard to the authority to sanction the plan as to its legal status. The written law that directly bears upon this facet of urban planning process in Korea is a national legislation called the City Planning Law. This Law gives the authority to sanction a city plan to the national government's Ministry of Construction, i.e., Minister thereof; and this authority of the Minister of Construction is shared by the Central City Planning Council at the Ministry in such a way that the Central City Planning Council shall review the plan as submitted by local governments and pass it by a majority vote before the Minister may decide to pass upon it.⁽¹⁶⁾

As this institutional sanction process is divided between two tiers of government, it involves more than a ritualistic procedure, although there is no local legislature which may complicate further the sanctioning process in terms of party-and constituents involving politics. It is especially a critical process when it is a matter between the Special City of Seoul and an agency of the national government: between the Special City of Seoul and an agency of the national government, the relationship is more of a rivalry than supervision-subordination both in terms of law and politics. The Special Measures Provisions of the Local Government Law provide for the Seoul City

(16) The City Planning Law (1971), Art. 11: Under the provision then in force, however, it was not clear whether the local government has the authority to "prepare" a "city plan." It was construed by the national government that the plan "preparation" authority also belong to the Ministry of Construction but may be subdelegated to the local government by the Minister. Art 11 of the Law as amended in 1971 explicitly provides that the local government has the authority to "prepare".

to have a special status among the local governments: that is, the Special City of Seoul is free from supervision by individual agencies of the national government in regard to individual programmes or activities, unless otherwise provided by national legislations, and subject only to *general* supervision by the Office of the Prime Minister.⁽¹⁷⁾

"City planning" comes under the purview of "otherwise provided" by law; and thus the City is subject to the Ministry of Construction's specific supervision. But even here, the question is not so simple: the city government and the Ministry have often been in disagreement on the exact meaning of "city plan" as applied to specific projects. Both the old and new City Planning Law have a comprehensive list of urban facilities the design of which is defined as "city plan."⁽¹⁸⁾ But the list is indeed so "comprehensive" that any governmental programs aimed at improving the lives of citizens may be made subject to Ministry of Construction's supervision and thus, inevitably is raised the question of jurisdictional boundary regardless of theoretical validity of particular legal definition of "city plan."

Regarding the Kwangju development program, however, no such jurisdictional dispute was raised by both parties. It owed to Seoul City's willing submission to the Ministry's approval of the Kwangju development plan under the City Planning Law.

We were not of course able to read the mayor's mind for submitting to MOC's control without much ado in this particular case. We only suspect that, as the program itself was such a tremendous scale that the mayor would have decided not to

antagonize any agency which could give any support later in the implementation process or that he was confident of no complication in getting the MOC approval, perhaps since the plan was very much supported by the President of the Republic. There was another more realistic view among the planners in the city that, since the Land Expropriation Law requires any governmental project to get the Ministry of Construction's approval⁽¹⁹⁾ on the project proposal in order to exercise the eminent domain power and also, since the City Plan approval is deemed by the Law as to the same effect of the project approval for the eminent domain procedure, it was as if "to kill two birds with one stone" and to expedite the eminent domain proceeding later, if necessary.

Whatever the real reason may have been, the Ministry of Construction's approval, including the Central City Planning Council's, on the Kwangju development plan was handed down with no difficulty at all on May 7, 1968. In fact, the whole proceeding in the Ministry of Construction was completed within a week.

1968 was the time when the Ministry of Construction was very much involved in nationwide regional development planning, including the Seoul metropolitan region. Planners at the Ministry of Construction still complain that the City of Seoul never even had told them about what was going to happen, let alone consultation with the Ministry regarding regional development planning.

In fact, as of May of 1968 even before the Kwangju development plan had been submitted to the Ministry, the city had already decided on the specific location of the site of the projects and the prices to pay to the landowners. The location

(17) The Special Measures Law for The Special City of Seoul Government, as amended Dec. 14, 1963, Art. 3

(18) The City Planning Law (1971), Art. 2

(19) The Land Expropriation Law, as amended Jan. 19, 1971, Art. 14 and the City Planning Law (1971), Art. 30, Sec. 2.

of the land and the prices thereof were known only to two or three officials of the city, including the mayor himself. Besides, a tremendous political pressures was exerted on the Ministry of Construction to help pass the Plan as fast as possible.

All this clandestine operation and pressure was explained later as necessary measures to keep the land from being exposed to uncontrollable speculative activities. As we have discussed earlier, the land price in the project area was indeed successfully *frozen*, with no aid of legal provisions, at least until the initial purchase by the government.

VI. Criteria of Allocation and Effectiveness of Implementation

1. Resource Mobilization:

Financing the Projects

Here we are dealing with the question of "who get and/or pay what" in implementing the plan as prepared. This question is of course related with the next subject of how effective various control measures of the implementation process were, as the effectiveness is determined by economic feasibility as well as political feasibility of different control measures. It is partly for the sake of our analytical convenience that we separate two issues, i.e., criteria of allocation and effectiveness.

It had originally been estimated that the whole project would cost approximately \$25,140,000 in the five year period of 1968 through 1973. What is significant for our purpose in this section is that all the cost as above was planned to be reimbursed by the revenues from the project itself. That is to say money for the entire project was planned to come from the various groups of beneficiaries of the project itself; and a special account budget was established at the city government for such an arrangement of the project finance. See the following table of the expenditures

and the revenues of the financial plan.

Expenditures		(Unit: ₩1,000)
Project Title		Investment
Land Purchase	(1)	1,220,000
Housing Lots Development	(2)	4,230,000
Waterworks	(3)	1,200,000
Sewers	(4)	1,080,000
Road Paving	(5)	500,000
Access Road to the Estate	(6)	270,000
Loans for Electrification	(7)	170,000
Surveying	(8)	65,000
Compensation	(9)	75,000
Repair and Maintenance	(10)	200,000
Community Wells and Latrines	(11)	53,000
Administrative Support	(12)	237,000
Total		9,300,000

Revenues		(Unit: ₩1,000)
Allotment of Housing Lots	(1)	2,220,000
Reserved Area Sale	(2)	5,020,000
Industrial Estate Sale	(3)	690,000
Gov't and Public Land Sale	(4)	690,000
Lots Exchanged for Expropriated Land	(5)	510,000
Loans for Electrification	(6)	170,000
Total		9,300,000

Source: The Special City of Seoul, *Kwangju Area Development Plan*, 1968

As we know from our earlier examination of the Plan, the main beneficiaries of the project are the relocated squatters and the industries to be induced. If we add up those items of expenditures the benefits of which accrue to these two groups, we notice that almost 90% (₩8.5 billion out of the total expenditure of 9.3 billion Won) is spent for them. On the other hand, the revenues to be collected from the same two groups add up to only one third of the total revenues from the project (2.9 billion W out of 9.3 billion Won).

Insofar as the investment programs of the Kwangju project is concerned, above two groups

are gaining more than twice as much as the cost they bear for. As most of the improvement from the project was to come to the physical condition of the land, if the land value is to change in fact as much as the amount of investment, their welfare should increase to the same extent taking the income, realized or not, as a proxy of welfare.

Looking into the table again, we find that the original landowners of the area bear the lion's share of the cost: Item 1 of the expenditures shows that 1.22 billion Won was to be paid for the price of the land to be bought from the original landowners. Whereas, the land as improved is expected to increase its value (Revenue Item 2), even excluding the ones to be allotted to the relocated squatters and the industries, more than four times as much as the prices paid to the owners. Assuming that all of the land project area had been owned privately and estimating that about 20% of the total project area is "reserved",⁽²⁰⁾ and if we follow the same ratio of land allocation for public and community uses as in the plan, about 52% of the whole area may be sold; and assuming the same price as the city estimated in its plan applicable to selling the "reserved area" on the private market, roughly 12.3 billion Won could have accrued to the landowners, if not for the governmental intervention and if they have developed the land themselves. After reimbursing the cost, they would still have a net profit of 3 billion Won. This is almost three times of the amount they were paid by the government in exchange of the land.

