



2010 AGNA Regional Meeting of Asia Toronto, 19-20 August 2010

Meeting Report

Copyright©2010 CIVICUS: World Alliance for Citizen Participation

CIVICUS House

24 Gwigwi Mrwebi Street, Newtown 2001

Johannesburg, South Africa

Tel: +27 (0) 11 833 5959 Fax: +27 (0) 11 833 7997

Website: <http://civicus.org>

Secretariat of AGNA Asia regional group

The Japan Association of Charitable Organizations

2-27-15, Hon-komagome, Bunkyo

Tokyo, 113-0021, Japan

Tel: +81 (3) 3945-1017 Fax: +81 (3) 3945-1267

Website: http://www.kohokyo.or.jp/english/eng_index.html

Reflections on AGNA Asia Regional Meeting 19-20 August 2010, Toronto Canada

The AGNA Asia Regional Group held its first regional meeting for 2010 at the Japanese-Canadian Cultural Centre, Toronto, from 19 to 20 August. Participants were Mr. Huang Haoming from CANGO, China; Mr. Harsh Jaitli from VANI, India; Mr. Dala Rawal from NGO-Federation, Nepal; Mr. Sixto Donato C. Macasaet from the CODE-NGO, the Philippines; and Mr. Yoshiharu Shiraishi from JACO, Japan. The aim of the meeting was to assess the state of civil society in Asia and share information on the different countries represented at the meeting.

The group paid a visit to Imagine Canada (the largest umbrella body in the country) and Canada Helps (Canada's only charitable giving operator), both located in Downtown Toronto. They listened to their presentations and participated in discussions with staff on the role of both organisations in the country and their contribution towards civil society activities in Canada. The group learnt about the contributions made by Canadian charitable organisations to their communities and how the Canadian non-profit sector contributes to development at local and national levels.

In January next year, the Asia regional group is planning to hold a second regional meeting in Kathmandu, Nepal and discuss the LTA of national associations, the legal environment for civil society in Asia and a CSO database system. The session "Legal Environment for Civil Society" will be a joint meeting with Working Group 5: "Ensure an Enabling Legal Environment for Civil Society" established this year, and will promote participation from other countries even if they are not AGNA members such as Cambodia, Laos and Vietnam.

The Asia regional group consists of 13 National Associations from AGNA members in Asia) but we hope to play a leading role in developing civil society in our respective countries and the region as a whole by working with each other and other regional actors. For more information on the Asia regional group, please get in touch with Yoshiharu Shiraishi on shiraishi@kohokyo.or.jp.

This time, the group has produced copies of meeting reports about the regional discussions which held on 19 August. It is our great pleasure to send you a copy of the meeting report for your review.

Yoshiharu Shiraishi

Research associate of the Japan Association of Charitable Organizations

Secretariat of AGNA Asia regional group

Programme of Activities for 2010 AGNA Regional Meeting of Asia

18-19 August 2010: Toronto, Canada

21 August 2010: Montreal, Canada

Day 1: Wednesday 18 August (Toronto)

Place: Japanese Canadian Cultural Centre (6 Garamond Court, Court, Toronto)

09:45-09:50 Opening, agenda, logistical announcement (Mr. Yoshiharu Shiraishi, JACO)

09:50-10:00 Welcome speech (Mr. Huang Haoming, Chairman of AGNA regional meeting of Asia)

10:00-12:20 Session 1: The situation of Civil Society in Asian countries

10:00-10:30 P1: China (Mr. Huang Haoming)

10:30-11:00 P2: India (Mr. Harsh Jaitli)

11:00-11:30 P3: Nepal (Mr. Dala Rawal)

11:30-12:00 P4: Philippines (Mr. Sixto Donato C Macasaet)

12:00-12:30 P5: Japan (Mr. Yoshiharu Shiraishi)

12:30-14:00 Lunch

14:00-16:30 Session 2: Accountability, Legitimacy and Transparency

14:00-14:30 P1: China (Mr. Huang Haoming)

14:30-15:00 P2: India (Mr. Harsh Jaitli)

15:00-15:30 P3: Nepal (Mr. Dala Rawal)

15:30-16:00 P4: Philippines (Mr. Sixto Donato C Macasaet)

16:00-16:30 P5: Japan (Mr. Yoshiharu Shiraishi)

16:30-16:40 Coffee break

16:40-18:10 Session 3: Innovative ways of information sharing and promoting participation

16:40-17:00 P1: China (Mr. Huang Haoming)

17:00-17:20 P2: India (Mr. Harsh Jaitli)

17:20-17:40 P3: Nepal (Mr. Dala Rawal)

17:40-18:00 P4: Philippines (Mr. Sixto Donato C Macasaet)

18:00-18:20 P5: Japan (Mr. Yoshiharu Shiraishi)

18:20-18:25 Logistical announcement (Mr. Yoshiharu Shiraishi, JACO)

Day 2: Thursday 19 August (Toronto)

Place: Canada Helps (215 Spadina Avenue, Suite 330, Toronto)

Place: Imagine Canada (2 Carlton Street, Suite 600, Toronto)

10:00-12:00 Visiting “Canada Helps” (Canada’s largest Charitable giving operator)

1. About Canada Helps
2. Their impact on charitable giving in Canada

12:00-13:00 Lunch

13:00-15:00 Visiting “Imagine Canada” (Canada’s largest umbrella organization)

1. CSOs in Canada
2. About Imagine Canada
3. Their impact on civil society

Day 3: Saturday 21 August (Montreal)

Place: Palais des congres de Montreal

13:00-14:15 Future direction for AGNA Regional Meeting of Asia

14:15-14:25 Closing (Mr. Huang Haoming, Chairman of AGNA regional meeting of Asia)

14:25-14:30 Logistical announcement (Mr. Yoshiharu Shiraishi, JACO)



Members are presenting on civil society in their countries
(Japanese-Canadian Cultural Centre, Toronto)

Attendees of AGNA Regional Meeting of Asia

1. China China Association for NGO Cooperation
 Mr. Huang Haoming <hmhuang@cango.org>
2. India Voluntary Action Network India
 Mr. Harsh Jaitli <harsh@vaniindia.org>
3. Japan The Japan Association of Charitable Organisations
 Mr. Yoshiharu Shiraishi <shiraishi@kohokyo.or.jp>
4. Nepal NGO Federation of Nepal
 Mr. Dala Rawal <dalarawal@gmail.com>
5. Philippines Caucus of Development NGO Networks
 Mr. Sixto Donato C Macasaet <scmacasaet@code-ngo.org>

Provision of documents

- (1) Turkey Third Sector Foundation of Turkey
 Ms. Derya Kaya <derya@tusev.org.tr>



Asia regional members
(Palais des congrès de Montreal, Montreal)

Table of Contents

1. China	1-1 Civil Society development and the Legal System in China	7
	1-2 Accountability, Legitimacy and Transparency in China's Society Organizations	38
	1-3 Innovative ways of information sharing and promoting participation	49
2. India	2-1 Civil Society in India	65
	2-2 Accountability, Legitimacy and Transparency (India)	70
	2-3 Information Dissemination & Participation	73
3. Nepal	3-1 Major Highlights of NGO Federation of Nepal	75
	3-2 LTA Situation in Nepal	91
	3-3 Innovative way for information sharing	94
4. Philippines		
	4-1 Philippine Civil Society Organizations (CSOs)	97
	4-2 Legitimacy, Transparency and Accountability of CSOs – Philippines	116
	4-3 Information Sharing and Participation - Among Philippine CSOs	125
5. Japan	5-1 The Situation of Civil Society in Japan	130
	5-2 Legitimacy, Transparency and Accountability in case of Japan	152
	5-3 Innovative ways of information sharing promoting participation	166
6. Turkey	6-1 Civil Society in Turkey	177

1. China

Haoming HUANG

China Association for NGO Cooperation (CANGO)

1-1 Civil Society development and the Legal System in China

1-1-1 Overview of NGO¹ development in China

The official classification of NGOs in China is based on the law promulgated by the Ministry of Civil Affairs. They are assigned to three different categories, namely: Social Organizations, Private Non-Enterprise Entities and Foundations. Social Organizations that make up the major proportion, are further divided into four subcategories: Academic Organizations, Industrial Organizations, Professional Organizations and Federate Organizations.

At the end of 2009, China counted 431,000 registered NGOs, among them 239,000 Social Organizations, 190,000 Private Non-Enterprise Entities and 1,843 Foundations.² In addition, there is a huge amount of chinese NGOs which did not register and meet government's requirements, as for instance NPOs registered with industrial and commercial authorities, urban community organizations at grassroot level, public benefit and mutual aid organizations in rural communities, farmer economic cooperation organizations, urban and rural religious groups, foreign-funded organizations in China, foreign projects in China, foreign chambers of commerce in China. The current conservative estimate is that the number of such NGOs amounts to over one million.

1-1-2 How NGOs work in China

At present, Chinese NGOs get involved in many fields relating to social development. According to the report by Prof. Wang Ming from Tsinghua University, we can see NGOs being mainly active in the following fields: social services (44.63 %), survey and research (42.51 %), industrial associations and societies (39.99 %), legal counseling and service (24.54 %), policy counseling (21.88 %) and poverty reduction (20.95 %). It is obvious that the fields NGOs are engaged in usually are those with tremendous social demands which can hardly be covered by governments and enterprises.³ In those fields, public services are rare and thus creating opportunities for NGO involvement. If

¹ Non-Governmental Organization

² Statistics of the Ministry of Civil Affairs of the Peoples Republic of China, 2009

³ Data source: Editor in chief: Wang Ming, *China NGO Study 2001- Focus on Case Study*, P11, United Nations Centre for Regional Development, 2001, Note: multi-selection. The total proportion exceeds 100 %.

governments reduce intervention, NGOs will quickly grow in number and play an increasingly

indispensable role. At present, Chinese NGOs concentrate on fields such as women's and children's rights, environmental protection, poverty reduction, education, floating population and HIV/AIDS prevention and treatment.

The main roles of NGOs are to use their extensive social networks and funds to provide better services and products for the public, particularly for disadvantaged groups in the social sector in which governments have devolved power onto them. Furthermore, they can wield influence on the direction of policy making and they can establish regulative and supervisory mechanisms concerning governments and enterprises.

The main purpose for the establishment of NGOs is to promote reform of government policies through their particular actions. Some top-down NGOs often benefit from their close relations to competent authorities and proffer suggestions to organs of government directly, while some bottom-up NGOs often impinge upon government policies through the media. The survey conducted by Wang Ming et al. in 2001, investigating Chinese NGOs' influence on policy making, indicates that in 1998, 885 NGOs made suggestions on policies towards national or local governments. About 40% of them raised 1-5 policy-related suggestions, 21.2% of them expressed one of their suggestions was adopted, 15.8% of them expressed 2-5 of their suggestions were adopted and less than 5% of them expressed more than 6 of their suggestions were adopted (Wang Ming, 2001)[5].

In terms of influence on public policy, NGOs are the most active in fields such as environmental protection, education and poverty reduction. At the UN Hydropower and Sustainable development.

The most striking social influence of NGOs is to significantly deepen public's understanding of their specific work. The number of NGOs increases day by day. In the mid 1990s, "NGO" still was an unfamiliar word to most Chinese people and NGOs themselves had very limited influence in society. Along with important international meetings taking place frequently, the ground breaking event was the fourth UN Women Conference in Beijing in 1995, and their outstanding engagement in local affairs, public gradually started to take note of NGOs' work.

1-1-3 The impact of emerging NGOs on existing statutory NGOs

NGOs influence society through their activities. Despite the considerable variance in size, area, scope, nature and other aspects, in terms of function, each one still has its own focus and importance. or even sometimes demonstrates an oppositional role. Nonetheless, on the basis of their activities and social performances we are still able to emphasize four basic functions in the realm of civil society, namely: resource mobilization, public services, social governance and policy advocacy. Now, I would like to give some examples from our organization.

China Association for NGO Cooperation (CANGO) is a non-profit, membership organization operating nationwide. CANGO was founded in 1992, registered with the Ministry of Civil Affairs

(registration number 3340) and is audited according to Chinese law. Presently, at the end of October 2010, CANGO has 135 member organizations across China.

CANGO's mission is to create a strong and efficient network of Chinese NGOs to address poverty alleviation, environmental protection and social development, particularly in China's poor, remote and minority-inhabited areas. CANGO acts as an intermediary agency and partners with foreign NGOs, bilateral and multilateral organizations and Chinese NGOs to enhance fundraising, provision of technical support and capacity building of grassroots NGOs in China.

