Providing up-to-date information in English on Japan's civil society

Civil Society Monitor

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NPO Bill Passes the Lower House

THE MUCH AWAITED Bill to Promote Citizens' Activities (NPO Bill), which the *Civil Society Monitor* followed in the last two issues, finally passed the House of Representatives (Lower House) on June 6, 1997. While the bill still needs to be deliberated in the House of Councillors, an extraordinary session of which began on September 29, 1997, people all but consider the bill law and are already focusing on the next stage of development in Japan's civil society. This issue of the *Monitor* provides a summary of the bill (see page 2).

One major criticisms of the current NPO Bill is its lack of tax incentives for donors. After much debate among politicians and leaders of nonprofit organizations (NPOs), a Diet resolution was attached to the bill calling for a review of the tax system to be concluded within two years of promulgation, but critics question the effectiveness of the resolution, pointing out that it is not legally binding and that the Liberal Democratic Party is reluctant to touch the Tax Code. The bill's giving the government the right to conduct inspections is another source of dissatisfaction. Critics fear that the bill may strengthen the government's control over nongovernmental organizations. By limiting those activities that qualify as citizens' activities to twelve categories and excluding such activities as ombudsman and consumer advocate, the bill may also extend government control over selecting organizations.

Overall, however, the nonprofit sector in Japan welcomes promulgation of the NPO Bill because by providing corporate status to nonprofit organizations, the bill marks an important step in achieving a legal framework that encourages citizens' activities rather than discourages them. The next hurdle is the treatment of the Tax Code, which has been the center of much heated discussion between NPO leaders and politicians, between the Liberal Democratic Party (LDP) and the coalition partners, and between the LDP and the New Frontier Party. In this connection, there is a growing feeling that the Civil Code enacted in 1898, which has provided a basis for incorporation of nonprofit organizations thus far, requires serious review. If the NPO Bill becomes law, there will be a two-tier structure in Japan's civil society: nonprofits incorporated under the new legislation and nonprofits incorporated under the Civil Code.

Surveys Highlight Japanese Corporate Philanthropy

Findings from the most recent survey conducted in September 1997 on membership of the Keidanren One Percent Club (a voluntary association composed of corporations desiring to donate 1 percent of their earnings, 1 percent of disposable income, and/or 1 percent of their time for the benefit of society) reveal striking data on Japan's philanthropic activities. As of September 1997, individual membership in the One Percent Club stood at 1,255. At the time of the Club's establishment in 1991, corporate membership stood at 209 and has since gradually but steadily increased to 281. Individual membership, on the other hand, jumped from 149 in 1991 to the current figure, reflecting the rising concern and interest in corporate philanthropic activities among the Japanese general public.

Two further surveys on Japan's corporate philanthropy also provide evidence of the growing interest in philanthropic activities. The surveys paint a general picture of trends for grantmakers in Japan and for Japanese grantmakers in the United States. Both surveys focus uniquely on corporate giving.

In the *White Paper on Corporate Philanthropy in Japan 1996*, compiled by Keidanren (Japan Federation of Economic Organizations), Keidanren

(continued on page 4)

NPO Bill
(Bill to Promote Citizens' Activities)

Summary

Purpose

By granting legal status to private citizens' groups, the law aims to promote the sound development of citizens' activities such as volunteer activities, which represent community involvement activities that are open to citizens and that contribute to the promotion of the public good.

Definitions

(1) Under this law, "citizens' activities" are those activities which promote the well-being of society as a whole and of individual members of society. These activities should fall under one of the following categories.

a. promotion of health and welfare
b. promotion of social education
c. promotion of community building
d. promotion of culture, the arts, and sports
e. preservation of the environment
f. disaster relief
g. promotion of safety in local communities
h. protection of human rights and promotion of peace
i. international cooperation
j. promotion of a society with equal gender participation
k. sound nurturing of youth
l. administration of those organizations that engage in the above activities, or providing correspondence, advice, and assistance for the above activities

(2) Under this bill, legal status as a "nonprofit corporation" is defined as a corporate entity established under the governing laws, and those organizations whose main purpose is to conduct citizens' activities and to fulfill all of the following criteria.

a. Those organizations that fulfill both of the following, and are not motivated by financial profits.
   i. Do not have unfair hiring and firing practices.
   ii. The number of officers receiving remuneration is less than one third of the total number of officers.

b. The nature of the activities should meet both of the following criteria.
   i. The main purpose of the activities must not be missionary, ceremonial, or evangelistic.
   ii. The main purpose of the activities must not be to promote, support, or oppose any political doctrine.
   iii. The activities must neither endorse, support, nor oppose candidates for public office or those already in public office, or political parties.