Notice the fact that the original landowners and the relocated squatters are the only two groups of population who are to be subjected to the deal by the force of authority. Other groups of the private sector to gain the benefits or to pay the costs of the program, including the voluntary settlers, the industries and commercial land users, are to make their own decisions according to their own profit-maximization scheme on their own risk. Thus, for the latter groups, we should be justified to assume that all of them would come in the new town insofar as they can foresee at least the cost equals the benefits; and it is only the government's risk to expect the revenue as much as it is estimated in the financial plan. This risk on the part of government in planning can of course be minimized depending on how much the government can actually control the external market factors so as to increase the probability of the private decision-makers, i.e., the industries, merchants, and the voluntary settlers, decisions in favor of moving into the new town by bearing the costs as planned.

With respect to the relocated squatters, we must add another category of the cost-items to complete the allocation picture in its entirety, namely, the costs arising due to their dislocation from the original settlements wherever they had been. This item is very difficult to estimate in a quantitative measure. The most conspicuous, tangible loss due to the forced relocation would be government's demolition of their houses. Relocates were allowed to take whatever remnants they could salvage after demolition. Yet, we

(20) Under the Land Reparcelling Law (1966), an authorized land developer, be it a private person or a public entity, may "reserve" 30% of the total land to be developed for such public facilities as roads and utility-lines. And once the development project is completed and if there is any piece remaining of the "reserved" land, the developer may sell it to any willing buyers. This provision for the so called "reserved" land has extensively been utilized by government as a means of cost reimbursement for land reparcelling programs. cf. Land Reparcelling Law, Art. 54 and 66.

observed that virtually no construction material could be used for their new housing in the new town. The cost of moving itself was reimbursed by the government almost to the fullest extent. As far as other intangible losses are concerned, there could be a tremendous variety thereof, ranging from the loss of "good-will" in business to transfer of schools of their children. All these intangible items are not only difficult to categorize but also almost impossible to meaningfully measure.

However, our point here is that the total cost of dislocation should be included, be it quantifiable to the last sub-items or not, in the final evaluation of the allocation and financing scheme of the project. At least two of the criteria, as we discussed earlier, for selection of the squatters to be cleared and relocated, appear to be in consideration of the cost of dislocation. That is, (1) when the squatter-houses were built: and (2) quality of construction material. These two criteria could have been used as a kind of selection device for the (dislocation) cost minimization. Unfortunately, all the three criteria as mentioned earlier were not observed in the actual implementation process, which we will discuss later.

In addition to such negative criteria, that is, to leave the more expensive ones from moving, one may require a *positive criteria* that is to say, to provide for explicit schedule of benefits distribution as a kind of compensation for the forcible clearance. We found that nobody in the government had conceived of the possibility: and the common reaction to such an idea was that the squatters did not deserve it. This is in line with a "legal" mind that *compensation* should come only as of "right" or "entitlement" according to

law.

It is interesting to contrast this attitude with the treatment of the farmers, i.e., the original landowners *whose land was to be bought for legitimate price according to the market*. As to the latter group, the overriding perception of the policymakers is that a legitimate price is certainly due to their "property" ownership, but that the price should not include expected *future development benefits*.

One group, i.e., the squatter, was not deemed "entitled" to the development benefits because they had no "rights" in terms of existing law. While, the other group, i.e., land-owners, have the "rights"; but that is not enough to recoup the development values. Then, the question is, *who else is "entitled" as of "rights" to "development benefits"? Who is to claim the development benefits as of rights?*

The laws as they are do not provide any satisfactory clues for an answer to this question.⁽²¹⁾ And the decisions at the city government for allocation and financing the Kwangju project were made on the basis of one criterion, namely, feasibility of the aggregate project-cost reimbursement. Economically it is a cost-minimization scheme, which can expand the number of beneficiaries, regardless of legitimate amounts of benefits. Politically as well as administratively it is for the feasibility of controlling the cost reimbursement process as it was planned.

2. Control: Effectiveness of Tools for Implementation

When a planning process relies more on ad hoc, year-by-year project approaches rather than a comprehensive, long-term scheme, tools of

(21) The Ministry of Construction has recently attempted to include in the draft of a new National Land Use Management Law an article to provide explicitly for the exclusion of "development values" from all private land sales returns; but the particular provision has eventually been dropped.

project implementation become the more important factors of success than skills of planning. The mandate that the objectives should be achieved in a relatively shorter span of time tends to force the planning process to be satisfied with a sub-optimization formula; and consequently, action may have to be taken not on the basis of all inclusive interests representation. In other words, most of the conflicts and uncertainties among different interests may have to be carried over into the action phase. And as the time pressures upon, a great deal of the conflicts and uncertainties have to be resolved through coercive measures. The Kwangju new town development planning process may be characterized as a typical case of time-pressured, short-term operation-oriented process. And thus, this implementation control phase is the most important of the entire process.

As discussed earlier, our concept of effectiveness here is defined in terms of the degree of actual enforcement of the control measures as applied by the city government to the project implementation. We tried to identify the causes of success and failures of the key control measures in reference to the degree of actual enforcement.

A. Land Purchase

As it was planned, the city was to purchase a total of 11,550,000 sq. meters of land, some 25km. to the southeast from the center of Seoul city, within a three year period starting from 1968. Most of the cultivatable land in the area to be purchased had been used for farming; and other parts were hills not used actively for habitation or farming.

Approximately one third of the total requirement was bought immediately after the plan was approved by the Ministry of Construction in May of 1968. This initial purchase was undertaken in the form of sales contract between the city government and the landowners. The price for

each land was offered by the city, which had already consulted with the Korea Appraisal Board concerning the market price as of the time of purchase. In our interview, the city officials who were involved in the purchase process agreed that the prior consultation with the KAB had a certain degree of psychological effect on the seller's mind in accepting the terms as proposed by the city. They also said that this price consultation was generally accepted by the sellers as to mean a possibility of eminent domain proceeding in case they would not accept the city's offer; and once the eminent domain proceeding should start, the KAB price would be offered as a reference.

The critical factor here, however, is the fact that nothing of the new town development plan had been known to the landowners until the moment when the city government came to offer to buy the land. The importance of this factor was proven by the changes of attitudes of other landowners in the next years purchase. These subsequent sellers were not frightened by a mere possibility of eminent domain proceeding or the price consultation with the KAB. These latter groups of landowners were also aided by the outside land-brokers and speculators.

Thus, the city could buy about one-third of the total land requirement, in exclusion of the future expected development values as residential, commercial, or industrial uses, by paying the prices for the existing agricultural uses. It was confirmed in our interview that the city had not invoked the eminent domain proceeding deliberately in order to avoid the complication of the procedure that requires approval and notice of the project plan at least a year prior to the determination of compensation and participation by "interested persons" in the proceeding.

This ingenious(?) use of sales contract, coupled with the administrative scheme of price consultation with KAB, is not of course in contraven-

tion of any legal provisions. But the effectiveness of the same procedure did not last long: Ever since the initial purchase of the one-third of the total requirement, the city has been able to buy only one-third of the planned annual requirement.

