



Civil Society Monitor

Japan Center for International Exchange

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The NPO Law and Civil Society's New Phase of Development

Background

There was a great deal of excitement among civil society advocates in Japan and abroad when the so-called NPO Law was promulgated in March 1998 and enacted the following December. The law's conception, drafting, and passage through the Diet was a dramatic process. It took a galvanizing event—the tragic earthquake that hit Kobe-Awajishima in January 1995—to both impress upon people that the government alone cannot deal with the complex issues of contemporary society and to stir the public's growing sense of civic participation (some 1.3 million volunteers rushed to the aid of earthquake victims). The outmoded legal and administrative contexts within which nongovernmental organizations (NGOs) had to operate in Japan were exposed and challenged. This led to the adoption of new legislation that has substantially improved the incorporation process for nonprofit organizations (NPOs), which had previously been under the strict, discretionary control of government agencies.

A second development in recent years that helped promote the cause of civil society in Japan and contributed to the passage of the NPO Law was the financial crisis that beset Japan and other Asian countries in 1997. That crisis has engendered a general recognition that the state-centric system of governance which served Japan so well during the period in which it exclusively pursued economic

development can no longer cope with the extensive impact of globalization and the fundamental changes it is creating in society. Thus a critical need exists for Japan to develop a higher degree of accountability and transparency in its system of governance—and this requires more active participation by civil society in the political process and in addressing social issues. Concern for improving the governance of society has added new impetus to the civil society debate in Japan.

Emergence of “Specified Nonprofit Corporations”

The NPO Law has substantially simplified the incorporation process for NPOs and NGOs. The new legislation has made it possible for NPOs to be incorporated without the approval of “competent authorities,” which previously had referred to the government agency or agencies with jurisdiction over the area of activities of the NPO in question. Applications are now processed through the prefectural government where the NPO or NGO operates, or through the Economic Planning Agency in the case of organizations operating in more than one prefecture. This has substantially decreased the ability of central government agencies to influence the activities of NPOs and NGOs, as had happened in the past.

Moreover, under the NPO Law, the government authorities can no longer exercise their power of “approval” (*ninka*) of

incorporation of NPOs and NGOs simply at their discretion, with no objective criteria. They are now expected to “authenticate” (*ninsho*) these organizations within two months after an application is filed, as long as the filing organization conforms with the provisions set forth in the legislation.

In addition, NPOs and NGOs applying for incorporated status are no longer required to be endowed with ¥300 million in assets (approximately \$3 million).

The question of how this more enabling environment is affecting the pattern of growth of NPOs and NGOs has attracted considerable attention. According to figures released by the Economic Planning Agency, as of August 27, 1999, a total of 1,130 organizations had applied for incorporation, and 469 organizations had been “authenticated,” receiving the status of “specified nonprofit corporations” (*tokutei hieiri hojin*), a new category of NPOs created under the new legislation. Judging by the current pace of applications, more than 1,000 NPOs and NGOs are expected to be incorporated by the end of 1999.

A survey conducted by “C's” (the Coalition for Legislation to Support Citizens' Organizations) revealed that of the 12 activity areas set forth by the NPO Law, organizations engaging in the “promotion of health, medical treatment, or welfare” comprise the majority, followed by those engaging in the “promotion of social education,” the “sound nurturing of youth,” and the “promotion of community

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development.” The geographical distribution of those specified nonprofit corporations incorporated as of August 27, 1999, is shown in the table below.

Challenges of Taking Advantage of the New Law

The new application procedure for incorporation is relatively speedy and easy compared with the past “approval system” where applicants had to go through a tedious and frustrating process for anywhere from six months to over a year. The first organization incorporated under the NPO Law was Furano Engeki Kobo (Furano City Theater Studio), an organization that promotes theater in Furano City in Hokkaido. The organization filed its application on December 1, 1998, the day the NPO Law was enacted, and received corporate status on February 23, 1999.

The number of applications submitted so far has, however, been substantially lower than was initially estimated. In the April 1998 edition of *Civil Society Monitor*, an estimate of 10,000 applications was quoted. According to NPO leaders, the relatively sluggish pace may be attributed to several factors. First, most

prefectural governments, for which the processing of applications for incorporation was a completely new responsibility, had great difficulty setting up the application procedure. In most prefectures, the application procedure was only made public in November 1998, meaning that those organizations hoping to submit an application have not had much time to convene an inaugural meeting, which is legally required before submission of an application. For most organizations, at least six months are needed to complete the necessary steps for application, including the preparation of various forms. Second, lack of a clear understanding of the requirements for application, reservations about the advantages of the new category of NPOs, and concerns about cumbersome obligations concerning preparation of financial statements seem to have prompted NPOs to take a wait-and-see attitude rather than immediately apply for incorporated status.