Principles of Nonprofit Corporations

(1) Nonprofit corporations must not act with the aim of benefiting a specific individual, corporation, or other entities.

(2) Nonprofit corporations must not manipulate their activities for a specific political party.

Profit-making Activities

If doing so does not become an impediment to operations related to citizens' activities, nonprofit corporations may engage in profit-making activities when all earnings are applied to those activities that are related to the nonprofit organization.

Authorizing Institutions

The authority for granting legal status to nonprofit corporations lies with the prefectural governor. As one of the duties of the nation's governance, the prefectural governor assumes the duty of exercising powers of jurisdiction. In cases when the nonprofit corporation's organizational offices are located in at least two areas, regulatory power is assumed by the director-general of the Economic Planning Agency.

Establishment

(1) A person who decides to establish a nonprofit organization must receive approval for such establishment from the granting authorities. An application with the following documents attached must be submitted to the granting authorities as set forth by the Ordinance of the Prime Minister's Office (or by the regulation set by the local authorities).

a. Articles of Association
b. Documents pertaining to officers
   i. List of names of officers
   ii. Written consent to becoming an officer and resident verification documents from each of the officers
   iii. A written oath from each of the officers that they are not incompetent

c. The names of those officers who are remunerated
d. Names and addresses of at least ten staff members
e. A written oath that the main objective of the organization is not religious or to promote political doctrine
f. Founding prospectus
g. A list of names of founders
h. A journal recording the decision process of establishment
i. A catalogue of assets at the time of establishment
j. If a business year is to be used, a document which indicates the business year at the time of establishment
k. Documented schedule of planned projects for the first year and the second year
l. Budget for the first year and the second year

(2) The schematic outline of the application must be announced publicly for one month by the granting authorities without delay.

(3) The granting authorities must make a decision as to the grant of the certification within two months, immediately succeeding the one-month period of public announcement.

(4) If the decision is to not grant the certification, the granting authorities must notify the applicant immediately in a written statement citing reasons for the denial.

Organization and Management

(1) The nonprofit corporation must name at least three members of the board and one auditor as officers.

(2) The operations of the nonprofit corporation will be voted on by the majority of the board, unless otherwise stated in the certificate of incorporation.

Changes to the Certificate of Incorporation

Changes to the Certificate of Incorporation must pass a resolution vote of the General Employee Meeting, as cited in the Certificate of Incorporation. The meeting must be attended by more than half of the total employees, and the resolution must be voted for by three-fourths of the attendants. However, this rule does not apply if there is a special clause in the Certificate of Incorporation.

Disclosure of Information

(1) Nonprofit corporations are required to produce a written annual report on activities, a catalogue of assets, a balance sheet, an income statement, a list of names of officers, a list of names of those officers who are remunerated, and a list of names and addresses of more than ten staff members.

(2) Nonprofit corporations are required to submit the above documents to the administrative office. The documents should be open to inspection should there be a request for them.

Supervision by the Authorities

(1) When a nonprofit organization is suspected of breaking the law, the granting authorities possess the right to order a report on the operations of the corporation or on its assets, or to conduct an on-the-spot inspection of the nonprofit corporation.

(2) The governing authorities may issue an ordinance of improvement in instances when a nonprofit corporation violates the regulations or the certificate of incorporation, or the management of the corporation is unethical.

(3) In instances when a nonprofit corporation violates the ordinance of improvement and there is no way to implement supervision by other means, or three years have passed without the required submission of the annual report to the governing authorities, the granting authorities can invoke the organization's corporate status.