To persuade the more enlightened landowners now, the city is trying another gimmick. That is, the city is now offering to purchase the land by paying the price in combination of cash (80%) and the lands (20%), i.e., substitutable land in the project area itself, so that the landowners can themselves recoup a part of the development values by using the land as they wish. This gimmick is a sort of compromise between the city's financial constraints of cash flow to pay the increased land price and the landowners' demands for the future development value recoupment or, in some cases, outright refusal to sell. The city officials have told us that they are now seriously considering invocation of the eminent domain proceeding. The Law has also been revised since then in favor of the government by providing for exclusion of the development values from compensation, although most of the procedural complications are still retained.⁽²²⁾

We are not in the position to evaluate whether the planned estimation of the total land requirement, 11,550,000 sq. meters, is a valid figure in reference to other requirements of the whole plan. Yet, whatever is the possibility of revising the plan itself now, the city is being forced into an entirely new ball game, insofar as the land

procurement is concerned. It has now to compete with the professional real estate brokers, speculators, and meet with a much more rationally calculative minds of the landowners. In order to compete with these various new participants, it has given up 20% of the project area land to the farmers and paying higher prices to buy less land than planned: all this will eventually result in modification of the original plan in terms of scope and amount of the total investment. An alternative is to invoke the eminent domain proceeding. Yet, the city may not afford to delay the project implementation by bringing out and resolving all the legal claims and participants in an open public forum. As of today, the city is still uncertain about the option of eminent domain proceeding; nor has it been able to find new rules of the game for the new market.

B. Clearance and Relocation

As discussed earlier, surveys on the part of the city had been conducted to determine the timing for different groups of squatters of clearance and moving into the new town. We also mentioned earlier that there were three criteria in determining the timing: (1) ownership of the land, i.e., public or private, on which the squatter-houses are built; (2) when they were built; and (3) the quality of construction material. The priority as planned in terms of timing of clearance was in the order of: (1) those on public land; (2) the more recently built; and (3) lesser quality

(22) The Land Expropriation Law as amended in 1971 provides that the base-price of compensation shall be the market price at the time of the project approval rather than that at the time of the decision for compensation by the Land Expropriation Commission. The latter was of the old provision. If there is any claim of price increase since the project approval, compensation is to consider only such rate of increase as found in the "neighboring land that has no relationship with the project implementation." cf. Art. 46, Sec. 2 and Art. 16-2. This amendment is an attempt to exclude at least that much of "development value" which accrue to the land to be expropriated since the development "project" is approved and thereby its location is known to the public.

of construction material. We have already discussed about the rationale behind the three criteria.

Whatever may be the rationale be, the fact is that the three criteria were not indeed applied in implementation. As we confirmed in our interview with the city officials who actually carried out clearance and moving, the timing of clearance was matched with the implementation procedures of major public works projects around the areas where the squatters lived. As we mentioned earlier, a great deal of the city's public works are done on public lands in order not to incur heavy land costs. Therefore, the first one of the three criteria, i.e., ownership of the land, was the only one that in fact applied.

Out of the total of 136,650 housing units of squatters some 24,200 housing units were found to be on such public lands as river basin, river banks, and road beds. There were some 60,550 units on purely private lands; and 30,900 were on the hills surrounding the inner core of the city, of which about half were found to be on public lands.⁽²³⁾ Taking these figures as a fairly valid estimation, we calculate that roughly 44,000 housing units of the squatters were on public lands. And interestingly enough, as we multiplied them by 5.6 (average family size), we get about 230,000 population to be moved into the new town, which almost coincides with the target number of squatter-population (approximately 250,000 in the Plan) as planned to be relocated in the new town.

It has never been officially conceded that the Kwangju resettlement program is only for those squatters who are on the public lands and to clear the land for other public works in the city. But we suspect the result is more than a mere coincidence. We are not rendering a value judgment on any implicit objective of the resettlement

program with respect to the squatters selection process. Synchronizing the resettlement program with the city's planning of such public facilities as river basin and road beds may very well be a justifiable objective in itself. Yet, we would like to pose a hypothesis here that, by considering this criterion alone in clearing and moving the squatters, the resettlement process in the new town itself became much more difficult to manage and that more in-depth information of socio-economic conditions of the squatter population should have been considered along with other relevant criteria including the public works needs.

Actual clearance work itself created not much problem to the city. It was merely a matter of mobilizing enough administrative manpower. Notices were first mailed to the residents; and if the squatters did not move voluntarily, the city sent a special "task force" to demolish the houses. It was reported that voluntary clearance and movement increased among the more recent groups. Voluntarily or by coercion, the city supported the expenses of clearance and moving both in cash and in kinds such as transportation means. And it was the mayor's directive that clearance was to be done only during spring, summer and fall excluding the severe winter season.

The more difficult part of the process was to control relocation into the new town. First of all, it was to make sure that those who were cleared from the city should go into the new town and nowhere else; and secondly, to protect the new town from unplanned immigration of others.

Fortunately for the city, since 1968 every Korean national over 18 is by law required to carry a Resident Registration Card, numbered in a nationwide registration system. The city used this RR Card system in controlling the relocation

(23) *Administrative Cases*, op. cit., p.98

process. That is, the city retained the individual RR Cards of the squatters, once they were cleared according to the city's relocation plan; and sent the cards (and the military service registration cards if the individuals are in the age of military service) to Kwangju county office. Thus, the individual has to go to Kwangju to register himself for new resident registration; and it also ensures that nobody whose RR Card has not been referred to by the city can get the registration in Kwangju. As we could identify, this was a fool-proof means of control insofar as the controlled relocation was concerned.

The Resident Registration Law was not intended for control of individual freedom of resident: this Law and the RR Card system were enacted as a counter espionage measure by safeguarding the national territory against infiltration from outside. Thus, it can be a valid constitutional question whether the RR Card system may be used for controlling relocation of the squatters. But we did not find any one who brought the case to the court to contest the city's action.

C. Settlement

Once the people move into the new town, the next step for the city to take is to settle them there as planned. For this phase, however, there were five different groups of population, including the Seoul squatters as cleared and moved by the city: The first and the largest number of them are of course the *squatter-group*; second are the former *tenants of the squatter-households*, the number of which were unknown; the third are the *industries as induced by the city* into the industrial estate; the fourth are *those who voluntarily came to buy the land* and to live there, residential or commercial; and the last are *those who came into the new town to squat*.

The Kwangju Development Plan itself had no preparation at all for the second and the fifth groups. Both of them were quite unexpected "guests" on the part of the city in the implementation phase. The City's record indicated that 947 family units belonged to the fifth group as of March 30, 1971. An unofficial estimation, however, is that there were about 3,000 new squatter-housing units within the project area.⁽²⁴⁾ The city officials also conceded that the number as they investigated could be increased a lot more if they included those right outside the project area.

For this group, i.e., the new squatters, no land allocation was considered. Measures were being taken only to keep them away from the project area. One was to demolish any new squatter-housing as many as the field project office's manpower allowed; and the other was to get cooperation from Kyunggi Provincial government to allocate its nearby land for the new squatters to move in. The situation as we observe in the field was nothing more than a daily physical "tug of war" between the city officials and the new squatters.

The second group, i.e., former squatters' tenants, seemed to present a little more complicated problems to the city. First of all, people in this group did not merely move into the new town but protested to the city that they should also be entitled to a share in the new town project. Interestingly enough, the city considered the protest favorably as a sort of "bona fide third party's" claim. The rationale behind such a favorable consideration toward the tenants was not all clear to us, but one of the more practical reasons seemed to be to mitigate the squatter-community's resistance to clearance and moving. After all, one cannot conceive of the *squatters*

(24) *Chosun Ilbo*, July 6, 1971, p. 6

community without the many tenants living there. Outcome of the favorable consideration was to give a parcel of land in the new town to each household, each parcel being about one-fourth (180 sq. ft.) of what was to be given to each squatter-household, i.e., the first group. This small parcel of land was in fact not enough to build a house: and the city also thought that the land allocation should be deemed more as a compensation on behalf of the landlord-squatters for the damages done to their rental relationships due to the city's clearance.

Although we were not able to ascertain how many of the squatter-tenants stayed out of the new town area and how many somehow managed to remain after they received their shares of land, apparently the city's conciliatory measure was accepted as agreeable by the parties concerned, as there have been no more protests by the tenants since then.