Since its founding, CANGO has developed and maintains good relations with 165 foreign NGOs, bilateral and multilateral organizations through its day-to-day operations. By the end of December 2009, CANGO had raised 472 million RMB Yuan from 82 donor agencies for project implementation. The local matching fund has reached 280 million RMB Yuan. Almost 100 counties from 31 provinces, autonomous regions and municipalities were involved in the projects.

The task and direction for CANGO will be to promote China's civil society development and to provide an experience-exchanging and information-sharing platform for Chinese NGOs.

1-1-4 The legal framework of all kinds of NGOs in China

1. Types of Organizations

The People's Republic of China (PRC) is a civil law country⁴ with three primary forms of nongovernmental, not-for-profit organizations (NPOs): Social Organizations (SOs) (shehui tuanti), Foundations (jijinhui) and private non-enterprise entities (PNEs) (minban fei qiye danwei).

Social Organizations (SOs)

The Social Organization, which is essentially an association, is the primary NPO form in the PRC. Social Organizations are formed to advance "the common desires of their members". They may be formed for mutual benefit or public benefit. In 1998, the State Council promulgated the "Regulations on Social Organization Administration", which is the second administrative regulation of its kind.

Social Organizations are subject to joint oversight by (1) a "Registration and Administration Organ", which may be the Ministry of Civil Affairs or the local "Civil Affairs Authority", and (2) a

⁴ After more than 2,000 years with its own unique legal tradition, China began to embrace the civil law tradition of the western world early in the 20th century. During the Republic of China period (1912-1949), systematic legislation placed China firmly in the civil law family. Since the establishment of the People's Republic of China in 1949, the legal tradition in China has remained mainly civil law, though with significant characteristics of socialism. Thus there is no Civil Code in China at present, only General Principles of Civil Law.

"Competent Business Unit", which is a line ministry or other state organ at the national or local level with jurisdiction over the SO's sphere of activity. In general, only SOs with nationwide activities or

impact are regulated at national level; other SOs are regulated at provincial, city, or county level.

Private non-enterprise entities (PNEs)

PNEs are "social institutions established by enterprises, institutions, Social Organizations or other social forces as well as individual citizens using non-state assets and conducting non-profit-making social service activities". Private schools, private not-for-profit research institutes and private not-for-profit hospitals are commonly PNEs. A PNE, like a Social Organization and a Foundation, is subject to the joint oversight of a Registration and Administration Organ and a Competent Business Unit. At the same time, 1998, the State Council promulgated the "Regulations on private non-enterprise entities Administration", which is the first administrative regulation of its kind.

Foundations

A Foundation is a not-for-profit organization that promotes public benefit undertakings. Its assets are donated by individuals, legal persons or other organizations [Regulations on the Administration of Foundations (RAF), Article 2]. An organization cannot be a Foundation if established with appropriated state funds. Foundations, like Social Organizations, are regulated by both a Registration and Administration Organ and by a Competent Business Unit. In many laws and regulations issued prior to the 2004 Foundation Regulations (such as the Public Welfare Donations Law or PWDL), the term "Social Organization" included Foundations.⁵ The new Foundation Regulations distinguish between public foundations and private foundations, with the former now subject to strict regulation of their public fundraising. In 2004, the State Council promulgated the "Regulations on Foundation Administration", which is the second administrative regulation of its kind.

The three types of NPOs are not government agencies, though they are all closely linked to the government through various establishment and oversight mechanisms.

A fourth type of organization, the Public Institution (shiyew danwei), is a quasi-government agency, formed by the government and generally staffed with government employees. They are discussed in this Note because they frequently receive grants from foreign donors and are subject

⁵ The RAF (2004) was adopted to replace the 1988 Regulations on Foundations (enacted by the State Council on September 27th, 1988). Under the 1988 RAF, the Foundation was a special category of Social Organizations. Consequently, the term "Social Organization" in other laws and regulations has usually been used to include Foundations. But the 2004 RAF no longer describes Foundations as a special category of Social Organizations. Foundations are in somewhat of a legal limbo, in theory if not in practice, because they are not mentioned in the General Principles of Civil Law.

to some of the same taxes as NPOs.⁶

Legislation enacted in 2001 established a fifth type of NPO, the public benefit or charitable trust, which resembles the charitable trust in common law. The government has yet to implement the legislation, so this form of NPO does not yet exist in practice. It may prove important in the future.

Trade unions, religious organizations, and political parties have limited interactions with foreign

grant makers and are beyond the scope of this note.

Similarly, specific rules may apply in certain cities and provinces. These rules are available in Chinese on the websites of the local Civil Affairs Authorities. This note focuses solely on national legislation.

Finally, State Council Regulations on NPOs are in the process of review and possible revision, so local experts should be consulted if more information is sought on these regulations.

1-1-5 The Tax Laws

1. Income Tax Exemption

China has three categories of income tax: Enterprise Income Tax, Foreign Invested Enterprise and Foreign Enterprise Income Tax and Individual Income Tax.

Under Paragraph 1, Article 8 of the Public Welfare Donations Law, the “state encourages the development of public benefit undertakings, and grants support and preferential treatment to public benefit Social Organizations and public benefit nonprofit Institutions”. This law establishes benefits relating to Enterprise Income Tax [Article 24], Individual Income Tax [Article 25], and Import Duties and VAT [Article 26], but the specifics of the exemptions are set forth in other laws and regulations.

On January 1st 2008, the Enterprise Income Tax of PRC, Article 9, 26 came into effect, amending the original law. Originally, the Enterprise Income Tax applied to all enterprises, whether or not they had legal personality, as well as to “all other organizations” with income [Interim Regulations on Enterprise Income Tax, Article 2]. This was interpreted to include NPOs. Under Article 26 of the new amendments, not-for-profit organizations are exempt from income tax provided that they meet relevant provisions. Specifically, the income of "qualified not-for-profit organizations" is exempt from Enterprise Income Tax.

According to the Regulation on the Implementation of the Enterprises Income Tax Law on the People's Republic of China, the term "qualified not-for-profit organizations" refers to an

⁶ Civil affairs authorities who oversee NPOs use the term “minjian zuzhi,” which literally means civilian organizations; it may also be translated as civil society organization, non-governmental organization, or not-for-profit organization. This category covers Social Organizations, Foundations, and Civil Non-Enterprise Institutions, but not Public Institutions.

organization that concurrently meets the following conditions:

- 1) It has completed the registration for not-for-profit organizations according to law;
- 2) It engages in public interest activities or not-for-profit activities;
- 3) Income obtained is used entirely for the public interest or not-for-profit undertakings as registered, approved or stipulated in the charter, with the exception of reasonable expenses

related to the organization;

- 4) Properties and the benefits thereof are not to be distributed;
- 5) Pursuant to the registration, approval or stipulations of its charter, the surplus properties of the organization after write-off shall be used for public interest or not-for-profit purposes or shall be donated via the Registration Administrative Organ to another organization of the same nature and with the same tenets, and shall be publicized to the general public;
- 6) No sponsor shall reserve or enjoy any property rights to the properties the sponsor gave to the organization in question; and
- 7) Expenses for the salaries and fringe benefits of staff members are controlled within prescribed limits, and none of the organization's properties shall be distributed in any disguised manner.

The measures for determining whether a not-for-profit organization meets the criteria described in the preceding paragraph are to be formulated by the competent department of treasury and taxation of the State Council in collaboration with the other departments of the State Council.

The term "qualified income of the not-for-profit organization" does not include income of the not-for-profit organization arising from profit-making activities unless it is otherwise set forth by the competent department of treasury or taxation of the State Council.

Although in theory all of an NPO's income is subject to Enterprise Income Tax, a 1997 Ministry of Finance and State Administration of Taxation circular provides a broad exemption to NPOs [Circular Concerning Related Issues of Collection of Enterprise Income Tax to Institutions and Social Organizations]. To implement this circular, the State Administration of Taxation adopted Methods of Administration on the Collection of Enterprise Income Tax to Institutions, Social Organizations, and Civil Non-Enterprise Institutions. According to these two documents, NPO's donations, financial support from the government, membership dues and some other income are free from Enterprise Income Tax.

2. Deductibility of Charitable Contributions

Payers of Individual Income Tax can deduct up to 30 % of their taxable income for public benefit contributions to NPOs [Regulations for the Implementation of the Individual Income Tax Law, Article 24]. Payers of Enterprise Income Tax can deduct up to 12 % of their taxable income [Enterprise Income Tax Law, Article 9].

According to the Regulation on the Implementation of the Enterprises Income Tax Law of the People's Republic of China, the term "public interest donations" as used in Article 9 of the EIT Law refers to donations made by an enterprise via "public interest social bodies" or the people's government on the county level or the instrumentalities thereof to the public interest undertakings as prescribed in the Law of the People's Republic of China on Donation to the Public Interest Undertaking.

The term "public interest social bodies" includes any foundation or charity organization that concurrently meets the following conditions:

- 1) It is lawfully registered and has the status of a legal person;
- 2) It serves the purpose of promoting public interest and does not adopt profit-making as its purpose;
- 3) All of its assets and profits belong to the legal person;
- 4) Its proceeds and operational surpluses are used primarily for the cause for which the legal person was established;
- 5) The surplus property after the termination of the enterprise is not distributed to any individual or profit-making organization;
- 6) The organization refrains from engaging in any business that does not relate to its purpose of establishment;
- 7) It has a sound financial and accounting system;
- 8) The donor does not participate in the distribution of the property of the social body in any way; and
- 9) Other conditions as prescribed by the departments of treasury and taxation of the State Council in collaboration with the civil affairs department of the State Council in charge of the administration of the registration of social bodies.

To date, the State Administration of Taxation has made determinations regarding the eligibility of organizations to receive tax deductible contributions on a case-by-case basis.⁷ The development and publication of procedures for application of eligibility of tax deduction of charitable donations is expected in the near future.

Payers of Foreign Invested Enterprise and Foreign Enterprise Income Tax can also deduct up to 12 % of their taxable income [Enterprise Income Tax Law, Article 9]. The Enterprise Income Tax Law has replaced the Regulations for the Implementation of the Foreign Invested Enterprise and Foreign Enterprise Income Tax.

⁷ In 2003, the state tax authorities allowed a full range of tax benefits for donations to only 12 designated NPOs, while this number increased to 24 in 2006.

3. Indirect Taxes: Business Tax, Value Added Tax, and Import Duties

The PRC subjects certain sales of goods and services to Business Tax (which relates to provision of services) and VAT (which relates to sales of goods), and offers few exemptions. The general Business Tax law exempts NPOs and other entities that engage in nursing, medical, educational, cultural, or religious activities or activities in which services are performed by the

disabled [Interim Regulations on the Business Tax, Article 6].

Goods sold within China or goods imported from abroad are subject to VAT. Article 16 of the Interim Regulations on the Value Added Tax exempts from VAT goods for scientific research, experimentation and education, antique books and goods imported by organizations of the disabled to be used specifically for the disabled. Imported goods donated by foreign governments and international organizations are also exempt from the VAT under Article 16.

Goods donated by foreign governments and international organizations are also exempt from customs duties [Customs Law, Article 56].

Certain donations are also exempt from customs duties and VAT [Public Welfare Donations Law, Article 26]. In 2001, the Ministry of Finance, the State Administration of Taxation, and the Customs General Administration jointly issued “Interim Methods of Customs Duties Exemption of Donated Goods for the Purposes of Poverty Relief or Charity”. This exemption applies to goods donated by people outside China that are accepted by the government or by “Social Organizations established with the permission of competent departments of the State Council, whose purposes are humanitarian, poverty relief or charity” [Public Welfare Donations Law, Article 5]. The Customs General Administration enacted implementing rules⁸, under which the exemption applies only to several national-level SOs, including the Red Cross Society of China, the All-China Women’s Federation, the China Disabled People’s Federation, the China Charity Federation, the China Primary Health Care Foundation and the Soong Ching Ling Foundation. Most NPOs are excluded.

According to other rules made by the Customs General Administration, goods are exempted from customs duties and VAT if (1) they are imported by scientific research institutes or schools, (2) they are directly for scientific research or education and (3) they cannot be produced in China.

4. Other Taxes

NPOs also qualify for exemptions from other taxes, including Real Estate Tax, Urban Land Use Tax and Tax on Acquisition of Real Estate.

⁸ Methods for the implementation of the “Interim Methods of Customs Duties Exemption of Donated Goods for the Purposes of Poverty Relief or Charity”.

5. Double Tax Treaties

China and the United States have entered into a double-taxation treaty, but it does not specifically address the deductibility of contributions by US residents and businesses to NPOs.

6. Foreign Organizations and Grants

There are no clear rules about the status of foreign associations in China, and their status is subject to case-by-case scrutiny and discretion of the Ministry of Civil Affairs and other competent authorities.