Many NPO leaders in fact regard a gradual increase in applications as a healthy development for the overall growth of civil society in Japan, as a sudden surge of applications would have increased the likelihood of some dubious

organizations obtaining legally incorporated status. The slower-than-expected pace of applications has also underscored the importance of the role of umbrella organizations or intermediary organizations that can provide guidance and assistance to organizations considering applying for incorporation.

In that connection, it was encouraging that several NPO centers in different parts of Japan moved quickly to become incorporated as specified nonprofit corporations. These included the Japan NPO Center, a de facto national umbrella organization, the Aomori NPO Support Center (Aomori Prefecture), the Kubikino NPO Support Center (Nigata Prefecture), the Nagano Prefecture NPO Center (Nagano Prefecture), and the Osaka NPO Center (Osaka Prefecture). Leaders of these centers indicated that they wished to gain first-hand experience of the application procedure in order to better provide guidance to other NPOs preparing applications.

The Next Battleground: The Tax System

Although many NGOs and NPOs have

Location and Number of Specified Nonprofit Corporations
(as of August 27, 1999)

Prefecture	Applied	Authenticated	Denied	Prefecture	Applied	Authenticated	Denied	Prefecture	Applied	Authenticated	Denied
Hokkaido	46	32	0	Yamanashi	5	4	0	Kagawa	6	6	0
Aomori	4	2	0	Nagano	18	7	0	Ehime	8	4	0
Iwate	4	3	0	Gifu	11	7	0	Kochi	11	7	0
Miyagi	24	15	0	Shizuoka	29	10	0	Fukuoka	40	15	0
Akita	7	5	0	Aichi	29	12	0	Saga	8	4	0
Yamagata	9	5	0	Mie	24	9	0	Nagasaki	4	3	0
Fukushima	8	5	0	Shiga	10	9	0	Kumamoto	18	7	0
Ibaragi	18	13	0	Kyoto	17	10	0	Oita	2	1	0
Tochigi	28	16	0	Osaka	85	52	0	Miyazaki	2	1	0
Gunma	24	18	0	Hyogo	28	13	0	Kagoshima	2	1	0
Saitama	20	6	0	Nara	4	2	0	Okinawa	6	2	0
Chiba	33	11	0	Wakayama	1	1	0				
Tokyo	286	39	1	Tottori	5	3	0	Subtotal	1,041	438	1
Kanagawa	77	32	0	Shimane	5	4	0				
Niigata	13	9	0	Okayama	16	9	0	Economic Planning Agency	89	31	1
Toyama	6	2	0	Hiroshima	18	10	0				
Ishikawa	7	3	0	Yamaguchi	7	6	0				
Fukui	4	0	0	Tokushima	4	3	0	Total	1,130	469	2

Source: Economic Planning Agency website <<http://www.epa.go.jp>>.

begun applying for incorporated status, there remain a number of drawbacks to the NPO Law. One is the lack of tax incentives for donations to such organizations. This issue, in fact, was at the core of discussions surrounding the drafting and passage of the NPO Law. After much debate on whether contributions made to nonprofits should be given tax incentives, lawmakers decided to add a supplementary resolution to the NPO Law instead of including an article in the law itself. The resolution, which was adopted by both the House of Representatives and the House of Councillors, states, "Specified nonprofit corporations, including the taxation system of the promotion and support for specified nonprofit activities, shall be reviewed and conclusions arrived at, on the basis of the actual status of activities thereof, within two years from the date of enforcement of this law." This means that an amendment should be drafted by the end of November 2000.

Two important actions have recently been taken, one by politicians and one by the NGO/NPO community, to move this resolution forward and to further pro-

mote an enabling environment for civil society in Japan. In the political arena, a group of parliamentary members launched the Parliamentary League to Support NPOs with the aim of strengthening the legal environment surrounding NPOs, especially in terms of implementing favorable tax measures for donations made to NPOs. Some 33 Diet members from the Liberal Democratic Party, the Democratic Party of Japan, the New Komeito, the Liberal Democratic Party of Japan, the Social Democratic Party of Japan, and the Independents (members of the House of Councillors) convened toward the end of July 1999 to establish the inaugural committee of the league. Mr. Koichi Kato, former secretary-general of the Liberal Democratic Party and a key figure in Japanese politics, is the official representative of the league. The league will seek to mobilize more members of parliament in support of the activities of NPOs and NGOs.

Within the NPO/NGO community, 28 citizens' organizations joined forces in June 1999 to form the Coordinating Committee on the Reform of Tax and Legal

Framework of NPOs/NGOs. This committee aims to bring together various citizens' organizations for the purpose of promoting national-level activities to push for an amendment to the NPO Law that would include a favorable tax system.