The third group, namely the induced industries, have created the least of difficulties for the city. The official record shows that as of the end of 1972, 50 of 72 planned to be induced have already come in or purchased the land to come.⁽²⁵⁾ After all, this is the most privileged group of all in terms of the costs and benefits allocation of the original plan. As we discussed earlier, other incentives than the land value that the city could give within its own authority were meager. Nevertheless, the land value advantage alone, we think, was sufficient enough to offset other disadvantages, if any, in comparison with other possible locations around the vicinity of the nation's largest market place, Seoul. The land price as charged to the induced industries was about ten times less than the market price for similar locations.

It must be noted, however, that the real objective of inducing the industries into the new town did not seem to have been achieved to the same degree as the number of industries induced to come in. In other words, the number of employments in the industries of the new town population are still very small. It was planned to have the industries employ 14,812 by the end of 1971 but only one-tenth of the planned (1,324) have been in fact employed.⁽²⁶⁾ This is a common pattern of most of the industrial location plans with a view to increasing local employments in recent years in Korea. The recent Local Industrial Development Law also fails to address to the more complex socio-economic factors of employment market in order to help increase the local employment conditions. The Law as well as most of the policymakers perception still conceive the problem but in reference to the firm's reduction of production costs in terms of comparative physical locational advantages. In view of the fact that there is a very high labor mobility over a wide geographical range, a large nationwide pool of unskilled labor, and also that still a great many employees are hired through personal relationship with the firm's management personnel, the fact that a firm locates its plant in a locality under a generous grant of various incentives for reducing the production costs does not guarantee that it will employ the local population.

The relocated squatters are indeed the target population of the Kwangju Development Project. As we mentioned earlier, the total number of relocated squatters were planned to be some 250,000, about 70% of the total population of the new town. As of 1971, summer, there were roughly 100,000 relocated squatters settled in the new town.

(25) *Kwangju Area Development Project Plan*. op. cit., p. 4

(26) *id.*

The main incentive for the relocated squatters to stay in the new town is the government's allotment of land for a substantially low price. According to the criteria we mentioned earlier, the city sold 20 pyong (approximately 720 sq. ft.) of residential land to each household for about \$120-\$170. The price is four to eight times less than the on-going market price for a similar land in the new town. In addition, the squatters are entitled to an installment payment of the land price.

What the planners did not quite foresee, however, is the phenomenon that the squatters resell their rights of the government's allotted lands. An official estimation was that about 30% of the relocated as of the summer of 1971 resold their entitlements to either land-brokers or voluntary settlers. Real-estate brokers in the new town area estimated more than 30% of the squatters resold their rights. Even taking the official estimation, this is a serious challenge to the original objectives of the program. Out of the 30% or more who resold their lands, some moved out of the new town, perhaps, back to Seoul and others stayed around the new town but in new squatters.

This reselling practice was deemed by the city, as of the time of our survey, as the most critical problem in the implementation process. It was also conceded by the city that there was virtually no effective means of control against it. One measure the city tried at the time of our observation was to require the buyers to pay the full market price of the land bought from a reselling squatter and also to deprive the installment payment privilege of the buyers. Yet it was agreed by the field office personnel that this measure was not effective at all.

As we could identify with the government officials, squatters, and some of the real-estate brokers, the causes of reselling practice seemed to be (1) difference between the government

allotment price and the offers of willing buyers and (2) hardships of initial accommodation by the relocated squatters in the new town. The first cause was frequently found among the more entrepreneurial types. In other words, to those who value liquid assets, i.e., cash, more than a piece of land, realizing the difference of the two prices into cash by selling the land away was a great attraction.

Insofar as the government was concerned, the second cause was the main focus. Beside the deprivational control measure as described above, the city was investing a substantial amount of money in order to alleviate the initial accommodation hardships of the squatters. Priority of employment in the city's own projects within the new town was given to the squatter-relocatees; a partial food ration was provided; and bus-lines between the new town and Seoul were improved.

The city, however, does not know how many would still move out of the new town even if the city helps them out of the initial accommodation difficulties. As far as the substantial price differential remains, it is an individual's economic motivation that decides to resell the land. In such a short-term crash planning and implementation process, it may be almost impossible, or impracticable, to plan or implement in consideration of individual motivational factors. The whole practice of reselling should perhaps have been considered as a calculated risk as far as the settlement pattern is concerned. In fact, there was even a suspicion among the people concerned that the city did not mean to control the relocatees settlement process to the fullest extent. The control measure vis-a-vis the buyers of the lands from the squatter-relocatees, requiring payment of the market price of the land and depriving the installment privilege, is suspected as having an insidious purpose of allocating more land to purely financing the costs of the whole program through private

land market. This has become one of the major political issues in the recent mass-riot in the new town, which we will discuss later.

Granted that the city indeed tried to stop the squatter relocatees moving out of the new town, we agree with the city officials that there is virtually no effective means of controlling such exodus, insofar as the title of the land as developed by the city was to be transferred to the relocatees. And as the city has charged the land price, though much less than the market price, to the relocatees, the city couldn't help but transfer the ownership of the land. Besides, if not for even this incentive of owning a piece of land for the squatter relocatees, there might not have been even the remaining 50-70% relocatees in the new town. One may argue that, the cheaper the price of the land, that is, the greater the incentive, the more of them might have stayed. But a counter-argument should be more valid that it will only increase the price-differential between the resale and the purchase to motivate more to resell and to induce more buyers into the new town that lies only 25km. from one of the world's most congested metropolises.

A viable answer may only come from an overall evaluation of the whole program structure, not just dealing with manipulation of the land prices. But this is beyond the bounds of our inquiry, although we will discuss the present problem again in reference to a larger context of the government's control of private land market in the concluding section.

D. Administrative Coordination

A part of the problems we are dealing with in this section should have been included in some sections of Ch. II. But, as they were more vividly observable in connection with the implementation

process, we have left them all to this chapter. By administrative coordination we mean the modes of inter-action between two or more separate governmental entities in terms of cooperation or competition of resources as well as control measures in the process of the project implementation.

It is recalled that, as far as the institutional sanctioning of the Kwangju Development Plan was concerned, the central government (Ministry of Construction) having the authority to sanction the Plan in accordance with the City Planning Law raised no objection at all to what the City of Seoul proposed to do. Under the provisions then in force of the City Planning Law, there was neither a positive nor a negative clause regarding a city's authority to plan a new town within a territorial boundary of another local government. There was a provision which only provided for the situation where a project should "stretch over" into a neighboring local government's territory. That is, the Law provided for such situations to the effect that Minister of Construction should authorize *either one* of the governments involved to "execute the implementation."⁽²⁷⁾ As we stated earlier, under the old provisions the authority to "plan" for a city was vested in the Minister of Construction; and therefore, for a city government to "plan", it is only legal under a sub-delegation of the Ministerial authority. The sub-delegation of planning authority was a matter of executive discretion on the part of the Minister. This national government's discretionary authority was indeed the legal ground upon which the City of Seoul stretched its arm to "plan" a new town outside of its own territory.

There was a fairly loud complaint heard from Kyunggi Provincial government, but only after they were told of the specific location of the town.

(27) City Planning Law (1971), Art. 23

at the last moment of the plan sanctioning. Until then the Provincial government had not been informed of what had been going on in the minds of Seoul's decision-makers. Even this last moment complaint was not effectively entertained in terms of affecting any part of the Plan as prepared by the city either by Ministry of Construction or by the City of Seoul. The City of Seoul could rally much stronger political leverage vis-a-vis the Ministry; and it also eventually persuaded the Province to its own terms by promising economic advantages into the Province.

