



# Civil Society Monitor

Japan Center for International Exchange

Vol. 2 No. 1 Winter 1997

## Debate over New NPO Bill Intensifies

STIMULATED BY NUMEROUS reports of volunteerism in the aftermath of the Great Hanshin-Awaji Earthquake in January 1995, the public has focused an unprecedented level of attention on the need for NPO legislation. As discussed in the last issue of *Civil Society Monitor* (Vol. 1 No. 1 Fall 1996), during

the past two years both the Liaison Committee for Related Government Ministries and Agencies Regarding Volunteer Activities and all the main political parties have been actively engaged in drafting a new NPO law that would effectively promote and support the activities of Japan's voluntary sector. On December 17, 1996, the three former ruling coalition parties—the Liberal Democratic Party (LDP), the Social Democratic Party (SDP), and the New Party Sakigake—jointly submitted a draft bill to the Diet.\* Although it is likely that the draft will be fully debated in April 1997, during the Diet's next ordinary session, the fate of the bill is still unclear. What seems certain, however, is that there will be more intensive debate over the role of nonprofit organizations and the regulatory context governing them and that the outcome of this debate will have a considerable impact on the development of Japan's civil society.

### **"Governance" as an Added Dimension of the NPO Debate**

Over the past few months, political parties have latched onto the issue of new NPO legislation as a means of garnering public support. The former ruling coalition's decision to hurriedly complete a compromise agreement just before the end of the previous Diet session and only

a few weeks before the election in the House of Representatives was clearly a response to the earlier submission to the Diet of a legislative proposal by the opposition New Frontier Party. Moreover, the Democratic Party of Japan, which was created just before the election mainly by defectors from the SDP and the New Party Sakigake, has made enactment of NPO legislation one of its central policy platforms.

The popular political issue of deregulation and downsizing of government has further strengthened political parties' support for promoting the nonprofit sector. In other words, whereas previous arguments supporting new legislation had highlighted the role of volunteers in the aftermath of the earthquake, the issue now has come to be related to the overall question of governance. For years, bureaucrats had been seen as the sole arbitrators of the public interest, but this assumption has been shaken by both the bureaucracy's inability to deal effectively

with recent complex issues confronting society and the increasing number of scandals involving high-ranking civil servants. A general questioning of who should look after the public interest has resulted. Thus, the debate over promoting Japan's nonprofit sector has taken on a new dimension focusing on the role of NPOs in promoting of the public good.

### **Critical Issues in the NPO Debate**

The question of who possesses the authority to grant legal status to prospective nonprofit organizations has been the most controversial and divisive issue in the debate over new NPO legislation. Under the current system, regulations for granting incorporated status to nonprofit organizations are stipulated in Article 34 of the Civil Code, which was adopted in 1898. "Competent authorities," namely,

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*Civil Society Monitor* can also be read on JCIE's CivilNet home page:  
[http://www.jcie.or.jp/civilnet/civilnet\\_contents.html](http://www.jcie.or.jp/civilnet/civilnet_contents.html)

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government ministries with jurisdictional authority over the area of activities of the nonprofit organization in question, possess discretionary authority to approve or reject applications for incorporated status without regard to objective criteria. This situation has resulted in a pervasive pattern of bureaucratic control over public-interest corporations and has led to a trend whereby so-called independent organizations employ former bureaucrats who because of their connections with government ministries can expedite the organization's incorporation and secure government subsidies.

The draft bill recently submitted by the former ruling coalition represents a compromise by the LDP, which previously supported the continuation of the current approval system. The bill proposes that organizations meeting all the requirements for incorporation be granted legal status within three months of the time of application. It also proposes that the authority for granting legal status to nonprofit corporations be placed with the prefectural governor, except where the offices of the nonprofit organization are located in at least two geographical areas, in which case regulatory power is assumed by the Economic Planning Agency of the national government. The LDP also compromised by retracting a demand that incorporated organizations not receive contributions beyond the normal costs needed to operate activities, hence practically denying NPOs the means to provide adequate salaries to their staff and develop professional expertise.