Foreign exchange is under relatively tight government control in the PRC. The donated foreign exchange from abroad should be exchanged for Chinese Renminbi (RMB) in one of the specified banks [Regulations on Foreign Exchange, Article 10; Rules of Administration of Purchase, Sale and Payment of Foreign Exchange, Article 9].

There are no special rules that regulate the receipt of foreign grants by domestic organizations.

1-1-6 The concern of NGO development in China

Concerning NGO development in China, it is very difficult for us to make precise predictions. But I would like to make a SWOT analysis on future trends.

In terms of strengths of NGO development in China, there are five main points worth mentioning:

- 1) Capacity building improves for most chinese NGOs,
- 2) The focal point of activities shifts in order to better meet the demands on grassroots level,
- 3) The professional team to take part in the NGOs,
- 4) NGOs learn more from stakeholders like the governmental agencies, the business sector and international society and
- 5) more volunteers get involved in NGO activities.

Referring to NGOs' weaknesses, there are also five main problems to mention:

- 1) NGOs lack a clear mission,
- 2) They lack a long-term strategy,
- 3) They lack operational experience like knowledge about good governance,
- 4) They lack transparency and accountability and
- 5) Last but not least they require professional human resources, but the low salaries NGOs only can afford to pay make it hard to attract professionals.

The opportunity of NGO development in China, Chinese NGO also shows internationalization feature with the economy globalization, NGO can get the international resources both fund resource and mechanism for NGO development. There are still opportunities to improve the legal environment for chinese NGOs. Particularly the new political concept of building a socialistic harmonious society opens up new possibilities to NGOs. According to the CCP's⁹ decision in its 6th Plenary Session of its 16th Central Committee, the Chinese Government will promote NGO development. For example, this year the new Enterprise Income Taxation Law approved by the National Peoples Congress (NPC) in March 2007, will come into effect. It says that enterprise's expenditures for public welfare and donations up to an amount of 12 % of the total annual profits

are permitted to be deducted. In comparison to the prior regulations, it is an enhancement of 9 percent points, that means from 3 % to now 12 %. This is a really important change and advancement for NGOs and their future development. The introduction of WTO mechanisms will as well further deepen market economy reforms and push forward NGO development. The economy advancement in east China, improvement of people's moral standard and the constantly growing middle class will also encourage NGO development in China.

Concerning the threats NGO development in China, the social recognition of NGOs is rather low. With influenced by the social accountability system, it is hard to establish the accountability system of NGOs. NGOs lack strong support networking. The legal framework lack policy regulations and imperfect of legal environment. The research and supporting for NGOs lag behind its development. The administration system also limits the development of NGOs and the government declines or is unable to take on the responsibility of NGOs administration. The awareness of civil society is weak and volunteerism is government-oriented. NGOs.

1-1-7 The most appropriate legal framework

According to our analysis, Chinese NGO development is still in its initial development phase. Given the dynamic economic development in China, NGO would have more opportunities to develop in the future. Chinese NGO would play an increasing role in the cooperation with International NGO and donor organizations. There are many suggestion is the most appropriate legal framework including the tax system which will guarantee and promote NGOs' activities in China. The main suggestion is as following;

1. Defining the concept of NGOs, and further clarifying the public welfare nature of NGOs.

The beneficiaries of a public welfare organization should be unspecific individuals and groups; any individual or organization that meets the conditions required by its aim and for the service could enjoy its assistance. The fund of NGOs comes from the society, and goes for the society. For example, foundation is defined in the Regulation as "a non-profit corporation which is established in terms with the Regulation and engaged in activities for public welfare with donations given by natural persons, corporations or other organizations". The Regulation prescribes that "the charter of

⁹ Chinese Communist Party

a foundation should identify its public welfare nature, and should not have any content to set any specific natural person, corporation or organization as its beneficiary, which has differentiated foundations from other trust and investment fund, profit-making foundation and other civil mutual-benefit organizations. Given the charitable nature, public funding foundations could raise fund from the public. The property of a foundation must be protected and be used for public

welfare purpose. The Regulation also prescribes that “the property and other incomes of a foundation is protected by law, and should not be distributed among the members, seized or used for other purposes by any organization or individual” and that the “remained property of a nullified foundation should be used for public good in accordance with its charter’.

2. Expanding channels of funding and mobilizing social resources for public welfare

Public welfare undertaking is for public good. To have maximum utility of social resources, the Regulation on Foundation has for the first time divided foundations into two types: public funding foundations, which could raise funds from the public, and non-public funding foundations, which are not allowed to raise funds from the public. Non-public funding foundations are established with funds provided by individuals or organizations, including enterprises, and should not raise funds from the society. The idea of non-public funding foundations is to provide a way for some rich individuals and enterprises so that they could pay back the society. The Regulation on foundation has defined non-public foundations differently from public foundations in terms of their conditions for registration and the use of their funds. China had 643 registered non-public foundations by the end of 2008.

At the same time, to be adjusted to the situation that some foreign public welfare organizations will conduct activities in China after China’s entry of WTO, the Regulation does not limit the original countries and regions of foundations, allowing foreigners to found foundations or establish representative offices in China, China had 11 registered foreign foundations representative offices by the end of 2008.

3. Working out the principle of publicity and transparency to further regulate the activities of NGOs.

NGOs are welfare organizations serving the public. They have strong social responsibilities and high attention from the public. Whether their activities are regulated relates to the protection of welfare resources, the NGO’s credibility and development of public welfare work. Therefore, a NGO must be self-disciplined and be supervised and monitored by the public. For examples, the Regulations on Foundation provide that “a foundation should conduct its activities according to its Charter and follow the principles of publicity and transparency”. In order to embody the principle, it also stipulates corresponding rules concerning self discipline of foundations and supervision by governments and the public to ensure the regulation, publicity and transparency of foundation’s activities. Taking into account of the features of organizational structure of the public welfare corporation, the Regulations provides a specific chapter titled "Organizational Structure", which stipulates clearly that the Board of Directors is the decision-making organ in a foundation. Relevant rules are formulated with the focus on regulating the constitution of the Board, procedures of discussion and decision-making, establishment of supervisors and their functions, as well as

concrete rules to avoid interest friction among staff. It also states that registration and administration organs should supervise and administer the activities conducted by a foundation in line with its Charter. A foundation must be annually inspected and its financial situation must be examined by taxation and accounting administrations according to law. After annual inspection by the registration and administration organs, a foundation is required to publicize its annual report through the media designated by its registration and administration organ for inquiry and supervision by the public. When raising funds from the society, a public funding foundation should publicize the activities they plan to undertake with the money raised and detailed expenditure plan.

4. Making clear the principle of tax preferential policies, strengthening the support to taxation and the work of supervision

Foundations commit themselves to public welfare undertakings. As a general practice in developed countries, preferential treatment on taxation is one important means used by the government in supporting the undertakings of welfare. In recent years, China has issued, one after another, some preferential policies on taxation to encourage its development. For instance, “Regulations on the Implementation of Individual Income Taxes Law of the People’s Republic of China” stipulates that “If the amount of donation of the taxpayer under an obligation is less than 30% of his taxable income to be declared, it can be deducted from the amount of his taxable income”; It is stipulated that enterprises should budget their donation expenditure on social welfare and social relief in accordance with relevant regulations of the country. If the expenditure is less than 12% of the amount of taxable income of an enterprise in the same year, the actual expenditure can be classified as non-business expenditure and be deducted from the calculation of the income tax that should be paid by the enterprise. It has been made clear that the interest income on fund deposit in financial institutions by foundations that are registered with the Ministry of Civil Affairs should not be calculated as the taxable income of the income tax of an enterprise for the time being. All these policies on taxation have greatly promoted the development of the undertakings of public welfare. However, as the policies were not systematically developed, some problems occurred in the implementation of the policies. In this Regulation, it is stipulated that “Foundations, donors and beneficiaries may enjoy tax preferential treatment by laws and administrative regulations”. Now the Ministry of Finance and the State Taxation Administration as well as the Ministry of Civil Affairs are working out the concrete measures on preferential taxation. While enjoying tax preferential treatment, foundations should by law make tax registration and be under the supervision of taxation authorities. The taxation authorities may require those foundations violating regulations to pay back the taxes exempted under the tax preferential policies. In general, tax preferential policies are formulated to promote the development of foundations and enhance the supervision on foundations at the same time.

Finally, NGO development need hard work from internal and need support from external in China. The social impact will be to achieve through NGOs external environmental changes and NGO activism' efforts. I believe that NGO can become the real actor for Chinese economic development and social progress in the future.

¹ Haoming Huang, Vice-Chairman & Executive Director of China Association for NGO Cooperation (CANGO). He also is an adjunct professor of the NGO Research Center, Tsinghua University and adjunct professor of the School of Public Policy and Management, Beijing University of Aeronautics & Astronautics. Other associate positions are the following ones: member of the board of directors of the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC); advisor of China Foundation for Poverty Alleviation; member of the board of directors of China Association of International Trade; member of the Western Returned Scholars Association; executive member of the Council of China Reform Forum and member of the China National Committee for Pacific Economic Cooperation, Human Resources Development Sub-Committee. His numerous publications are about topics such as NPOs in the UK (2009), NPOs in Japan (2007), Businesses and Civil Society (2005), NPOs in Germany (2005), Strategic Planning for Non-Profit Organizations (2003), Cooperation and Communication between Chinese and Foreign NGOs (2001) and Practice and Management for international NGO Cooperation (2000). Huang received his Master's Degree in Public Policy & Management from the USA Carnegie Mellon University in 1995.



NGO Development and Legal System in China

Haoming HUANG

China Association for NGO Cooperation (CANGO)



NGO development Overview in China

- China had 432,000 registered NGOs by the end of 2009
- including the 239,000 for social organization
- 192,000 for private non-enterprise entities
- and 1,846 for foundation



NGOs not registered as per government's requirement

- NPOs registered with industrial and commercial authority
- urban community organizations at grassroots level
- public benefit and mutual aid organizations in rural communities
- farmer economic cooperation organizations
- urban and rural religious groups
- foreign-funded organizations in China
- foreign chambers of commerce in China and so on
- It is estimated conservatively that the number of such NGOs is over one million at present



How NGO work in China

- NGOs are active mainly in the following fields
- social services (44.63%)
- survey and research (42.51%)
- industrial associations and societies (39.99%)
- legal counseling and service (24.54%)
- policy counseling (21.88%)
- poverty reduction (20.95%)



Chinese NGOs concentrate their activities

- Women and children's rights
- Environmental protection
- Poverty reduction
- Education
- Floating population
- Disable peoples support
- Health Care , particular, AIDS prevention and treatment.



The main role of NGOs

- To use their extensive social network and funds raised to provide more perfect services and products for the public, particularly for disadvantaged groups in social sector where government has devolved its power
- To influence the direction of policy making and establish restrictive and supervisory mechanism with government and enterprises



Main performance in 2009

- CANGO continued to consider fundraising as the essential work and developed new channels of international cooperation
- In 2009, CANGO received funding for 20 new projects with an increase of 23% compared to 2008
- In 2009, CANGO received funding amounting to 39.49 million Yuan. The projects covered
 - poverty alleviation
 - environmental protection
 - NGO capacity building
 - corporate social responsibility
 - support to disabled people



To raise funds for Wenchuan Earthquake and actively participate in relief action

- Just after the earthquake hit Wenchuan on May 12th 2008, CANGO immediately set up an emergency team to carry out relief work
- CANGO raised funds amounting to 47.24 million Yuan from international agencies, international NGOs, enterprises both at home and abroad as well as from the public
- The Ministry of Commerce granted CANGO an honorary certificate for its contributions



Green Commuting Project

- There were rather tangible results in collaborating project execution. In 2009, CANGO in cooperation with Environmental Defense Fund of the US and the Transportation Research Institute of Tsinghua University jointly developed an online carbon calculator of Green Commuting on “People’s” website, which gained strong support and active participation from the public.
- As a group participant, the Green Commuting Network was nominated candidate of “the Annual Figure of Green China of 2009”.



Adhering to the principles of prioritizing service

- according to different requirements of the member organizations, CANGO actively provided all-round services to the member organizations
 - including project support
 - funding assistance
 - international cooperation
 - information dissemination and channeling
 - professional consultancy
- Besides, CANGO made its member organizations play an active role in project implementation. The member organizations had been connected to 25 of 45 projects executed by CANGO in 2009, which amounted to 55% of the total



The legal framework of all kinds of NGOs in China

- **Social Organizations (SOs).**
 - The Social Organization, which is essentially an association, is the primary NPO form in the PRC
 - Social Organizations are formed to advance “the common desires of their members.”
 - They may be formed for mutual benefit or public benefit
 - In 1998, the State Council promulgated the “Regulations on Social Organization Administration”, which is the second administrative regulation of its kind



Private non-enterprise entities (PNEs).