However, a longer term impact of this particular relationship with respect to "planning" phase of the new town program between the city and the Province has been imprinted in the amendments of the City Planning Law. The Law now as amended states explicitly that, when there are two or more local government entities involved in "planning" for a project, all local governments concerned shall consult one another either to jointly prepare the plan or select one among themselves and also, that, only in case of an agreement not reached among the local governments concerned, the Minister of Construction shall intervene in consultation with the Minister of Home Affairs, to designate one of them to plan.⁽²⁸⁾

Since the project implementation started, the two local governments, i.e., Seoul and Kyunggi Province, worked out an administrative coordination committee to jointly manage the day-to-day operations of various control measures for the common purpose. The official title of the Committee was "Kwangju Estate Development Coordination Committee." Its legal basis of authority is the provisions in the Local Government Law⁽²⁹⁾ which provide for contractual agreement between two or more local government, as independent

juristic persons, for a common purpose program planning and implementation.

The needs of such a coordination committee as seen from the point of view of Seoul planners were (1) Kyunggi Province had the authority, under the Building Law and the City Planning Law, to grant building permits and other development activities within its territorial jurisdiction; (2) Kyunggi Province had the taxing power on the properties within its territory; and (3) all the population within the new town were subject to other regulatory power, including police and health, of Kyunggi Province.

On all three accounts at least nominal agreements were reached between the two governments for the Kwangju development program to be implemented as planned. The expectation on the part of Kyunggi Province was that the Kwangju program would eventually bring a massive investment from Seoul, both public and private, into its own territory and that, therefore, there would be more to gain than lose by cooperating with Seoul's plan. Besides, they had not much of a choice in view of the very real possibility that the national government may intervene to coerce them to do so anyway.

Agreements in principle had easily been reached. Yet day-to-day operations of the agreements were not entirely free of conflicts and difficulties on both parties.

First, development control in accordance with "plan" encountered all sorts of ambiguities in regard to operational criteria of control of development permits applications. It was initially agreed between the two governments that Kyunggi Province should exercise its authority of development control only on the so-called "reserved land" which was planned for the voluntary settlers

(28) *ibid.*

(29) Local Government Law (1960), Art. 157 and 158

to use either for residential or commercial purposes. But even within the "reserved land", the two did not agree on the details. One prominent instance was concerning Kyunggi Province's granting permit to an applicant to build a shopping mall on a particular spot within the "reserved" area. The city protested to the province at the Coordination Committee against the permit on the ground of deleterious "neighborhood effects", although with no avail. This instance led to an additional agreement between the two that, even within the "reserved" area, the city should supply the province with a much more detailed Master-Plan (on 1/1,200 map) according to which the province review individual applications. Until the time of our survey, such a Master-Plan had not been prepared by the city; and there was only a sort of interim agreement between the two to the effect of defining "blocks" of the area within which the province could grant building permits as it deemed fit and all other parts of the area were temporarily closed to any development activities.

Kyunggi Province's expectation to improve its tax base has been frustrated not only by Seoul's intervention in the development activities control as reflected in the kinds of cases as above but also a more direct intervention in the use of the property tax. Upon the city's proposal and persuasion, an agreement was entered at the coordination committee that all the property tax collected from the new town should be reinvested by the province into such public works as sewer facilities and land terracing, etc., for the new town improvement.

This agreement, however, is hard for the City of Seoul to make sure that it is observed to the full extent. All the property tax as collected by the province goes into the general revenue account of the provincial government; and it is only through the annual budgetary appropriations not

specifically related with specific sources of revenue that the investments are made to particular programs, including those for the new town. Unless there is a change made in the local government's appropriations laws, ear-marking the use of revenue from a particular source through an administrative agreement is not binding on the spending government. In fact the city officials complained that the provincial government did not keep this agreement at all. An alternative can be to ask the national government's Ministry of Home Affairs which has the general supervisory power, both financial and administrative, over the local governments, except the City of Seoul. But the city has not tried this avenue in dealing with the province. Perhaps, it may be because the Ministry of Home Affairs is not always friendly to the City of Seoul, not satisfied with the fact that the Special City of Seoul is not legally under its control.

Finally, regarding the day-to-day regulations in such fields as police, fire, and health, the city is rather on the defensive line. That is, the provincial government is complaining to the city that the province has now to take care of a lot more social problems than it can possibly handle with its own resources. In order to meet such complaints, the city supported a part of the additional resource requirements of the provincial government both in cash and manpower.

3. "Explosion of Discontents"

Above caption is the headline of one of Seoul's newspaper stories describing a mass-riot in the Kwangju new town on the 10th of August 1971. It was reported that some 5,000 population of the town went out into the streets of Kwangju to burn several official vehicles on sight and held mass demonstrations throughout the day.

Interestingly enough, the rioters were not the relocated squatters but the voluntary settlers who

bought their lands to live in the new town from the reselling squatter-relocatees. This group comprises about 20% of the total population of the town as of 1971. The main issue of their protests was that the land price the city charged them in the resale transaction between the squatter-relocatees and themselves was too expensive and that they should be allowed the same price as the squatter-relocatees. We mentioned earlier that the voluntary residential settlers were charged about four to eight times more than the price to the squatter-relocatees.

This must have been quite a surprise to the city officials. As we were told during our survey of the field by the city officials, the city officials thought that it was only fair for the voluntary settlers, whoever they were, to pay the on-going market price and besides, the city had to do something to discourage the relocatees reselling practices.

However, the rioters did not seem to agree with the city basically on the point of "who they are." That is, they did not agree with the city's classification of the target population for preferential treatment in allocating the benefits and the costs of the program. They claim that they are as "poor" as the relocated squatters; and that allocation of benefits should have followed the actual needs of welfare regardless of where they are from or how they came into the town. This is a serious challenge to the ultimate objective of the whole plan. It is a specific challenge to the ultimate objective of the program designed to allocate the lion's share of the benefits to the "squatters" as cleared and relocated by the city from Seoul. Now this has to be shared by 30,000 more population already in town and unknown numbers of the same group of people who will flow in the future from everywhere in Korea. Furthermore, lowering the land price to any other group than the primarily planned group of relo-

cated squatters may weaken the position of the city to resist the same demands from any group in future: this would inevitably necessitate a total overhaul of the whole financial plan of the project.

At any rate, it was reported that the immediate response from the city government to the rioting group's demands was to accept them all, including the land price lowered to the same level as that for the relocatees and the preferential employment in the city's public works within the new town.

In our revisit of Kwangju after the August riot, as of the end of 1971 there were 101,325 relocated squatters, some 14,000 voluntary settlers who bought the lands from the squatter-relocatees, 13,660 of those who moved in the industries and the "reserved lands", and about 15,000 new squatters. All of them made up some 150,000 population community.

Almost consensual agreement among all the groups of population in the town on the immediate causes of the riot was: (1) the City government did not take into consideration economic abilities of the voluntary settlers in charging the price of the lands they had bought from the relocated squatters. It was their claim that the City's punitive acts of charging the land price to them as much as the market price and of depriving them of the installment privileges had no justification but a profit maximization scheme capitalizing upon the poor; (2) the location of the town being much too far from their work places, i.e., central areas of Seoul, the government should have provided adequate means of earning in the new town itself: it was claimed that, by not being able to induce the industries as many as planned and also, by discouraging private sectors development activities, e.g., controlling the land resales practices, the City government had pursued policies counter to the immediate needs of the majority of the residents; (3) the administrative machinery was divided into two uncoordinated

entities—the City of Seoul was in charge of project planning and development including the lands sales, and squatters relocation, while the province of Kyunggi was responsible for all the other municipal administration including the residents health, wealth and taxation; and the two were not coordinated at all so that only the residents had to suffer from the lack of any responsible organization to look after their problems.

These three points are fundamental challenge to the basic premises of the Kwangju development program as a whole. The first point goes to the primary objective of the plan. That is, it challenges the objective of building a town by the government for a controlled relocation of squatters. The criterion of being “squatters” alone did not convince many people in the similar economic conditions of differential treatment of the benefits and costs sharing. No such protest might have been actualized if the City government could have a *total* control of the settlement process, namely, to keep the town from any dissident voluntary settlers. But this assumption is obviously unrealistic not only in reference to the overall constitutional process of the governmental control but also in light of the second point challenge raised in the riot.