Despite these changes, leaders of Japan's nonprofit sector are expected to express serious reservations concerning the proposal's requirements for incorporation. For one, the bill defines "citizens' activities" (*shimin katsudo*) as those activities that fall under one of eleven restrictive categories and that benefit an indeterminable number of people. The eleven categories are (1) promotion of health and welfare, (2) promotion of

continuing education, (3) promotion of community building, (4) promotion of culture, the arts, and sports, (5) preservation of the Earth's environment, (6) disaster relief, (7) promotion of safety in local communities, (8) protection of human rights and promotion of peace, (9) international cooperation, (10) promotion of a society with equal gender participation, and (11) sound nurturing of youth. Critics of this part of the bill point out that such rigid categorization of activities will inevitably lead to greater government control over the incorporation process. They also argue that the list of areas of

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NPO activities should be regarded only as illustrative and not binding. Under the present form of the bill, nonprofits such as consumer groups and policy advocacy groups would probably be unable to receive incorporated status.

Other areas of the bill that are likely to be debated are a requirement limiting organizations to a paid staff of no more than one third of the organization's officers and one third of the staff members and a requirement that nonprofit organizations submit to the appropriate government agency the names of all officers and members who receive payment from the organization. The latter can be seen as an infringement of privacy of citizens. The New Party Sakigake has agreed on the

compromise draft with dissension on this provision.

Absence of any provision for tax incentives for contributions is another key element in the forthcoming debate on the bill. Currently only a limited number of nonprofit organizations incorporated under Article 34 of the Civil Code have special tax privileges. Proponents of the nonprofit sector in Japan argue vigorously that a special tax provision be included in the draft bill because such special tax treatment is essential for the growth of the sector.

There are several other controversial elements in the bill, including cumbersome reporting duties and the right of government agencies to inspect organizations and to permanently revoke their incorporated status. Overall, the draft bill still reflects a traditional attitude on the part of government bureaucrats who hope to maintain control over the nonprofit sector and reduce NPOs to a subsidiary level.

Leaders of Japan's nonprofit sector are divided as to whether the bill in its present form should be passed. Some argue that given the current situation of many voluntary organizations without incorporated status, the bill should be passed as soon as possible even with its flaws. Others feel that once legislation is enacted it will be difficult to improve it. Yet, most leaders in the nonprofit sector agree that support is needed from leaders from other sectors who believe in the importance of nonprofit organizations.

The future of the NPO bill remains to be seen. Regardless of the final form of the bill, the heated debate over the role of the nonprofit sector will substantially affect the future of civil society in Japan. ❁

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\*After the election in the House of Representatives on October 20, 1996, the SDP and the New Party Sakigake withdrew from the cabinet but agreed to cooperate with the LDP on selective legislative matters. The decision to submit NPO legislation in the forthcoming ordinary Diet session stemmed from a policy agreement among the three parties immediately after the formation of the second Hashimoto cabinet.

## Japan NPO Center Launched


On November 22, 1996, the inaugural meeting of the Japan NPO Center was held in Tokyo with the participation of more than 150 leaders of nonprofit organizations, major business associations and corporations, foundations, research institutions, and community organizations from throughout Japan. The meeting was a culmination of a year of preparatory activities promoted by a group of NPO and corporate leaders, including Takeo Shiina, chairman of the Social Contribution Committee of Keidanren (Japan Federation of Economic Organizations) and chairman of Japan IBM, and Yasuyuki Wakahara, chairman of the One Percent Club of Keidanren.

The impetus for establishing the center was the belief that further development of Japan's nonprofit sector depends on greater cooperation with both the government and the corporate community. It was also felt that an intermediary organization was needed to play a catalytic role in promoting collaborative efforts. To discuss the center's activities and goals, a series of preparatory meetings were held in Tokyo and other parts of Japan and two study missions by NPO leaders with the funding of the Center for Global Partnership of the Japan Foundation and Keidanren were sent to the United States.

