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Legislation Enacted for Nonprofit Organizations in Japan

ISHIZUKA Hideo, Guest Researcher

In January 1999, the Law to Promote Specified Nonprofit Activities was promulgated in Japan giving nonprofit organizations (NGOs) their first legal recognition. The legislation is in part a result of volunteer activities following the Kobe Earthquake which took more than six thousand lives. A large number of volunteers came to help victims of the quake. Volunteer efforts, however were hampered by the lack of legal back up at the time.

The new law is not without shortcomings. As it presently stands, it gives few advantage for NPO activities, while allowing government control to some extent. For this reason, a number of NPOs have hesitated to apply for registration to their local authorities. The legislation itself however, is good news for the NPO movement in general. This law shows a change away from the traditional definition of a corporation which was either public/nonprofit or private/ for profit. Previously, there was no room for nonprofit organizations in this dichotomy.

In parliament there was a very important debate over whether NPOs were to be defined as civic organizations fulfilling public interests or not. The opposition parties have insisted on defining NPO as civic organizations, while the ruling conservative party dislikes this term, because they think the term civic reminds people of a voluntary character. Nonetheless, the use of the term was denied by LDP and therefore there is no indication in the law. Looking at this situation, some observe that the Nonprofit Activities Law was born out of a kind of compromise among different political parties.

Traditionally in Japan, organizations such as trade unions, co-operatives, consumer's and women's bodies, local mutual help organizations and so on, have been considered to be social movements. Since the 1980s, however, Japanese society has experienced a fundamental change both in the field of socio-economic structure and people's behavior. Economic growth has resulted in rapid urbanization, decay of rural communities, large scale destruction of the environment, drastic changes in family structure and life style, and the growing need for socialized services to fill the gaps. Citizens have been increasingly attracted to a large number of voluntary grass-root organizations that have been created to pursue a variety of new issues or themes such as, the environment, health and welfare services, education, consumerism, feminism, community development, peace, etc. These voluntary organizations could not be categorized within the existing types of organizations. There was a shift from established organizations into new voluntary grass roots organizations which link citizens through mutual interests under the concept of networking within society.

In 1996, there were more than 85,000 nonprofit organizations in Japan. NPOs accounted for 2.5 percent of the total employment and 3.2 % of Gross Domestic Product in 1990. At present, 40 % of NGOs are engaged in the field of social welfare services, and 20% are concerned with road safety vigilance linked with local polices, voluntary organizations linked with local authorities, and culture/sport groups,

respectively. Over half of the NPOs have a small budget of less than one million yen per year. The Law to Promote Specified Nonprofit Activities aims to contribute to public interest by promoting the sound development of specified nonprofit activities as voluntary activities. Volunteer activities are activities performed by citizens in conjunctions with nonprofit organization that contribute to society.

According to the law, specified nonprofit activities are as follows:

1. Activities to promote health, medical care, or welfare
2. Activities to promote social education
3. Activities to promote community development
4. Activities to promote culture, the arts, or sports
5. Activities to protect the environment
6. Disaster-relief activities
7. Activities to ensure community safety
8. Activities to protect human rights or promote peace
9. International cooperation activities
10. Activities to promote the creation of a gender-equal society
11. Activities to promote the sound nurturing of youth
12. Liaison, advising, or support activities related to the operation or activities of organizations performing any of the activities listed above.

Registered NPOs cannot be a tool for political, religious or Mafia activities. This definition was one of the critical points among legislators. Registered NPOs can naturally be engaged in profit-making activities provided the proceeds are used for their proper end. Making profit for certain individuals and organizations is prohibited. NPO wishing to obtain the juridical person status must apply for incorporation at the office of the prefectural government where they are located. If their facilities are located in two or more prefectures, the Ministry of the Economic Planning Agency is responsible for the registration. For certification, NPOs must fulfill basic conditions, as well as, complete the necessary documentation.

An organization must meet the following criteria in order to registered as a NPO: ten or more members must be registered, no more than one third of the officers can receive remuneration, relatives cannot sit in more than a third of the offices, revenues and expenditures must be based on a budget and activity reports must be disclosed. Unless there is a legitimate reason not to do so, the authority shall certify within four months of receipt of application. This procedure places NPOs in between public interest corporation, that are required to gain permission from authorities, and private corporation, that are only required to notify the authorities.

In the case of liquidation, according to the Law, the residual property will be assigned to the persons to whom the NGOs are to be reverted under the stipulation in the articles of incorporation or transferred to the government or local authority. This provision seems to be insufficient because the articles allow property to be divided among the members, which means that members can receive personal dividends.

Regarding tax concessions, registered NPOs are regarded as a public interest legal person according to the tax law. Registered NPOs must pay corporation tax (25 % for annual income less than 8 million, 34.5 % for income over 8 million), as well as local community tax.

Regrettably, there is no tax concession for individual donations to NPOs. If one of the characteristics of an NPO is that donations form their financial basis, the lack of incentive of the tax concession for individual donations may undermine the self-financing efforts of NPOs. Nonetheless, through the new legislation NPOs can conclude contracts and open bank accounts under the name of the organization. Registered NPOs, engaged in welfare and home care services, are able to take part in tender contracts with local governments.

Some politicians have stated that voluntary participation in community NGOs should be obligatory for all students. On the other hand, careful consideration must be taken so that voluntary organizations are not thought of as cheap instruments for national and local governments. Volunteers must be considered differently from temporary workers. To be able to act freely without government control is one of the most important elements to ensure the autonomy and self-government of NPOs. However, a substantial part of the budget of NPOs comes from public authorities. Both NPOs and public authorities must build an equal partnership to cater to the public good and social needs.