(4) In instances when a nonprofit corporation violates the ordinance of improvement and it is not clear that the ordinance will be carried out and there is no way to implement supervision by other means, even if the period of the ordinance elapses, the granting authorities can invoke the organization's corporate status.

Status under the Tax Code

Nonprofit corporations will be treated the same as unincorporated associations under the Tax Code. This implies that membership fees, donations, and grants are exempt from corporate tax, but profit-making activities of the thirty-three industry sectors will be taxed accordingly as they were profit-making corporations.

Date of Enforcement of the Law

This law will be enforced within no more than a year from the date of promulgation, at a date set forth by government ordinance.

Supplementary Resolution

(1) The overall system of nonprofit corporations, including the tax system, will be reviewed and concluded within two years of the date of enforcement.

(2) The Nonprofit Public Interest Corporation Law and other laws pertaining to nonprofit corporations of the Civil Code will be reviewed in the future.

(continued from page 1)

introduces a survey of its member organizations, which are mostly big corporations. Survey results indicate the fact that corporate philanthropy is becoming solidly anchored in Japanese society. According to the White Paper, based on a sample of 417 companies, the average amount of all charitable contributions spent per corporation was ¥382 million in 1995. Over the years, the average percentage of amount of money spent on corporate philanthropic activities out of recurring profits has consistently been at the 3 percent level.

For members of the aforementioned One Percent Club, the average amount of all charitable contributions spent per member corporation was ¥596 million, and the average percentage of amount of money spent on corporate philanthropic activities out of recurring profits was around 4 percent, roughly ¥200 million higher or a full percentage point higher than for corporations in general.

According to the survey in the White Paper, total philanthropic disbursements in 1995 include disaster aid (19.9 percent), academics (14.0 percent), events in local communities (11.7 percent), and education (9.8 percent). Of total philanthropic disbursements, moneys spent on philanthropic programs include arts and culture (21.6 percent), events in local communities (17.9 percent), social welfare (10.5 percent), environmental protection (10.0 percent), sports (9.3 percent), and international exchange and cooperation (7.1 percent).

The second major survey, conducted by the Japan External Trade Organization (JETRO), provides information on Japanese corporate philanthropy in the United States. The survey, conducted in 1994–1995 and published in 1996, is based on responses from 984 manufacturing companies and 299 nonmanufacturing Japanese companies operating in the United States. Of the total 1,283 respondents, 79.9 percent indicated that they engage in corporate philanthropy.

Companies reporting no change in the level of their support since the last survey reached 73.2 percent, while 22.1 percent said such donations had increased substantially. One striking finding from the survey was that 90 percent of the corporations that reported a decline of sales or profits nevertheless maintained a steady level of philanthropic activity or even increased activities from the previous survey period. In terms of kinds of philanthropic support, 90.7 percent of respondents gave cash contributions; this was followed by participation in community organizations, encouraging employee voluntarism, offering corporate facilities to community organizations, and making in-kind contributions at the time of natural disasters. Japanese corporate giving in the United States was broadly distributed in the following program areas: community development (67.5 percent), elementary and secondary education (40.5 percent), arts (22.0 percent), higher education (20.6 percent), promotion of mutual understanding (20.2 percent), and disaster relief (12.6 percent). One new trend the survey identified was an increase of employee voluntarism: the percentage of corporations engaged in such activities increased to 40.6 percent from 36.1 percent in the previous survey.

The second half of the 1990s has seen a great surge of interest in civil society development in Japan. Due largely to the impressive work of 1.2 million volunteers and of many NGOs at the time of the tragic earthquake in Kobe in January 1995, Japanese corporations and the government started paying greater attention to the impact of citizens' activities, to nongovernmental and nonprofit organizations, and to civil society. This marks the beginning of a new era of close partnership between corporations and NGOs in both domestic and international contexts and the findings from these three surveys clearly highlight this fact.

Japan Center for International Exchange

Founded in 1970, the Japan Center for International Exchange is an independent, nonprofit, and nonpartisan organization dedicated to strengthening Japan's role in international affairs. JCIE plays an important role in broadening debate on Japan's international responsibilities by engaging Japanese from different sectors in privately sponsored programs of exchange, research, and discussion with their foreign counterparts.

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