- PNEs are “social institutions established by Enterprises, Institutions, Social Organizations or other social forces as well as individual citizens using non-state assets and conducting non-profit-making social service activities”
 - Private schools
 - private not-for-profit research institutes
 - and private not-for-profit hospitals
- A PNE, like a Social Organization and a Foundation, is subject to the joint oversight of a Registration and Administration Organ and a Competent Business Unit
- The same time, 1998, the State Council promulgated the “Regulations on private non-enterprise entities Administration”, which is the first administrative regulation of its kind



Foundations

- A Foundation is a not-for-profit organization that promotes public benefit undertakings. Its assets are donated by individuals, legal persons, or other organizations [Regulations on the Administration of Foundations (RAF), Article 2]
- An organization cannot be a Foundation if established with appropriated state funds. Foundations, like Social Organizations, are regulated by both a Registration and Administration Organ and by a Competent Business Unit
-



Foundations

- In many laws and regulations issued prior to the 2004 Foundation Regulations (such as the Public Welfare Donations Law or PWDL), the term "Social Organization" included Foundation
- The new Foundation Regulations distinguish between public foundations and private foundations, with the former now subject to strict regulation of their public fundraising. In 2004, the State Council promulgated the "Regulations on Foundation Administration", which is the second administrative regulation of its kind



the public benefit or charitable trust

- Legislation enacted in 2001 established a fifth type of NPO, the public benefit or charitable trust, which resembles the charitable trust in common law
- The government has yet to implement the legislation, so this form of NPO does not yet exist in practice
- It may prove important in the future



the Public Institution

- A fourth type of organization, the Public Institution (shiye danwei), is a quasi-government agency, formed by the government and generally staffed with government employees
- They are discussed in this Note because they frequently receive grants from foreign donors and are subject to some of the same taxes as NPOs



Special requirement for NGO

- Finally, State Council Regulations on NPOs are in the process of review and possible revision, so local experts should be consulted if more information is sought on these regulations



Income Tax Exemption

- China has three categories of income tax:
 - Enterprise Income Tax
 - Foreign Invested Enterprise and Foreign Enterprise Income Tax
 - and Individual Income Tax



The Public Welfare Donations Law

- Under Paragraph 1, Article 8 of the Public Welfare Donations Law, the “state encourages the development of public benefit undertakings, and grants support and preferential treatment to public benefit Social Organizations and public benefit nonprofit Institutions.”
- This law establishes benefits relating to Enterprise Income Tax [Article 24]
- Individual Income Tax [Article 25], and Import Duties and VAT [Article 26]
- but the specifics of the exemptions are set forth in other laws and regulations.



the Enterprise Income Tax of PRC

- On January 1, 2008, Article 9, 26 came into effect, amending the original law. Originally, the Enterprise Income Tax applied to all enterprises, whether or not they had legal personality, as well as to “all other organizations” with income [Interim Regulations on Enterprise Income Tax, Article 2].
- this was interpreted to include NPOs
- Under Article 26 of the new amendments, not-for-profit organizations are exempt from income tax provided that they meet relevant provisions
- Specifically, the income of "qualified not-for-profit organizations" is exempt from Enterprise Income Tax



the term "qualified not-for-profit organizations" refers to an organization that concurrently meets the following conditions:

1. It has completed the registration for not-for-profit organizations according to law;
2. It engages in public interest activities or not-for-profit activities;
3. Income obtained is used entirely for the public interest or not-for-profit undertakings as registered, approved, or stipulated in the charter, with the exception of reasonable expenses related to the organization;
4. Properties and the benefits thereof are not to be distributed;
5. Pursuant to the registration, approval or stipulations of its charter, the surplus properties of the organization after write-off shall be used for public interest or not-for-profit purposes or shall be donated via the Registration Administrative Organ to another organization of the same nature and with the same tenets, and shall be publicized to the general public ;
6. No sponsor shall reserve or enjoy any property rights to the properties the sponsor gave to the organization in question; and
7. Expenses for the salaries and fringe benefits of staff members are controlled within prescribed limits, and none of the organization's properties shall be distributed in any disguised manner.



Deductibility of Charitable Contributions

- Payers of Individual Income Tax can deduct up to 30 percent of their taxable income for public benefit contributions to NPOs [Regulations for the Implementation of the Individual Income Tax Law, Article 24].
- Payers of Enterprise Income Tax can deduct up to 12 percent of their taxable income [Enterprise Income Tax Law, Article 9].



public interest social bodies

- It is lawfully registered and has the status of a legal person;
- It serves the purpose of promoting public interest and does not adopt profit-making as its purpose;
- All of its assets and profits belong to the legal person;
- Its proceeds and operational surpluses are used primarily for the cause for which the legal person was established;
- The surplus property after the termination of the enterprise is not distributed to any individual or profit-making organization;



public interest social bodies

- It has a sound financial and accounting system;
- The organization refrains from engaging in any business that does not relate to its purpose of establishment;
- The donor does not participate in the distribution of the property of the social body in any way; and
- Other conditions as prescribed by the departments of treasury and taxation of the State Council in collaboration with the civil affairs department of the State Council in charge of the administration of the registration of social bodies.



III. Indirect Taxes: Business Tax, Value Added Tax, and Import Duties

- The general Business Tax law exempts NPOs and other entities that engage in nursing, medical, educational, cultural, or religious activities, or activities in which services are performed by the disabled [Interim Regulations on the Business Tax, Article 6].
- Goods sold within China or goods imported from abroad are subject to VAT. Article 16 of the Interim Regulations on the Value Added Tax exempts from VAT goods for scientific research, experimentation, and education; antique books; and goods imported by organizations of the disabled to be used specifically for the disabled. Imported goods donated by foreign governments and international organizations are also exempt from the VAT under Article 16.
- Goods donated by foreign governments and international organizations are also exempt from customs duties [Customs Law, Article 56].



Certain donations are also exempt from customs duties and VAT [Public Welfare Donations Law, Article 26].

- In 2001, the Ministry of Finance, the State Administration of Taxation, and the Customs General Administration jointly issued Interim Methods of Customs Duties Exemption of Donated Goods for the Purposes of Poverty Relief or Charity
- This exemption applies to goods donated by people outside China that are accepted by the government or by "Social Organizations established with the permission of competent departments of the State Council, whose purposes are humanitarian, poverty relief or charity" [Public Welfare Donations Law, Article 5]. The Customs General Administration enacted implementing rules
- under which the exemption applies only to several national-level SOs, including the Red Cross Society of China, the All-China Women's Federation, the China Disabled People's Federation, the China Charity Federation, the China Primary Health Care Foundation, and the Soong Ching Ling Foundation. Most NPOs are excluded



goods are exempted from Customs Duties and VAT

- According to other rules made by the Customs General Administration, goods are exempted from Customs Duties and VAT if
- (1) they are imported by scientific research institutes or schools
- (2) they are directly for scientific research or education
- (3) they cannot be produced in China.



VI. Foreign Organizations and Grants

- There are no clear rules about the status of foreign associations in China, and their status is subject to case-by-case scrutiny and discretion of the Ministry of Civil Affairs and other competent authorities.
- Foreign exchange is under relatively tight government control in the PRC. The donated foreign exchange from abroad should be exchanged for Chinese renminbi (RMB) in one of the specified banks [Regulations on Foreign Exchange, Article 10; Rules of Administration of Purchase, Sale and Payment of Foreign Exchange, Article 9].
- There are no special rules that regulate the receipt of foreign grants by domestic organizations.



The concerning of NGO development in China

- the strengths for NGO development in China
 - the capacity building increase for most Chinese NGOs
 - the work priority change to fit the demand from grassroots
 - the professional team to take part in the NGOs
 - the NGO learn more from stakeholders like the governmental agencies, business sector, international society
 - the more volunteers involved NGOs.



the NGOs weakness in China,

- there are also five main problem,
 - lack of the clear mission, long-term strategic, lack of the operational experience like the good governance
 - lack of transparency
 - lack of accountability
 - professional human recourses
 - the low payment for staff in NGOs makes it hard to attract professional resources



The opportunity of NGO development in China

- Chinese NGO also shows internationalization feature with the economy globalization, NGO can get the international resources both fund resource and mechanism for NGO development
- There are still possibilities and space to improve of the legal environment of Chinese NGOs, particularly, the new political guarantee for building socialistic harmonious society—the decision of CCP's sixth plenary of sixteen session the year 2006



Chinese Government will encourage the NGO development from this decision

- 2008, the new enterprise income taxation law approved by the National Peoples Congress (NPC) the March of year 2007, As regards an enterprise's expenditures for public welfare donations, the portion within 12% of the total annual profits is permitted to be deducted. The comparison with the last vision about the rate, it is increasing to 12% from 3% The introduction of WTO mechanism will further deepen the marketing economy reform and promote NGO development in China
- The economy advancement in east China, improvement of people's moral standard
- the increasing of middle-class will encourage NGO development in China.



the threats NGO development in China

- the social recognition of NGOs is rather low
- With influenced by the social accountability system, it is hard to establish the accountability system of NGOs. NGOs lack strong support networking
- The legal framework lack policy regulations and imperfect of legal environment
- The research and supporting for NGOs lag behind its development
- The administration system also limits the development of NGOs and the government declines or is unable to take on the responsibility of NGOs administration
- The awareness of civil society is weak and volunteerism is government-oriented. NGOs



The most appropriate legal framework

- **Defining the concept of NGOs, and further clarifying the public welfare nature of NGOs**
- **Expanding channels of funding and mobilizing social resources for public welfare**



The most appropriate legal framework

- **Working out the principle of publicity and transparency to further regulate the activities of NGOs**
- **Making clear the principle of tax preferential policies, strengthening the support to taxation and the work of supervision**



conclusion

- Finally, NGO development need hard work from internal and need support from external in China. The social impact will be to achieve through NGOs external environmental changes and NGO activism' efforts
- I believe that NGO can become the real actor for Chinese economic development and social progress in the future

1-2 Accountability, Legitimacy and Transparency in China's Society Organizations

It is of real importance for society organizations in China to have a good understanding about the concepts of accountability, legitimacy and transparency.

General speaking, the concept of accountability denotes the ability of an organization or individual to account for achieving objectives of a mission, activity or event carried out by non-profit organisations (NPOs) or non-governmental organisations (NGOs). Normally there are several elements for this concept, including public welfare, charity organization, influence of resources, good governance and self-performance.

Regarding the 'accountability problem' in China, there are two main issues, on the one hand internal requirement, and on the other external monitoring. For example, internal requirement is involved by the work team of one organization, including the board member, supervision member, working staff as well as advisors and volunteers. For external monitoring of an organization, there are donor organizations or support organizations as well as agreements with service providers, including governmental organizations, media sector, donor organizations as well as individual supporters.

There are many examples about NPO accountability issues, the following is one typical case study: **A Case of Nonprofit Accountability: Hu Manli Incident**¹

In 1999, Hu Manli, founder of China Green Shade Children's Village (CGSCV), went to Lijiang, Yunnan Province. Hu rose to fame for adopting several hundred orphans and was reputed as "Mother of China". For this trip, she was representing United Moms Charity Association (UMCA), an American charity organization headed by Zhang Chunhua, to build orphan schools. Over the past seven years, Hu was repeatedly questioned by Zhang and others about her management of the orphan schools and use of donations. The war between the "United Moms" (UMCA) and the "Mother of China" spanned seven years.

"For these many years, Hu Manli has embezzled a lot of money from donations. We'll stop her." Zhang Chunhua, who's Chinese American, murmured while reading the official documents with a magnifier.

Hu Manli had been a symbol of grass-root philanthropy in China. This middle-aged woman was known for her commitment to Chinese orphans and was named "Mother of China" in public-interest ads broadcast on CCTV. Seven years ago, however, her reputation was overturned by Zhang Chunhua, who entrusted her to build orphan schools in Lijiang.

¹ Translated by Stella Zhou of Harvard University. © Hauser Center at Harvard.

Zhang was president of UMCA based in the United States. UMCA once helped Hu set up Lijiang United Moms Charity Association and entrusted her to build Lijiang National Orphan School. Over the past seven years, however, after Zhang discovered Hu's misconducts – embezzling donations for board expenses and education as well as muddling up the books, she started to disclose Hu's misdeeds. We also held doubts toward Hu's charity after participating in the investigations after 2001.

Finally, Zhang received the document from the Lijiang government. It said that the city government would take over Lijiang National Orphan School starting April 1.