The Japan NPO Center is expected to have the following five major functions: (1) to serve as a clearinghouse for information on the nonprofit sector, (2) to provide nonprofit organizations with

consultation and facilitation services, (3) to act as a human and institutional networking base for information exchange and cooperation, (4) to sponsor training forums on exchange with an emphasis on reaching out to other sectors and regions, and (5) to provide research and policy recommendations in cooperation with specialists from universities and research institutions on NPO-related issues.

At first, the Japan NPO Center will not be incorporated. However, it will possess

a formal organizational structure with a board of directors and board of councilors and have two managing directors: Noboru Hayase, chief executive officer of the Osaka Voluntary Action Center, and Yoshinori Yamaoka, former program director at the Toyota Foundation, who will also serve as the full-time executive secretary. The Center will collect membership dues from institutional and individual members and have a projected first-year budget of 50 million yen (approximately \$500,000). The Center will have two full-time staff members. 

### Japan NPO Center Board of Directors

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## GAP to Host International Conference to Promote Cooperation among Asian Foundations and Organizations

Formed as a voluntary study group in 1993, Group Action Planning for International Philanthropy (GAP), is made up of program officers from five Japanese foundations and nonprofit organizations—the International House of Japan, the Japan Center for International Exchange, the Asia Center of the Japan

Foundation, the Sasakawa Peace Foundation, and the Toyota Foundation. GAP performs various functions, including research projects and training programs for staff from the member organizations.\*

Since early 1996, GAP has undertaken a series of activities designed to develop partnerships with counterparts in Asian

countries. These activities will culminate with an international conference on the theme "Envisioning the Future: International Cooperation among Asian Foundations and Organizations" from February 13–15, 1997, to be held in Tokyo at the Japan Foundation. Participants are expected to come from the program management level of foundations and

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## Access Asia Pacific NGOs and Foundations through JCIE's Home Page

As part of our ongoing effort to provide greater information on civil society and philanthropic developments in Asia Pacific, JCIE is assembling directories of foundations, NGOs, and research institutions located in Asia Pacific nations. Work on the directories was started in 1993 in conjunction with the survey project, "Nongovernmental Underpinnings of the Emerging Asia Pacific Regional Community," which aimed at assessing the state of indigenous development of civil society

in Asia Pacific nations, namely, Australia, Canada, China, Hong Kong, In-



donesia, Japan, Korea, Malaysia, New Zealand, the Philippines, Singapore, Taiwan, Thailand, the United States,

and Vietnam. The initial reports of the survey were published in 1995 in a volume titled *Emerging Civil Society in the Asia Pacific Community*.

JCIE is now updating entries for more than 700 organizations, which include information on the organizations' history, objectives and activities, Asia Pacific-related programs, as well as contact information, and gradually placing the entries on our Web site for public use. The directories can be accessed through the CivilNet home page on JCIE's Web site.

[http://www.jcie.or.jp/civilnet/emerging\\_civil\\_soc.html](http://www.jcie.or.jp/civilnet/emerging_civil_soc.html)

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nonprofit organizations throughout Asia.

In preparation for the conference, four study missions traveled in February and March 1996 to ten countries and territories in East, Southeast, and South Asia—namely, China, Hong Kong, India, Indonesia, Korea, Malaysia, the Philippines, Singapore, Taiwan, and Thailand—and participants and representatives of foundations and nonprofit organizations in the countries and territories visited attended a conference

in Bangkok in September 1996. According to the organizers, the GAP conference in February 1997 will identify concrete projects of common concern, provide an opportunity to share information with parties of diverse interests, and build networks between individuals at the program management level of Asian foundations and nonprofit organizations.

The conference will be jointly organized by the five member organizations of GAP in collaboration with the Asia-Pacific Human Rights Information Center in Osaka and the Asian foundations and

nonprofit organizations that participated in the Bangkok conference. ❁

\*Members of GAP have jointly compiled a publication in Japanese titled *Program Officer* (ALC Press, September 1996) based on their experiences as program officers. The volume serves as a handbook for readers considering a career in the nonprofit sector and includes the following topics: activities of nonprofit organizations, basic knowledge and skills needed to be a program officer, working in a nonprofit organization, personal reflections of a program officer, and experiences in project management.

### 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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