Exclusion of voluntary settlers and thereby, sterilizing the town of private developers, speculators and home-builders, would have shifted the whole burden of feeding the population to the government, which could not possibly be born by a city government for so large scale of program. In fact that is partly the accusation in the second point demand by the protesters. The City government was merely oscillating between the plan for a controlled development and the search for political as well as economic feasibility in the private market mechanism, never finding an optimal point of balance between the two until the last day of the program.

The problem of administrative coordination between different government entities is a familiar issue all over the world. If the Kwangju planning is any different from other instances, it is such a total lack of sensitivity on the part of the planners to the needs of day-to-day administrative measures to deal with the mass of low-income population. There was virtually no consideration in planning of the administrative capacities (resources or otherwise) of the Province of Kyunggi when the city of Seoul decided almost unilaterally that the daily administrative operation of the town would be left to the Provincial government as the town is within the latter's territorial jurisdiction. There came into being later an administrative coordination body between the two governments; but it was operated mainly on the basis of personal understanding of the members represented on the committee, having no formal authority to sanction its commitments in either of the two governments regular administrative process. It was only after the mass riot that the town itself was planned to be given the status of a “city” in order to equip its own administrative machinery and authority to tax.

Accepting the demands of the protesters, i.e., lowering the land price to the voluntary settlers to the same rate as to the relocated squatters, giving the same preferential treatments to the voluntary settlers as to the relocatees, and increasing the number of the bus lines to the central areas of Seoul, the City of Seoul has stopped investing any more money in further implementing the plan as it was originally planned. The City government has not officially declared that the Kwangju development program is over in 1972. But by all standards we have inquired, the City does not appear to be doing any more development activities than taking care of the aftermath of the last riot: it has stopped the clearance and relocation process, housing lots development and

controlling of reselling practices. Every thing else is left to Kyunggi Provincial Government and the Ministry of Home Affairs which is the national government agency for local administration other than Seoul city; and the Province of Kyunggi have taken over any further development planning for Kwangju.

Kwangju is now a town of about 170,000 population consisting of some 110,000 relocated squatters from Seoul. It is thus a town half the size of what it was originally planned. The City of Seoul could export less than half of the squatters it wished to have. The goal of not making it a "bed-town" of Seoul has not been achieved; most of the Kwangju bread earners commute today to Seoul for their income. Industries have not come in the town as many as planned: Only 6 of them are now operating in Kwangju to employ 1,320 of Kwangju residents. About 15,000 new squatters have settled in; and the whole range of developmental problems are yet to be coped with by the meager town resources as in any other small cities throughout the country.

V. An Overall Evaluation

Our hypothesis restated is that "law" is one of the contributing factors to successes or failures of the Kwangju New Town Development planning and implementation. In formulating such a hypothesis, there was a tacit assumption that "law", or "legal system", may have not kept pace with the needs of development as necessitated by rapid urbanization and therefore, that there would be a lag between "law" and development process. This is the section in which we try to organize the results of our analyses in the foregoing sections into a coherent system and thus, to test the hypothesis and assumption in an overall context.

We defined the functions of "law" in the kind

of process we are dealing with in terms of (1) authoritative provision for the scope of *participation*; (2) binding criteria of (benefits and costs) *allocation*; and finally, (3) providing for the power of *control* by the authority in accordance with a plan or policy. In the foregoing sections we have tried to identify specific patterns of participation, allocation, and controls by dividing the whole process into several major temporal stages, and thus, to discern the effects of "law" on the specific patterns in different stage.

We have not yet, however, attempted an overall evaluation of how much these specific patterns of participation, allocation and/or control have contributed to the successes or the failures of the program. As we define "law" as an intervening factor in these functions, we will be able to evaluate the role of law in the process only after we know about how participation, allocation, and/or control functions affected the outcome of the process.

First, we should have a systematic description of the outcome of the process in terms of the degree of achievement of the objectives of the development program. A problem here is of course that not all the elements of the outcome can be quantitatively measured, and also that not all the "spillover" effects can be observed within the period of this research. Thus, we have to rely on the information of the progress of the projects as of the time of our survey and our own conjectures of the future ramifications.

The ultimate objective of the program was to develop a new town, some 25km. away from the center of Seoul, for a total population of 350,000 with 250,000 or about 70% of which to be the "squatters" cleared and relocated by the City of Seoul. It was also aimed at making the town as a self-contained, self-supporting community, with specific provisions against becoming a bed-town of Seoul. Eschewing the details of lower level

objectives, we use the above statement of objectives as the criteria of measurement of the outcome. And the following are the measurement of some of the major indicators of achievement as of the end of 1971:

(1) As of the end of 1971, the town has a total population of 160,715, some 60,000 *more than planned* for the third year of the program.

(2) The total number of population was planned to be 350,000 *by the end of 1973*; but the whole program has been terminated as of the end of 1971 for 160,715 population.

(3) *30% or more relocated squatters are moving out of the new town* by reselling their lands as allotted by the government: Assuming this trend continues, less than a half of the total population, about 100,000, will be relocated squatters. This is only *40% of the target number of squatter-clearance* as planned in this program.

(4) By the end of 1971, about 14,000 of the relocated squatters were to be employed in the industries within the town, so as to achieve the objective of self-contained community. However, *only one-tenth of 1,320 have been employed by the new town industries*; and a great number of others have still to commute to Seoul for work.

(5) *About 15,000 new squatter-population* are induced into the new town, who were not anticipated in the plan and thus, with no provisions therefor.

(6) *A substantial portion of the developed land within the new town had to be conceded to the squatters tenants* group who had not been planned as beneficiaries of the program, by forcibly severing the rental relationships with the relocated squatters.

(7) *Mass revolt of the voluntary migrants* has forced the city to sell the lands to them also for the same preferential price as to the relocated squatters; the government's acquiescence to the claim has resulted in *reducing the scope of the*

program by about one-third of the original target in terms of the total number of population.

This is the list of measurements of some of the more conspicuous, measurable elements of the program outcome. There can be intangible, unmeasurable, but more significant elements such as squatters attitudinal change caused by relocation and resettlement: but we could not include them in the present survey.

From this list we can infer three general categories of intermediate factors in producing the final outcomes. First is the policy makers' *value sensitivity* to the "squatters" problems and the *real demands* of them. If the policy makers had been sensitive to the real needs of the squatters and known better about their economic, social conditions of the squatter-communities, the tenants' problems and the reselling practices could have been anticipated. Second is that the city government's *control as well as knowledge of the external market conditions* was very limited. The problems of new squatters, number of voluntary migration, the reselling practices, and the employment problems may be explained in reference to this factor. And finally, the third factor is the city government *capacity of resource mobilization*. As the city government was solely relying on the cost reimbursement scheme of the project itself in financing the whole program, once such contingencies as the refusal of the voluntary settlers to pay as much as the city asks or the farmers' refusal to sell their lands for the city's price, the city had no recourse but to reduce the scope of the whole program across the board.

These intermediate factors provide conceptual linkage between the functions of law and the performance of the planning-implementation process. First, provisions of law for "participation" can be analyzed and evaluated in terms of their effect on increasing the level of the policy-makers' value-sensitivity to the problems and demands of

the squatter-community and population. Secondly, the legal criteria of allocation of benefits and costs can be evaluated for their effects on the government's resource mobilization capacity as well as on the effectiveness of the benefits distribution in meeting the real needs. And finally, the effectiveness of legal measures of control may be analyzed and evaluated in reference to the overall structural constraints in which the city government is situated.