For some reasons the takeover was postponed, but officials from the city government stated that "(the government) is destined to take over the school in a couple of days", and would ensure that "the school operates normally, the donations made good use of, and the city government be responsible for all expenses if donations are unavailable"

Such determination to take over the orphan school resulted from the previous year's audit of Hu's charity. The audit looked into the financial revenues and expenditure of the orphan school since its establishment and till August 31, 2006.

The audit revealed: Hu faked financial accounts and make the around 330,000 yuan (approximately \$48,316) of public donations appear to be her personal donation; withdrew about 100,000 yuan (approximately \$14,641) from orphans' personal accounts with copies of passbooks; evade over 430,000 yuan (approximately \$62,958) from fixed assets check; Hu also bought around 280,000 yuan (approximately \$40,996) commercial insurance for over ten orphans and listed it as one-time expense of the school. However, she left out the bonuses from the insurance accounts and hid the fact the premium for the insurance will be fully refund in five years; the revenues of the computer services department were also unstated.

The audit also revealed that illegal receipts, in the form of general receipt, payment orders, and merchandise transfer slips, amounted to 420,000 yuan (approximately \$61,493), among which up to 170,000 yuan (approximately \$24,890) was stated receipts of consecutive numbers from one seller. "Such a big amount was stated on consecutive receipts, mostly likely a result of accounting fraud before the audit."

Zhang Chunhua proved it with another evidence she discovered. Comparing the 2006 audit report to the one issued by the Lijiang Audit Bureau in 2000, an additional 100,000 yuan (approximately \$14,641) in the 1999 and 420,000 yuan (approximately \$61,493) in the 2000 board expenses were found during the 2006 audit.

The audit bureau also has no right to investigate into Hu's personal assets. We knew in 2002 that Hu owns a luxurious house occupying over 320 square meters and worth of over 500,000 yuan (approximately \$73,206) in Lijiang

We also know from somebody who once lived with Hu that she purchased another two houses

worth of around 400,000 yuan (approximately \$58,565) under the name of her mother Wang Fengqin and her adopted son Chen Bin

She also sent her daughter Gui Tiantian to study in New Zealand high school. Her daughter is about to graduate from college now.

This case demonstrates that many issues need to be discussed regarding accountability of CSOs, including the legitimacy and transparency.

With regard to legitimacy, it is getting more important for Civil Society Organizations in China to understand the role for organizational governance. The legitimacy for CSOs in China has three elements: the legal requirement, ownership for organization and representatives. Up to now, CANGO established six sub networks, including China Civil Climate Action Network (CCAN), Water & Future Forum, Green Commuting Network, Cooperate Social Responsibility Network, Capacity Building NGO Network as well as Effectiveness Aid Network.

The China Association for NGO Cooperation (CANGO) is a non-profit, membership organization operating nationwide. CANGO was founded in 1992 and registered with the Ministry of Civil Affairs (registration number 3340), and is audited according to Chinese laws. As of end of July 2010, CANGO has 135 member organizations across China.

CANGO's mission is to create a strong, empowered network of Chinese NGOs to address poverty alleviation, environmental protection and social development, particularly in China's poor, remote and minority-inhabited areas. CANGO acts as an intermediary agency and partners with foreign NGOs, bilateral and multilateral organizations and Chinese NGOs to enhance fundraising, provision of technical support and capacity building of grassroots NGOs in China.

Since it's founding, CANGO has developed and maintains good relations with 160 foreign NGOs, bilateral, and multilateral organizations through its day-to-day operations. By the end of December 2009, CANGO raised RMB Yuan 472 million from 87 donor agencies for project implementation. The local matching fund has reached RMB Yuan 280 million. Almost 100 counties from 30 provinces, autonomous regions, and municipalities were involved in the projects.

The task and direction for CANGO will be to promote China's civil society development and to provide an experience exchanging and information-sharing platform for Chinese NGOs.

Transparency is new concept in China, because of its dependence on the mediation in society. However, governmental action has been concerned with these issues, examples are legal requirements for charity organizations, information sharing, evaluation action of professional experts as well as annual reviews for each organization. The second component is the real important one: it is public requirement with monitoring and evaluation by media sectors, donor requirements, audit requirements and volunteers support.

It is still very difficult for many Chinese NGOs to have clear processes to guarantee

accountability. For examples, good governance may influence the organization's development, including the board member role and obligations, this is first one. The second one is to establish professional teams, particularly focusing on NGO's capacity building. The third one is an external monitoring role, including by governmental organizations, media, and donor organization as well as individual sector.

Accountability, Legitimacy and Transparency in China

Huang Haoming

China Association for NGO
Cooperation



AGNA Asia Regional Meeting in
Toronto on 18 August 2010

Accountability

- Concept
 - Public welfares
 - Charity Organization
 - Resources influence
 - Good governance
 - Self-performance

AGNA Asia Regional Meeting in
Toronto on 18 August 2010

Accountability Problem

➤ Internal requirement

- Board member
- Supervision member
- Working staff
- volunteers

➤ External monitoring

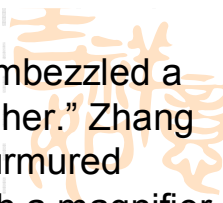
- Governmental org.
- Media sector
- Donor section
- Individual powers


AGNA Asia Regional Meeting in
Toronto on 18 August 2010

A Case of Nonprofit Accountability: Hu Manli Incident

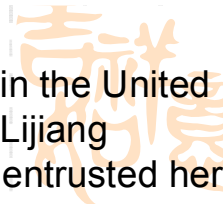
- In 1999, Hu Manli, founder of China Green Shade Children's Village (CGSCV), went to Lijiang, Yunnan Province. Hu rose to fame for adopting several hundred orphans and was reputed as "Mother of China". For this trip, she was representing United Moms Charity Association (UMCA), an American charity organization headed by Zhang Chunhua, to build orphan schools. Over the past seven years, Hu was repeatedly questioned by Zhang and others about her management of the orphan schools and use of donations. The war between the "United Moms" (UMCA) and the "Mother of China" spanned seven years.


AGNA Asia Regional Meeting in
Toronto on 18 August 2010

- 
- “For these many years, Hu Manli has embezzled a lot of money from donations. We’ll stop her.” Zhang Chunhua, who’s Chinese American, murmured while reading the official documents with a magnifier.
 - Hu Manli had been a symbol of grass-root philanthropy in China. This middle-aged woman was known for her commitment to Chinese orphans and was named “Mother of China” in public-interest ads broadcast on CCTV. Seven years ago, however, her reputation was overturned by Zhang Chunhua, who entrusted her to build orphan schools in Lijiang.



AGNA Asia Regional Meeting in
Toronto on 18 August 2010

- 
- Zhang was president of UMCA based in the United States. UMCA once helped Hu set up Lijiang United Moms Charity Association and entrusted her to build Lijiang National Orphan School
 - Over the past seven years, however, after Zhang discovered Hu’s misconducts – embezzling donations for board expenses and education as well as muddling up the books, she started to disclose Hu’s misdeeds. We also held doubts toward Hu’s charity after participating in the investigations after 2001.



AGNA Asia Regional Meeting in
Toronto on 18 August 2010

- Finally, Zhang received the document from the Lijiang government
- It said that the city government would take over Lijiang National Orphan School starting April 1.
- For some reasons the takeover was postponed, but officials from the city government stated that “(the government) is destined to take over the school in a couple of days”, and would ensure that “the school operates normally, the donations made good use of, and the city government be responsible for all expenses if donations are unavailable”
- Such determination to take over the orphan school resulted from the previous year’s audit of Hu’s charity. The audit looked into the financial revenues and expenditure of the orphan school since its establishment and till August 31, 2006.

AGNA Asia Regional Meeting in
Toronto on 18 August 2010

- The audit revealed: Hu faked financial accounts and make the around 330,000 yuan (approximately \$48,316) of public donations appear to be her personal donation; withdrew about 100,000 yuan (approximately \$14,641) from orphans’ personal accounts with copies of passbooks; evade over 430,000 yuan (approximately \$62,958) from fixed assets check; Hu also bought around 280,000 yuan (approximately \$40,996) commercial insurance for over ten orphans and listed it as one-time expense of the school. However, she left out the bonuses from the insurance accounts and hind the fact the premium for the insurance will be fully refund in five years; the revenues of the computer services department were also unstated.

AGNA Asia Regional Meeting in
Toronto on 18 August 2010

- The audit also revealed that illegal receipts, in the form of general receipt, payment orders, and merchandise transfer slips, amounted to 420,000 yuan (approximately \$61,493), among which up to 170,000 yuan (approximately \$24,890) was stated receipts of consecutive numbers from one seller. "Such a big amount was stated on consecutive receipts, mostly likely a result of accounting fraud before the audit."
- Zhang Chunhua proved it with another evidence she discovered. Comparing the 2006 audit report to the one issued by the Lijiang Audit Bureau in 2000, an additional 100,000 yuan (approximately \$14,641) in the 1999 and 420,000 yuan (approximately \$61,493) in the 2000 board expenses were found during the 2006 audit.

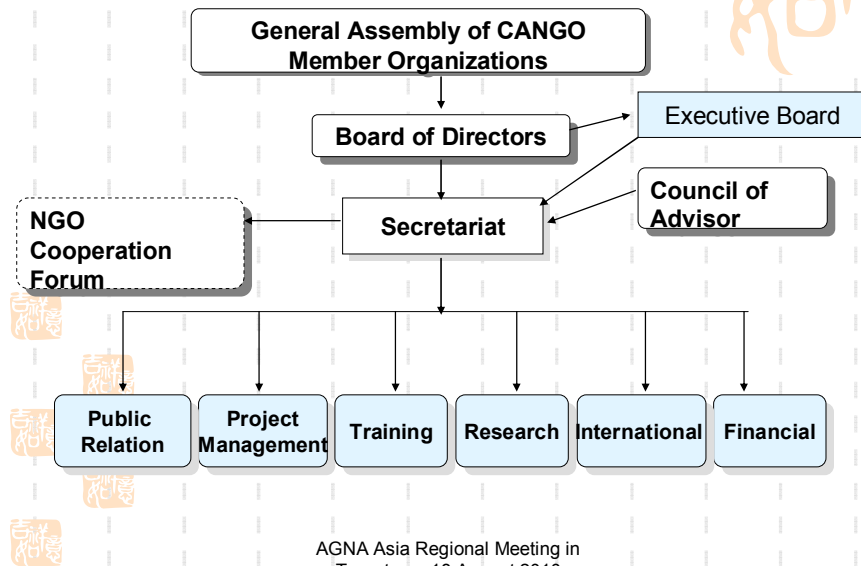
AGNA Asia Regional Meeting in
Toronto on 18 August 2010

- The audit bureau also has no right to investigate into Hu's personal assets. We knew in 2002 that Hu owns a luxurious house occupying over 320 square meters and worth of over 500,000 yuan (approximately \$73,206) in Lijiang
- We also know from somebody who once lived with Hu that she purchased another two houses worth of around 400,000 yuan (approximately \$58,565) under the name of her mother Wang Fengqin and her adopted son Chen Bin
- She also sent her daughter Gui Tiantian to study in New Zealand high school. Her daughter is about to graduate from college now.
- (Translated by Stella Zhou of Harvard University. © Hauser Center at Harvard.)

AGNA Asia Regional Meeting in
Toronto on 18 August 2010



Legitimacy: CANGO's Framework



Transparency

- Governmental action
 - Charity org. requirement
 - Information sharing
 - Evaluation action of professional expert
 - Annual review
- Public requirement
 - Media monitoring and Evaluation
 - Donor requirement
 - Audit requirement
 - Volunteers support

AGNA Asia Regional Meeting in Toronto on 18 August 2010

Suggestions

- Good governance
 - Board member role and obligation
- Professional teams
 - Capacity building
- External monitoring
 - Governmental org
 - Media
 - Donor
 - Individual support

AGNA Asia Regional Meeting in
Toronto on 18 August 2010

Thank you very much for your
attention!

Q & A

hmhuang@cango.org



AGNA Asia Regional Meeting in
Toronto on 18 August 2010

1-3 Innovative ways of information sharing and promoting participation

Green Commuting Campaign---Clean Air for Life

In recent years, ecological and social problems caused by the global climate change are growing prominently. Therefore, how to control and reduce greenhouse gas emissions to combat the climate change threat has become a hot topic of global concern. What kind of innovative ways of information sharing and promoting participation for low-carbon development we can develop? In June 2006, based on the results of rigorous samplings, monitoring and lab analysis, as well as an in-depth study on the health impacts of air pollutants, China Association for NGO Cooperation (CANGO) cooperated with Environmental Defense Fund (EDF), launched the "Green Commuting" campaign in Beijing.