These two forces, both proponents of creating a more enabling environment for Japan's civil society, converged in dramatic fashion at the inaugural general assembly of the Parliamentary League to Support NPOs on August 5, 1999. Some 80 members of the Diet (out of the 204 who have signed up for the league) and over 100 NPO leaders attended a meeting held in a room in the Diet Office Building that normally holds only 120 people. Pandemonium resulted from this overflow of people and the glaring lights of television cameras, leading one veteran Diet staff member to comment to the press that he had never before seen an inaugural meeting with such a large turnout. It was indicative of the attention that politicians have started giving to civil society's development, and it offered hope that the 2001 tax reform will be a historic tax legislation favoring NPOs. 🌸

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Although it is difficult to form any definitive conclusions about the present scope and future prospects of corporate-NGO partnership in Asia Pacific based solely on the case studies included in this project, the project and its participants discovered a new impetus for the development of both civil society and corporate philanthropy. In brief, participants found:

- that various factors and trends in the region make the time ripe for corporate-NGO partnership;
- that both sectors are finding there is much to be gained from working together;
- that a number of prerequisites can be identified for successful partnerships;
- that such partnerships are often being carried out in a broader multisectoral context; and

- that there are many challenges still ahead if such partnerships are to succeed.

Given the relatively short history of corporate-NGO partnership in Asia Pacific, the experiences described in this volume provide a unique and insightful look at the requirements of successful partnerships and the challenges that lie ahead for those who wish to attempt such arrangements in the future. It is hoped that this book can further stimulate corporate and NGO leaders to explore and strengthen their cooperative relationships.

How to Order

Corporate-NGO Partnership in Asia Pacific is available in Japan from JCIE.

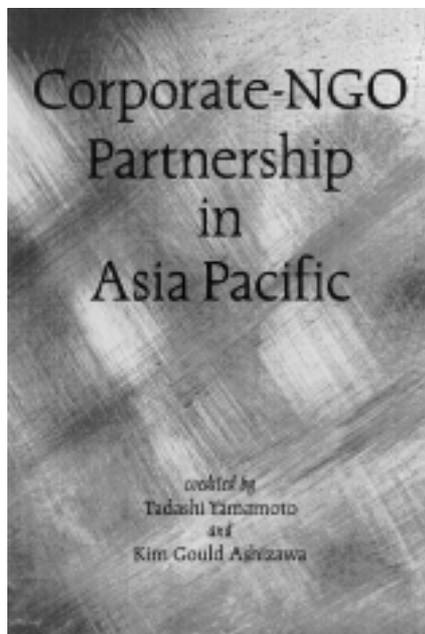
The price is ¥2,100. Outside Japan, the book can be purchased from:

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Price: \$21.00

Prices listed do not include tax or shipping and handling. The Japanese-language edition will be published soon. The full text of the case studies will be available on JCIE's website (www.jcie.or.jp). 🌸

Corporate-NGO Partnership in Asia Pacific: JCIE Publishes Results of Case Study Project

In June 1999, roughly 80 corporate managers and leaders from civil society organizations gathered together at Keidanren (Japan Federation of Economic Organizations) to discuss the outcome of a two-year case study project undertaken by the Japan Center for International Exchange (JCIE) on corporate-NGO partnership in Asia Pacific. The fact that such a meeting could be held in the citadel of Japan's corporate world, in a building that was once a favorite target of NGO demonstrations, is symbolic of the significant shift that has been occurring over the past decade in Japan and throughout the region as the animosity that often characterized relations between the corporate world and civil society organizations has been giving way to a growing trend of collaboration and partnership between the two sectors. JCIE's "Corporate-NGO Partnership in Asia Pacific" project sought to provide new insight into that trend through research on successful cases of cross-sectoral partnership. The results are now available in a new monograph, *Corporate-NGO Partnership in Asia*



Pacific, coedited by Tadashi Yamamoto and Kim Gould Ashizawa.

The publication incorporates summaries of ten case studies that are diverse in terms of the national origin of corporations, business sector, and NGO partners. They include such efforts as Toyota's work with the "Able Art Movement" to conduct

a series of exhibits and workshops highlighting the artwork of individuals with disabilities; British Petroleum's innovative work with Save the Children U.S. to fight malnutrition in Vietnam; a recycling program run through a partnership between an Indonesian producer of bottled water, PT Golden Aqua Mississippi, and a local environmental NGO; and many others.

In addition to the case studies, the publication includes an overview analysis that reflects the discussions at the conference. The volume examines the emerging trends in the Asia Pacific region that have encouraged the formation of such partnerships—the evolution of civil society, changing corporate attitudes toward philanthropy and corporate responsibility, the impact of the financial crisis, and the current constraints on the public sector's ability to meet demands for social development—and the rationale of each actor as it decides to forge links between the corporate and nonprofit sectors, and, in many cases, with other sectors as well.

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