1. Participation

We have indicated earlier that the only channel of participation the city government was compelled to open because of a specific legal requirement throughout the whole process of the case was at the stage of "institutional sanction" of the Master-Plan at the Ministry of Construction. But we also stated that even this was a participation only in terms of administrative control by a higher level organization of the lower level units. Thus, as far as we conceive the planning process as a specie of governmental decision-making system in general, we have to look beyond the specific provisions of *the Planning Laws*.

We found in the Kwangju development planning process two rather active participation channels: one was the process of political campaign for the national election and the other was the news media. No doubt both are "legal institutions" in the sense that, the one is provided for by the Constitutional provisions of universal suffrage in the national election and the other also by the Constitutional provisions for freedom of speech.

The pattern of participation, however, through both institutions, was sporadic and indirect. That is to say, if not for the coincidental timing of the city government's initiation of the planning process during the time of election campaign, the issue would not have been picked up seriously by many of the politicians. And also, most of the

candidates were interested in the short-term (i.e., until next election) concerns of the squatter-community: they were not seriously probing the possibilities of longer-term improvement of the community's welfare in general. The result was of course merely to stop what the city administration was planning to do only for several months, but not working out any constructive proposals for the future. It is also true that, as it was a national election, each squatter-community was only a part of a larger constituency of a candidate and therefore, that the issue did not remain to be a continuing concern for the politicians once elected.

The news media also played not much different a role than the political campaign. The overriding tone of the media concerning the squatters' problem has been to blame the city government for having not a comprehensive development plan of the city as a whole in which the squatters are a part. We observe this is a common attitude of intellectuals vis-a-vis the city's planning process in general. Insofar as the daily living conditions of the squatter community is concerned, the news media was even less informed than the political candidates. We found no significant piece of first hand study of the squatter-community either by news media or any group of intellectuals before or at the time of the city's initiation of the proposals of the new town.

All in all, these two modes of participation, being the only two channels of active participation in our case at hand, have to be evaluated as not having been effective at all in sensitizing the policymakers to the in-depth conditions of the squatter-community conditions for the purpose of formulating constructive alternatives of improvement.

Earlier we noted the fact that no indigenous organization of the squatters themselves, nor the landowners for that matter, had been formed and

also, that there is no local legislature at the City of Seoul as elected by the citizens. It may be an academic question to ask what would have happened, even with the only two channels of participation as above, if such organizations existed and/or a local legislature is elected. No verifiable answer could be given to this question. But comparison with a downtown urban renewal program some years ago in Seoul in which the landowners were incorporated into a project planning and implementation corporation might be a clue to an answer. The downtown urban renewal program had been initiated by the city; yet its planning and implementation was jointly done by both the city government and the landowners development corporation, which the city helped them incorporate. The incentive on the part of the city to help incorporate the landowners was to capitalize the financial resources landowners had. At any rate, in our interview most of the corporation members confirmed that within the constraint of the city's overall design of the area renewal, they were able to plan and implement according to their own wishes and demands. There were some dissident members, especially small landowners who could not afford the improved business facilities. But they were bought out by other members without the city's intervention.

Kwangju Resettlement Program and the downtown urban renewal program may not be comparable because of the fact that the latter involved a fairly well-to-do business community, while the former is of a community which has virtually no capital resources of their own to contribute. However, this factor, if not as an incentive to the city government to capitalize the private sector resources, should not make too much difference in opening a channel of participation in planning implementation process by the target population themselves.

The primary disincentive on the part of the city, as we stated earlier, in the case of Kwangju program against participation of any group in the planning phase was the possibility of speculation on the land to be developed. Granting the necessity of relocating so many of the squatter-population out of Seoul, this factor is worth a serious consideration.

Unlike the downtown renewal program which aimed at having the original landowners stay there and where the land prices had been more or less stabilized, the squatters relocation program was to transfer the titles of the lands to be developed from one to other groups of people; and also, it was to be developed on a vast scale of land in the places where the land prices have been unstable and could go up to a tremendous amount by even a very small gesture from the developer. Information in such a case is indeed an invaluable resource on the part of the developer, i.e., the government. And participation by a large group of citizenry in the planning process would have meant an exchange of such an invaluable information-resource with something the city thought to be handled by its own planning technicians.

The concern with the adverse effects of private sector's speculative activities on the future government's development efforts in the vicinity of a highly urbanized area is well reflected in a recent amendment of the City Planning Law: Article 22 of the Law as amended states that "the Minister of Construction may designate an area as '*development-designate area*' in the vicinity of a city, when the Minister deems it necessary to plan the area in order to disperse the population and/or industrial concentration of a metropolis and to balance the growth; and also, that once such an area is designated, all the private development activities including subdivision shall be prohibited unless otherwise permitted by the mayor or the

county chief of the area.⁽³⁰⁾ It is believed by many that this provision is a direct outcome of the decision-makers' frustration at the difficulty of controlling the private sector's speculation in Kwangju area and the insidious methods to avoid them in the initial stage of planning.

Even assuming that this kind of provision will be effective in providing the government with a means to control undesirable speculative activities of the private sector, the legal system has yet to come up with effective provisions for definition of "interested persons" and viable organization of the people concerned, if "participation" is to mean a continuous sensitizing of the policy makers to the real needs and demands of the citizenry. For such a large scale development program, legal definition of the scope of participation, let alone organization thereof, may not be plausible at all. The recent unexpected mass riot of the "voluntary settlers" is a telling case of the difficulty. But the fact that even many of the target population themselves, i.e., the squatters, are disaffected by the program should be a warning to the policy makers that some means of the real demands identification must be devised.

2. Allocation Criteria

If "participation" is for improving the value-sensitivity of policy-makers to the real needs, provisions for allocation criteria are to insure the actual decisions of the policy-makers to conform with justifiable criteria of resources allocation that meet the needs as perceived. The two facets may be interacting: if a group is more intensively participating in the whole process, there is a higher probability that that group will gain more than others.

But in a case like the present Kwangju program, or even in a highly competitive process of participation, the allocation criteria can be an "umpire" mechanism in and of itself of a "fair" or "equitable" distribution of benefits and/or costs.

Law in itself has no calculus of fairness or equity that can directly be applied to a specific distribution scheme. Law's intervention in the distribution scheme is an indirect one. By providing for "rights" and "obligations" of individuals over the resources under individuals control, it requires others, including the government, to pay due accord in distributing the benefits and costs to these rights and obligations. That is, law provides the *grounds* for entitlement to the allocation of benefits and costs.

We have noted that, insofar as the initial allocation plan of Kwangju program was concerned, the lion's share of benefits was to go to the relocated squatters and the industries, while the original landowners, mostly farmers, were not to share the developmental values (benefits of the program itself) but compensation of the existing land values. We also indicated that there was some reference to "vested interests" concept in the original scheme of squatters clearance and relocation.

Furthermore, in carrying such an allocation out the government deliberately avoided a confrontation with the law by not invoking the eminent domain proceeding but relying on the private contractual provisions. Regardless of the merit of the allocation scheme, as far as the eminent domain procedure was concerned, law was deemed an obstacle to the particular pattern of distribution as planned by the government.

First, with respect to the farmer-landowners in Kwangju area, however, it must be noted that

(30) City Planning Law (1971), Art. 54 through 60: These are all new provisions added in the 1971 amendment to provide for the authority of "development permits" and of general land price assessment in the entire "development-designate area."

the sellers were not in an equitable bargaining position vis-a-vis the government, having no information concerning the prospect of future improvement. In such an "imperfect" market condition, "rights" of the sellers would not have duly been accorded by any legal provision for private contractual relationship based on the assumption of equal bargaining status. Law is in fact in favor of those who have the authority to develop in future, or of those who can better mobilize other resources, as well for future development. The fact that once the farmers were informed of their lands future improvement possibility, they began to stiffen their bargaining position, reflects indeed such different functions of the law in different contexts.

Thus, the government has eventually revised the law of eminent domain procedure specifically to exclude the development values from compensation and to use this law in such situation as above. But the question of bargaining positions will still have to be dealt with in future in regard to the proper scope of "development value" as such. This may indeed be studied further in relation with the participation issue.