What is Green Commuting?

The concept of "Green Commuting" refers to commuting by a relatively environmentally friendly way, through carbon emissions reduction and carbon neutrality to achieve sustainable use of environmental resources and the sustainable development of transportation. The main contents of "Green Commuting" include the following aspects:

- 1) If conditions permit, using low energy consumption and less carbon intensive forms of transport as much as possible, such as travel by public transport, drive energy efficient cars, carpooling (the shared use of a car by the driver and one or more passengers), ride bicycles or even walk, and reduce the carbon emissions generated by commuting -- that is carbon emissions reduction through green commuting.
- 2) Purchasing carbon offsetting credits through professional organizations. The professional organizations carry out planting trees and other programs in order to help offsetting the carbon emissions generated from commuting, to further achieve the objective of protecting the environment -- that is carbon neutrality through green commuting.

On June 1st, 2006, the "Green Commuting, Low Carbon Footprint Action" was jointly launched by CANGO and EDF, and gained great support from all walks of life. Similar activities also came into people's view after that, such as "Green Commuting, Golden Autumn", "Green Commuting, Running to Olympics", "Green Commuting-No Driving for One Day". Immediately, nearly 30 institutions and enterprise units made commitment to join the action.

On June 1st, 2007, CANGO and EDF jointly launched "Green Commuting Network". The network office was established at CANGO. All NGOs in China can apply to become a network member. Now, the network already includes 18 NGOs from major cities in China. All of them were performing creatively while implementing this project, and spread their continuous innovative projects across the country. Each year the network promotes one specific topic. In 2007, the topic was "Companies

promise to participate Green Commuting”; in 2008 the topic was “Green Commuting, Green Olympics”; in 2009 the topic was “Find Green Commuting Star in China”.

Besides, the network members organized all kinds of local environmental-friendly activities. For instance, Shanghai Exchange Centre Oasis Ecological Protection conducted the “Green Commuting, Ecological Conversation Education Project” in schools, expecting that children could practice “green commuting” under the guidance of their parents; in Guangxi Province, The Women’s Federation of Nanning City, Guangxi Province conducted “Green Commuting, Singing Folk Songs”, which allowed local singers of national minorities writing folk music to popularize the concept of green commuting; Green Friend Association from Hebei Province, and Jiamusi ESCO Sustainable Development Association separately set signs designed for green commuting in public places, to encourage people to commute by bus, etc.

All the activities above have proved that the popular topics, such as the Kyoto Protocol, slowing down global climate change, saving energy and cutting down pollution discharge are not so far from our everyday life, that is, in order to improve air quality, taking “green commuting” into action is one of the effective ways to relieve environmental pollution.

On early April, 2008, the Online Carbon Emission Reduction Calculator officially was launched on PEOPLE.com, which was jointly developed by CANGO and the Institute of Transportation Engineering, Tsinghua University. This event symbolized the initiation of “Green Commuting, Low Carbon Footprint Action”. During the implementation of “Green Commuting, Low Carbon Footprint Action”, we received great support from all walks of life. On the basis of statistical analysis to online data supplied by Institute of Transportation Engineering, Tsinghua University, this activity lasted 9 weeks, from July 20th to September 20th, totaling up to 45 working days. The number of participants amounted to 81670, and carbon dioxide emissions from commuting were reduced by 8895.06 tons. In order to encourage much more people to join this action, we organized a lottery on the Online Carbon Emission Reduction Calculator System from July to September 2008. Nearly 600 participants won the prize — PUBLIC TRANSPORTATION CARD (commemorative version)! On October 31th, 2008, a special meeting for “Green Commuting, Low Carbon Footprint Action: Greenhouse Gas Offset” was held in Beijing, and the statistical carbon offset volume was identified by participating experts.

Since the 2008 Summer Olympic Games, the Beijing municipal government had increased its prestige among civilians, as well as gained tremendous potential support from enterprises. The government continuously published a series of policies to encourage people to practice “green commuting” after the Olympic Games, such as “No Driving Day Per Week” and encouraging the development of enterprises producing bicycles for public use. All these policies have been a kind of support to the Green Commuting Network. Meanwhile, with public service announcement, the People’s Daily News called for “Taking Action to Practice ‘Green Commuting’, Less Pollution, A

Clearer Beijing” .

Then, in December 2008, the 8,895 tons of carbon emission reduction credits, which the campaign created, calculated and verified by the Transportation Research Institute at Tsinghua University, was put on auction at the China Beijing Environment Exchange (CBEX). In August 2009, Tianping Auto Insurance Co (TPAIC), a Shanghai-based insurance company purchased this carbon credit, for an amount of 277,600 RMB to help TPAIC to offset all its carbon emissions from daily operations between 2004 and 2008, making the company the first carbon-neutral company in China. Based on this fund, CANGOs "Green Commuting Special Fund", abbreviated as CANGO Green Commuting Fund, registered with the Ministry of Civil Affairs. This fund aims to cooperate with local and overseas environment charity organizations to promote the "Green Commuting" concept, and accepts the donation and sponsorship of domestic and foreign social organizations, enterprises, institutions and individuals.

In the year 2010, the Shanghai World Expo is a major world event. It takes a long period, large number of visitors from home and abroad pay high attention to the Expo's environmental problems. The Chinese Government actively encourages and promotes various forms of voluntary emission reduction activities, and the Central and Shanghai Municipal Government put forward a "Low Carbon Expo" requirement. The Shanghai Municipal Government "2010 energy conservation and climate change priorities arrangement" clearly promotes the "World Expo Green Commuting" and carried out "Voluntary Carbon Emission Reduction" activities.

Transportation carbon emission of more than 70 million visitors account for the majority of carbon emissions emitted during the World Expo. For this reason, the Shanghai World Expo Coordination Bureau, the Shanghai Environmental Protection Bureau and the Green Commuting project have jointly initiated the "World Expo Green Commuting" Program. The project aims to build the low-carbon and green Expo, advocates public for the greener World Expo, and contribute to a greener Shanghai.

The World Expo Green Commuting project was launched on May 5, 2009, the famous green star Zhou Xun as the first "World Expo Green Commuting Ambassador", has been successfully carried out a jointly operation of environment protection called "Green Commuting Visiting the World Expo" across the Yangtze River Delta; planted a "World Expo Green Commuting Forest "; issued a "World Expo Green Commuting Transit Card (general souvenir card)"; developed a "Green Commuting Carbon Calculator"; issued a "World Expo Green Commuting Guide". At the same time, the World Expo Green Commuting projects, together with the participation of schools, communities and enterprises, have looked into the whole society to create a new trend of "Low Carbon World Expo, Green Commuting".

Attachment: Introduction of World Expo Green Commuting Low Carbon Transit Card

The travelling of visitors to the World Expo is a major source of carbon emissions. Combined with "World Expo Green Commuting" activities which promotes social voluntary emission offsetting, the issuing of low carbon transit cards (including a ton of carbon dioxide credits) is an important carrier and effective way to implement voluntary emission offsets. Meanwhile, issuing this special transit card spreads the dual philosophy of "Low Carbon Transport" and "Green Commuting", as well as achieving the useful initiative of "Low Carbon World Expo".

The 'World Expo green commuting low carbon transit card' (which includes one ton of carbon dioxide credits) is a "mini" memorial transit card. In addition to all the functions played by ordinary public transit cards, the card contains one ton of carbon credit. The 'Shanghai public transit memorial card' is the carrier of Low Carbon Transit Card, and buyers donate a certain amount of funds with every purchase to the usage of environmental charities in order to neutralize their carbon emissions caused by commuting. Meanwhile, it offsets the transportation carbon emission during World Expo as a contribution. The card is priced at RMB40, of which RMB20 covers the production cost of the card which goes to the transit card company, and the other RMB20 covers the cost of one ton of carbon credit which will be used for purchase of certified carbon dioxide credits.

Low-carbon green lifestyles and consumption models can be promoted more broadly throughout this activity. It also helps Expo visitors to achieve "green commuting carbon emissions reductions" (by using the transit card to travel with public transport) and "green commuting carbon neutrality" (through the voluntary purchase of carbon credits to offset one ton of carbon dioxide emissions from their trip). Every ton of carbon embedded by the cards is linked to a registered and verified carbon credit. By going to the official Green Commuting Website (www.cleanair.net.cn) or the partners' websites and typing in the registration number, buyers can find detailed information of the credits, such as sources, location and implementation of the offset projects. A transparent publicly available information system helps to ensure that the buyers of the cards will find out where their contributions go to by simply going online.

In sum, this new method for NGOs is of real importance to attract public participation, support decision making for policy level as well as environmental movement, so Green Commuting campaign and low carbon is one of many case in China.

Innovative ways of information sharing and promoting participation



AIR & HEALTH

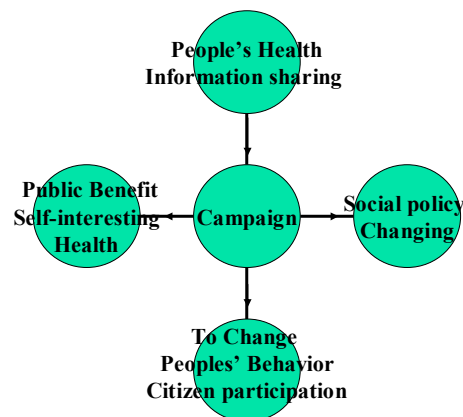
Huang Haoming

**China Association for NGO
Cooperation (CANGO)**

2010 08 18 AGNA Asia Toronto

1

Green Commuting Campaign



2010 08 18 AGNA Asia Toronto

2

Clean Air for Life



- Clean air is a vital element of a health life. Each day, an average adult breathes approximately 20,000 times and 15-20 cubic meters of air.
- Air pollution from both mobile and stationary sources has significantly undermined urban citizens' desire to enjoy clean air.

2010 08 18 AGNA Asia Toronto

3

The comparison of pollution level of PM10 between Beijing and the cities in developed countries

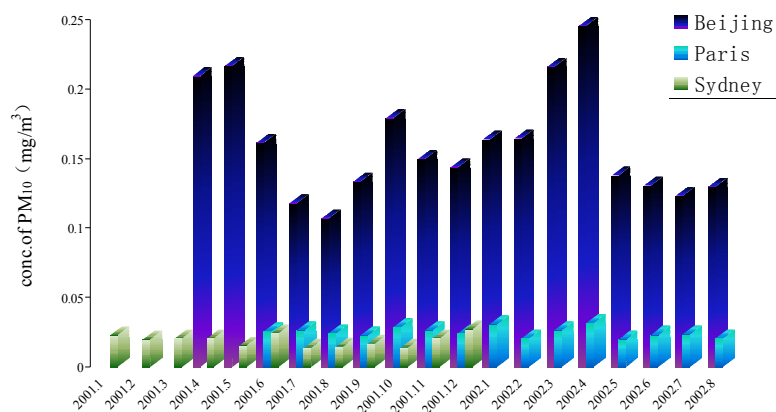
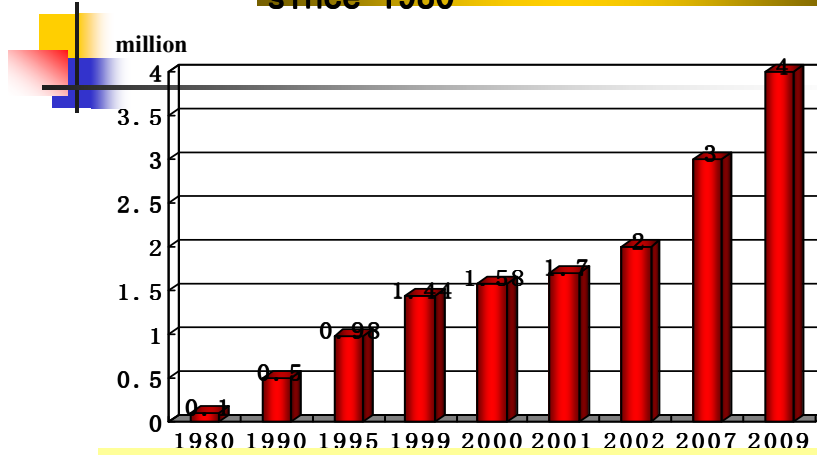


Fig. 1.5 Comparison of monthly average of PM10 between Beijing, Paris and Sydney

4

Vehicle increase in Beijing since 1980

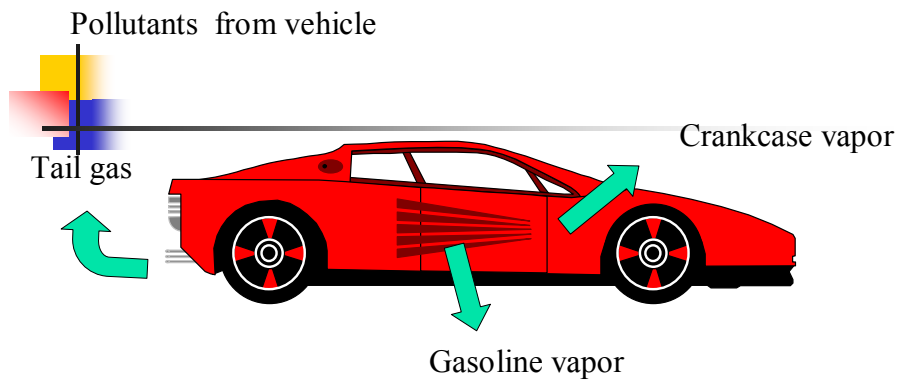


0.1—1 million, 16 years ; 2—3 million, 4 years

1—2 million , 6 years; 3—4 million, 2.5 years

2010 08 18 AGNA Asia Toronto

5



Primary pollutants: CO, VOC, Pb, NO, SO₂, CO₂, PM, etc.

Secondary pollutants: O₃, NO₂, PM, SO₄²⁻ etc.

2010 08 18 AGNA Asia Toronto

6

2005—2006 Research, the effects of PM from traffic on human health : monitoring the air quality and counting vehicle flow near road



2010 08 18 AGNA Asia Toronto

8



Asia Toronto

9



Launching Ceremony of Green Commuting Campaign, June 1, 2006

2006年6月1日，绿色出行启动仪式



2010 08 18 AGNA

10



2010 08 18 AGNA Asia Toronto

11

Nanjing's Activities



2010 08 18 AGNA Asia Toronto

12

Xiamen's activities



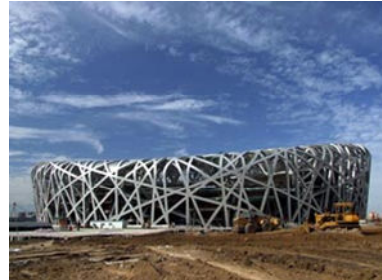
2010 08 18 AGNA Asia Toronto

13

➤ Green Olympics and Green Commuting

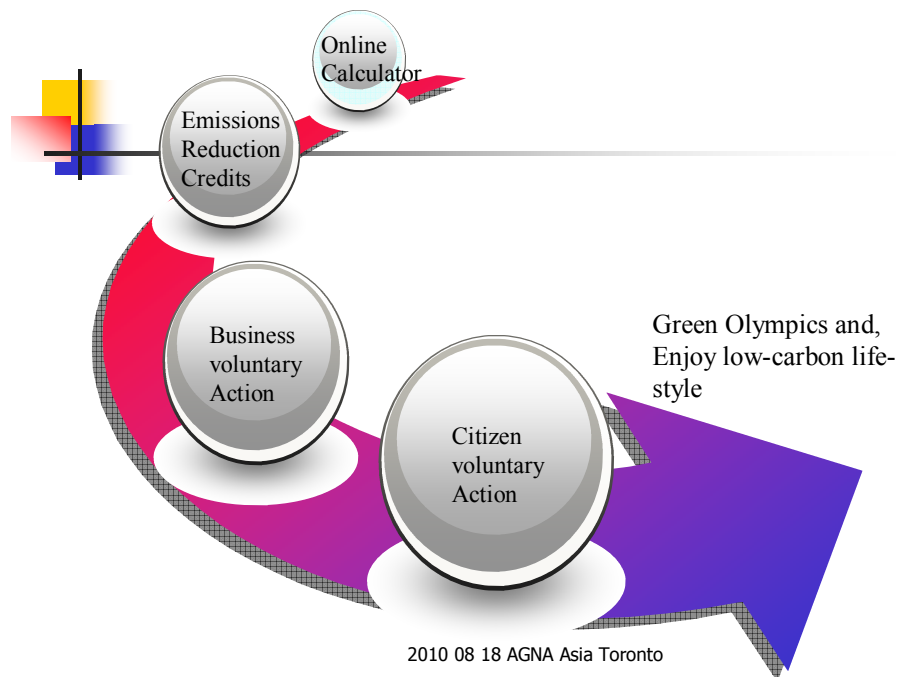
Contributing to greening Beijing Olympic Games

Offset the carbon emission of Olympic Games.



2010 08 18 AGNA Asia Toronto

14



2010 08 18 AGNA Asia Toronto

15



2008.03.07, visit of
Journalists organized by
BOCOG

2008.07.26, Press
Conference by BOCOG



2010 08 18 AGNA Asia Toronto

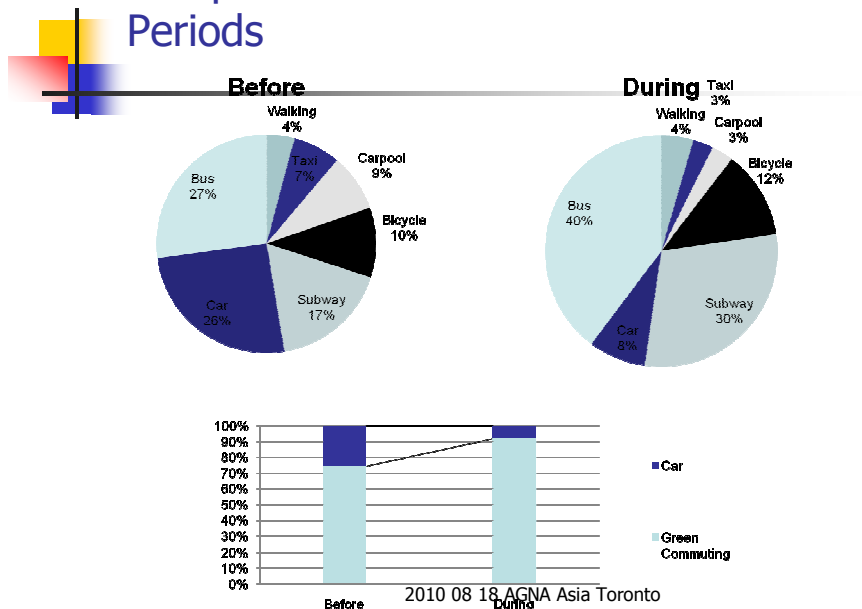
16

Launch on April 3rd, 2008



17

Comparison between two Different Periods



19

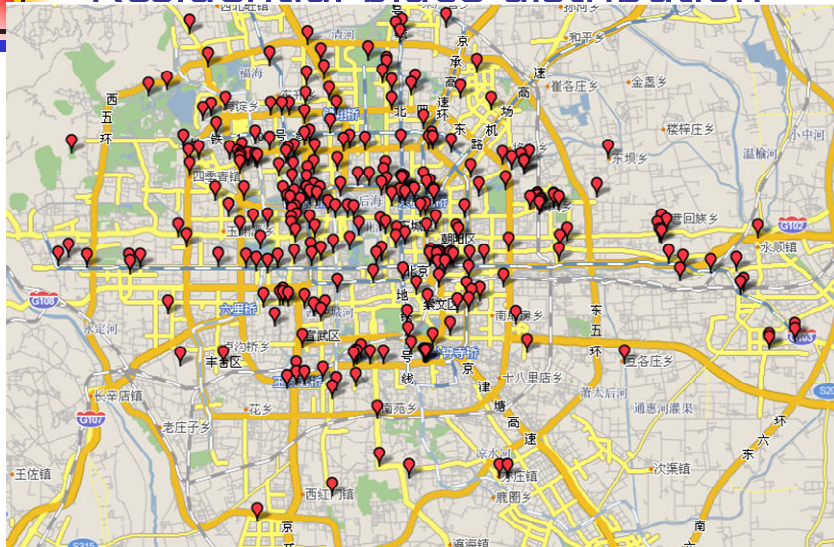
Carbon Emission Reduction

- Total participants: 35 companies and 81410 employees (citizen participation)
- The length of the campaign: 45 days
- Total Carbon reduction:
 - 11020 tons of CO₂ (compared with status quo)
 - 31840 tons of CO₂ (compared with individual car driving)
- 11020 Ton
 - 31840 Ton
- 8000 Ton carbon, Tianpin Company voluntarily buy with 280,000 RMB Yuan

2010 08 18 AGNA Asia Toronto

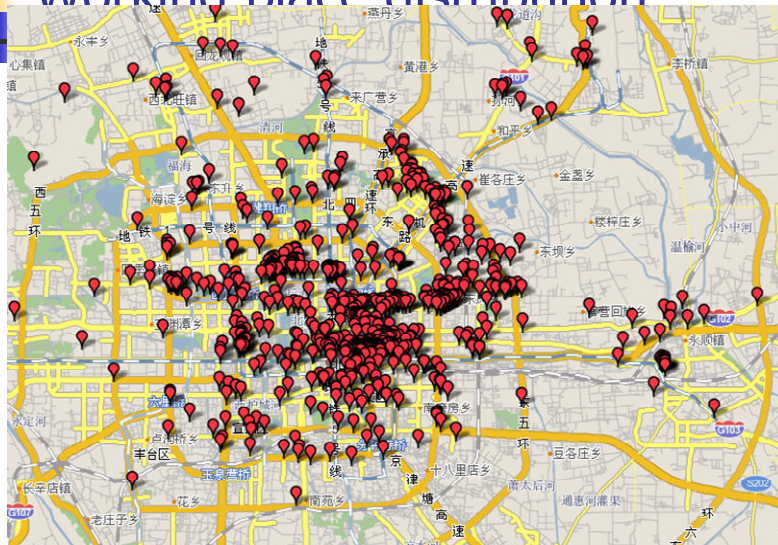
20

Residential place distribution



21

Working place distribution



22

Public policy changing about the city administration

- | | |
|--|--|
| <ul style="list-style-type: none"> ■ Parking fee: (new policy) <ul style="list-style-type: none"> ■ if near subway station, your payment is only 2 RMB Yuan for one day ■ If near downtown for 13 areas, your payment is 10 RMB Yuan for first one hour, and second hours for 15 RMB Yuan for one hour | <ul style="list-style-type: none"> ■ Parking fee:(before policy) <ul style="list-style-type: none"> ■ 2 RMB Yuan for one hour (10times difference) ■ 5 RMB Yuan for one hour (if you spend 3 hours for parking in downtown, you need increase payment 25 RMB Yuan, 2.67 times difference) |
|--|--|

2010 08 18 AGNA Asia Toronto

23

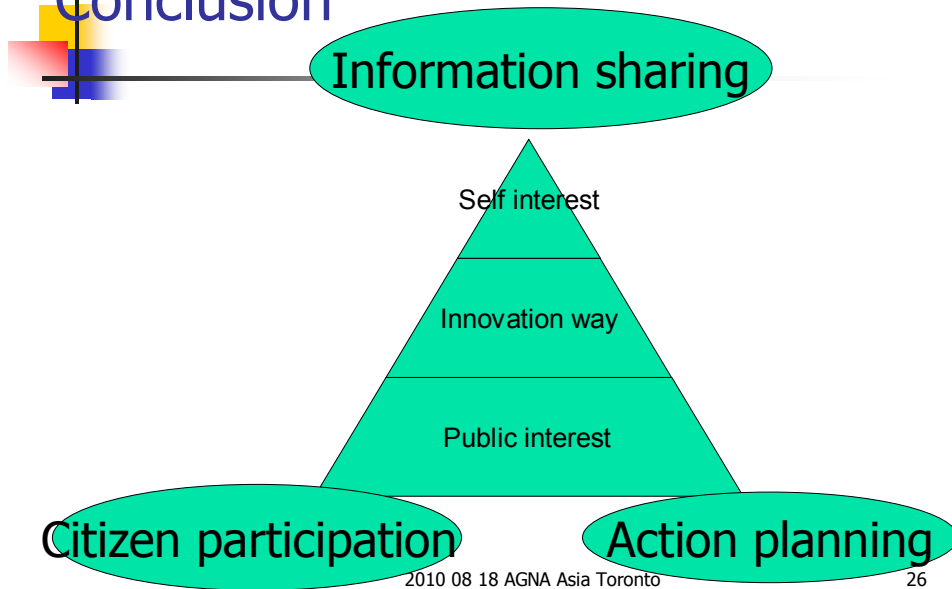
Public policy changing

- | | |
|---|---|
| <ul style="list-style-type: none"> ■ To reduce the car on the street <ul style="list-style-type: none"> ■ The every car shall be stop one time for one week to unable to drive from 7-20 within five ring areas in Beijing for working time ■ To increase the public investment for subway and bus system | <ul style="list-style-type: none"> ■ To use low price for subway and bus ■ Subway for 2 RBM Yuan with no limitation for your distance ■ Bus cost for 40 cent with no limitation for your distance ■ To concern the low income group for social equity |
|---|---|

2010 08 18 AGNA Asia Toronto

25

Conclusion



Thanks for Your Attention!