As for the relocated squatters we have noted that a proper comparison of costs and benefits may not be possible unless some objective measure of the dislocation costs is possible. The government's tacit recognition of the "vested interests" in selecting the squatters to be relocated and in dealing with the squatter-tenants appears to reveal the intention of minimizing the dislocation costs. But, beside the point that this criterion has not in fact been faithfully followed in implementation, there was virtually no authoritative, binding criteria in distributing the development benefits to the squatters.

A common expectation is that "clearance" is only a rectification of the wrongs done by the squatters and therefore, relocation-resettlement

should not be considered as of "rights" or "entitlement" on the part of the squatters. But the irony of the whole process is well reflected in the revolt of the "voluntary settlers" who claimed the same amount of benefits distribution as that of the squatters, apparently on their own "fairness" perception that if the squatters who are not "entitled" as of rights should get so much, everybody else should deserve the same. This revolt should be learned as a lesson for anybody who thinks seriously about the development benefits and/or costs allocation criteria in terms of law, or otherwise.

One must not of course forget the larger picture of constraints in which the city government was operating in this particular project. The city's overall-resource mobilization capacity is very much limited as a local government which does not have control over all the sources of resources even within its own territorial boundary. Nor has it power to make decisions on the overall flow of resources in the national socio-economic development process so that it could mobilize other resources than just the land values. The fact that the benefits distribution to the industries induced into the new town were not all transferred to the new town population in terms of increased employment as the city had hoped for is a good example of such a constraint of the city's control of larger development process and the negative impacts thereof on the costs-benefits allocation in a city's own program.

However, it is still to be admitted that some kind of consensual ground of "fairness" or "equity" of resources allocation, e.g., between the massively immigrating population in order to participate the concentrated development process and the status quo must be worked out. This new ground should override the static concepts of "rights" and "obligation" of the status quo relationship: it should directly deal with such

new problems as "development values". We should perhaps anticipate some kind of integration of the private and public laws to deal with such problems.

The implication of the voluntary settlers demands in the August revolt is that, as far as the government plays the role of benefits distribution, the criteria of allocation should not be the statutory "rights" of property ownership but rather the actual *needs* of the population in general. That is to say, the demand is for redistribution of wealth based on an overall scheme of developmental benefits distribution, which a city government alone could not undertake to prepare.

Indeed for the scale and the nature of the developmental program such as attempted in the Kwangju case that was to affect the entire land market in the vicinity of metropolis of 6 million population and to cope with problems of the most needy groups of population, a straight-approach of allocation on the basis of the needs could have been perhaps more readily accepted even by a wider community including the general taxpayers of Seoul.

3. Control

As there is less time, in such a crash program as ours, for consensus-building through participation or otherwise, there is a tendency of more reliance on various coercive measures of control and enforcement in implementation. Thus, means of control and enforcement become critical factors of success or failure of the program.

On the other hand, as the scale and rate of the problem intensification, e.g., number and rate of growth of squatter-population in Seoul, is so great and rapid, controlling a segment of the process of problem generation and intensification does not achieve much. This was the dilemma which the City of Seoul government was forced into.

The biggest challenge in this respect was for the city government to control the settlement pattern according to the plan. More than 30% of the target population, i.e., squatters, were moving out as soon as they had been relocated by reselling their allotted lands. New squatters were coming in from all over the country in the number the city did not anticipate to receive.

One must admit that once the title of the land was transferred from the city to the individual squatters, there is no way under the present system of law in Korea to control them not to sell the lands and move out. If there could be any means for the city to do anything about it, it should be via indirect means of controlling the market. In other words, the city government may manipulate the land market such that selling the allotted land in Kwangju is not profitable at all. The city government tried to dampen the market by depriving the installment privilege of the buyers and charging a higher price to the buyers. Yet, as we noted earlier, this should only have increased the incentive to sell on the part of the sellers because of the prospect of higher profit margin as far as there are buyers around them. Indeed there were enough buyers for the Kwangju lands: It is only 25km from the center of Seoul where six million population live and the density is almost unbearable. The fact that the land could get four to eight times more than the city's allotment price in the market attests to it. The farmers unwillingness to accept the city's offer of purchase of their lands after they were informed of the prospect of improvement can be understood in the same terms.

In such a context only more direct control of the market could have been effective, at least to some extent, for the city government's purpose. For instance, a general application of capital gains tax might be useful. Unfortunately, however, the present Capital Gains Tax Law is not applicable

to the case of government-developed lands transaction. Insofar as the relocated squatters are concerned, the difficulty of more severe control is the possibility that it might reduce the incentive for them to come in there to begin with and that it would consequently necessitate stronger control of the clearance and relocation process.

Another problem for the city in controlling the settlement process was to have the industries employ more of the people in the new town. The city government is mainly relying on the incentives it provides to the industries. But the statistics show that it has not been as effective as the city expected.

We discussed earlier about the general deficiencies of the Industrial Location Laws in terms of the requirement of the government-induced and subsidized industries to employ local workers. A good example of such deficiencies of the law is well reflected in our case of the Seoul city's inability to control the industries for the Kwangju settlement policy purpose.

Both cases of the problem of control indicate the structural limitation of the city government's capacity to integrate the means of control and its policies. This could be true in any "local" government planning-implementation process. However, the limitation is especially severe in regard to Korean local governments, as the legal system is almost 100% centralized, or nationalized. Any local government in Korea, including the Special City of Seoul, has no legislative authority, having no local legislatures. Municipal ordinances could be made by the mayor, but concerning very minor matters of police, sanitation, fire hazard and the like. It is certainly not within the authority of a local government to have its own laws of land market control or industrial location when it needs to have them.

Thus, the real options for the City of Seoul in planning its own development program such as

Kwangju program are either to reduce the scale and scope of the program to the size it can control on its own authority or to work under specific directions and supports from the national government including the National Assembly.

The irony, however, of the trend of laws development in regard to the City of Seoul is that, by giving more freedom from the national government of policy planning than any other local governments in recognition of its special problems as the nation's capital and also as the pinnacle of the nation's urbanization trend, it has been the more alienated from the national government's support of control tools. In other words, the temptation is stronger for the mayor of Seoul City than any other local government policy makers to plan for a development program of a massive scale on its own risk, because of the freedom he has in his policy planning, even though his capacity to control the actual development process in reality is still very much limited.

Such an overreach of control is well reflected in the City's effort to implement the settlement process of the Kwangju program as it was planned. By discouraging the resale practices between the squatters and the voluntary settlers, it tried to contain all the squatters relocated from Seoul within the new town. But the control was not only unsuccessful to the fullest extent but also closed the channels of private capital inflows into the area for which the City government could not mobilize any effective substitute: A substitute the City had envisioned was the employments by the industries planned to be induced into the new town. However, as the outcome was that not enough industries were "induced" into the area, the squatters as well as the voluntary settlers could not find enough sources of earning within the new town and many of them had to leave it.

Having the authority of control over only a limited number of variables, the alternative for

the city would have been to complement the control process by an appropriate mix of "incentives" in terms of the benefits allocation as discussed above. That is to say an optimization of the City's resources allocation function within the constraints of the private sector's market mechanism. Such an optimization may probably mean a less number of "squatters" relocated, a longer span of time for the program completion, and a more sophisticated machinery of planning. And from today's vantage point when the whole program has been frustrated only in the halfway, one is tempted to suggest the alternative as the

more feasible approach than the one the City of Seoul had tried.

The balance in the complementary relationship between public control and incentive-giving measures will of course be determined by the decision on the overall policy of developmental costs-benefits distribution as discussed in the preceding section. We conclude this study by noting that the Kwangju developmens process is a case in which the population involved have voiced such a demand for the overall policy decision; and that the legal provisions as they are do not contain such a policy declaration.