2. India

Harsh Jaitli

Voluntary Action Network India (VANI)

2-1 Civil Society in India



VOLUNTARY ACTION NETWORK INDIA



VOLUNTARY ACTION NETWORK INDIA



Regulatory Mechanism

- Societies Registration Act, 1860
- Trusts
- Non-Profit Companies
- Approx Number- 3.3 Million (Estimate)
- Income Tax Act
- Foreign Contribution Regulation Act



VOLUNTARY ACTION NETWORK INDIA



Challenges (Socio-Economic)

- Rising Private Sector/ Individual Wealth
- Educational Discrepancy
- Wide Spread Poverty
- Failure of Delivery of Services
- Social Alienation



VOLUNTARY ACTION NETWORK INDIA



Challenges (Regulatory)

- Out Dated Acts
- Income Tax Dispute
- Tightening Regulations
- Direct Taxes Code
- No-Nodal Ministry
- Administrative Reform Commission



VOLUNTARY ACTION NETWORK INDIA



Challenges (Resources)

- Shrinking Foreign Aid
- Major Aid Directly to Government
- Sub-Contractor Relationship



VOLUNTARY ACTION NETWORK INDIA



Impact on Civil Society

- Shrinking Space
- Dependency on Government
- New Actors
- Security Issues
- Competency Gap
- High Expectation
- New Avenues



VOLUNTARY ACTION NETWORK INDIA



Challenges Before Civil Society

- Strengthening/ Reforming State Institutions
- Assuring Self-Governance of public Institutions
- Defining "Public Good" from vantage point of voiceless and marginalized
- Assuring Accountability



VOLUNTARY ACTION NETWORK INDIA



Role of VANI

- Strengthening Voluntary Sector
- Articulating Voice of Sector



VOLUNTARY ACTION NETWORK INDIA

2-2 Accountability, Legitimacy and Transparency (India)



**Accountability, Legitimacy
and Transparency (India)**

Harsh Jaitli
VANI



VOLUNTARY ACTION NETWORK INDIA



From the State

- Capacity Building of Elected Representatives
- Use of Legal Provisions
- Evidence Based Actions
- Campaigning and Advocacy
- Disseminating Information



VOLUNTARY ACTION NETWORK INDIA



Accountability & Transparency (From Civil Society)

- High Visibility
- Public Accountability
- Role Model
- Diversity within the Sector



VOLUNTARY ACTION NETWORK INDIA



Methods

- Compliance
- Sharing of Information
- Stakeholder Participation
- Accountable Governance system
- Accreditation System



VOLUNTARY ACTION NETWORK INDIA



Legitimacy Question

- Relates to Accountability & Transparency
- Right to Represent Marginalized
- Questioning Status Quo
- Elected Representation
- Influencing Public Opinion

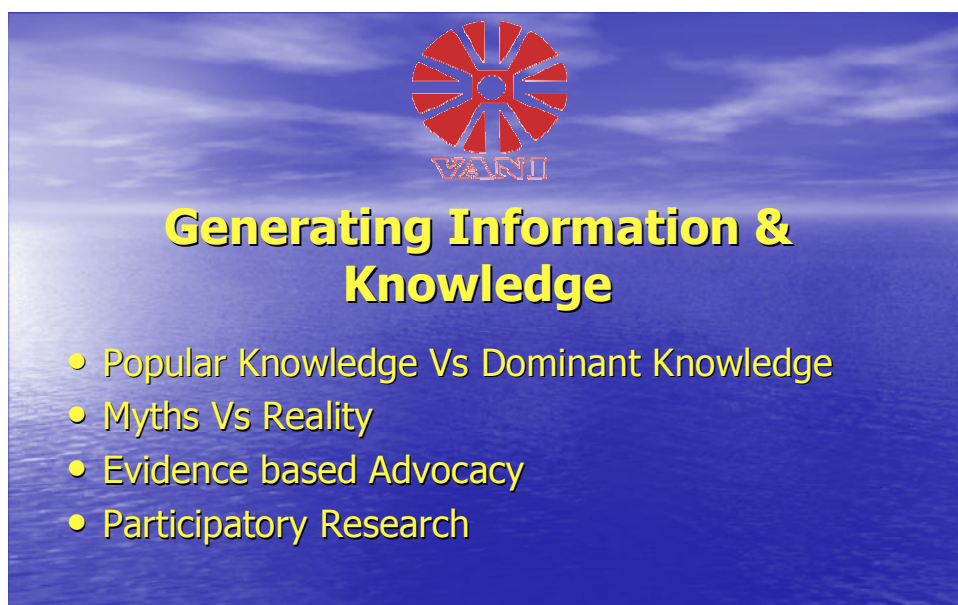


VOLUNTARY ACTION NETWORK INDIA

2-3 Information Dissemination & Participation



VOLUNTARY ACTION NETWORK INDIA



VOLUNTARY ACTION NETWORK INDIA



Methods

- Use of Technology (Website, FB, Blogs)
- Popular Publications
- Linkages with Academia
- Linkages with Media
- Popular Arts (Theater, Songs)



VOLUNTARY ACTION NETWORK INDIA



Mobilization

- Through Participatory Research
- Information Dissemination
- Demystification
- People Led Campaign



VOLUNTARY ACTION NETWORK INDIA

3. Nepal

Dala Rawal
NGO Federation of Nepal

3-1 Major Highlights of NGO Federation of Nepal

3-1-1 for Peace and Constitution

Sustainable development of a society entails an active participation of civil society organizations (CSOs) in the development works. As an arena of community organizations, professional organizations, social movements and community action groups, civil society organizations can represent and participate with the government in its actions and for democracy and human rights. Likewise, the CSOs tend to influence the national level policy design and implementation. Significantly, CSOs create a larger synergy in a country in conflict and in transition. In the present transitional context of Nepal, CSOs have a great role to play ensuring that the transition, an opportunity, herald inclusion, equity and development to all through peace and constitution.

Especially through the April Uprising in 2006, the role of the CSOs has been profusely appreciated. In the course, NGO Federation of Nepal (NFN) has mobilized thousands of people throughout the country in coordination with federations, alliances and networks for advocacy, lobbying, campaigns and pressurizing. The programmes have aimed to link the national level development processes with the local for democracy, human rights, rule of law, and for constitution making and peace building. Instilling awareness, the CSOs have been involved mobilizing the excluded and the marginalized groups for their rights.

The programmes have created platforms that facilitate interactions in the local and national levels. The collective campaigns and voices have contributed in getting the voices of the people heard in the national level and more specifically in order to address the issues and concerns of all the groups and communities in the new constitution.

Having acknowledged that strong civil society involves strengthened CSOs, NFN programmes have focused on the capacity building of its member organizations and the CSOs.

Precisely, NFN has prioritized presently its engagement on inclusive and democratic constitution drafting and the establishment of sustainable peace. Thus, institutionalizing the achievements of democratic struggles, the new constitution must ensure the equitable development of Nepali society.

National Civil Society Conference Held

Leaders of Civil Society Organizations (CSOs), human rights and social activists apart from people from different groups and communities from all the 75 districts descended in Kathmandu to attend National Civil Society Conference which was organized by NGO Federation of Nepal (NFN). The conference was organized through April 26-27, 2010 by NFN.

On the occasion civil society leaders, human rights activists, constitution drafters, foreign dignitaries, leaders of the major political parties and the Chairperson of the Constituent Assembly Subas Nembang ventilated their grievances and opinion on issues of human rights, social justice, constitution making and the peace process apart from lamenting the unfolding political scenario.

The convention also consisted of two thematic sessions: "Peace process and new constitution making: Challenges and opportunities" and "Issues of economic, social and cultural transformation in the new constitution."

At the end the conference came up with a resolution on some contemporary issues.

3-1-2 Together for Constitution and Peace

NGO Federation of Nepal organized a national level civil society conference in Kathmandu through April 20-21, 2009. The event was inaugurated by President Dr Rambaran Yadav.

Representatives from civil society organizations throughout the country participated in the program to discuss and identify appropriate strategy to mobilize people in the process of constitution making. The major focus of the program was to bring in the local social activists and national activists together to devise common minimum strategies for civil society outreach and formulate guidelines in enhancing people's participation in the making of a new constitution.

Chief guest President Dr Ram Baran Yadav including leading leaders like Madhav Kumar Nepal, Congress leader Arjun Narsingh K.C and Maoist leader C P Gajurel expressed their solidarity with the NFN and demonstrated commitment to remove all the hurdles that are affecting the peace process.

They also expressed commitment to respect and abide by the historic Comprehensive Peace Accord (CPA) in all its letter and spirit. Representatives from diplomatic corps, UN agencies, donor communities, lawyers, academicians and civil society leaders attended the event.

The inaugural session was followed by extensive working sessions with theme being "People's participation in constitution making process: Opportunities and challenges", "Issues of inclusion in new constitution: Civil society concerns", "Discourse on federalism and state restructuring" and "Human rights and impunity situation in Nepal: Opportunities and challenges".

Given the issues debated, the sessions helped explore issues on constitution making in an accessible and engaging modality. The last day of the event was devoted formulating strategies for social mobilizations and to draft action plan for the regional and local level endeavors in this

connection.

District Level Networking Conference

NFN organized a one-day public interaction programme in all the 75 districts relating people's concern in the new constitution. Following the Constituent Assembly schedule, effective from 1 November 2008, a joint civil society delegation coordinated by NFN submitted the recommendations to 10 thematic CA committees on 26th February 2009 in Kathmandu prior to the first outreach of CA members in districts. NFN District Chapters were able to hold an extensive 'Recommendation Hand-Over Programme to the CA Members' when they were in the districts seeking people's opinion to be incorporated in the new constitution.

Towards an Inclusive, Participatory and Democratic Constitution Making

How NFN has demystified arcane terms for common people

NFN undertook the task of evolving common understanding among the people on contemporary and widely debated issues of what federalism is all about and which model to go for, what makes democracy as inclusive and what is participatory constitution building at regional, district and constituency levels.

The vehicle is the broad-based civil society networks which have been effectively mobilized to achieve the objectives.

Significant in this connection is the conduct of a five-day long regional level Training of Trainers (ToT) on issues of federalism, inclusive democracy and participatory constitution making in June-July 2009. They were organized in each region by involving CSO activists, local NGO activists and media representatives.

The efforts were aimed at engaging all men and women from diverse religions, ethnic, geographic and political backgrounds so that no one feels left out from the process.

Moreover, it was also designed to ensure that everyone realizes that his/her aspirations and concerns are reflected in the new constitution.

The exercise involved roping in locally based organizations for social mobilization component. This was done believing that doing so would help the cause of influencing the thinking of the local people in favor of inclusive democracy and promotion of human rights. It was the bid to give the exercise to participatory touch.

The conduct of ToT has been found to have boosted the understanding on the concept of federalism, inclusive democracy and participatory constitution making.

The belief that federalism, inclusive democracy and participatory constitution making were technical and political issues has been demystified now. Since the entire discussion on these rather

unheard of issues was conducted in commoner's language, it has helped the common people to understand the concepts and internalize them.

District Level Training

A two-day district level training/workshop was organised followed by a one-day interaction with political parties and representatives of local governments in all the districts. The district trainings were organised consecutively with the Regional Level ToT.

The trainings brought in people representing local NGOs, alliances and networks including media persons working around issues of marginalised and excluded groups and communities to discuss ways to enhance people's participation at district level political processes.

According to the number of constituencies in each district, from 10 to 30 representatives took part in the programme. The trainings were moderated by a team comprising of participants who were trained during the Regional Level ToT along with other relevant district level experts.

The participants of district level training, as part of the trainings, developed in each district a plan of action to strategise the constituency level mass mobilisation in all the 240 constituencies by mobilising a huge number of people and CSOs at large.

Feedback Workshops in the Draft Concept Papers

NFN organized two days' feedback workshops on the draft concept papers of various committees of the CA in seventeen districts throughout the country through the months March and April.

On the first day, participants from different sectors were divided into different groups to discuss on the trends and progress in the constitution making process. They analyzed on the constitutional provisions included in the draft of different CA committees with a focus on the draft of Fundamental Rights Committee. They identified the positive elements in the drafts and the gaps from their perspectives. The groups came up with some suggestions to be included in the constitution in order to ensure their fundamental rights in the new constitution.

On the second day, the findings of the first day by different groups were presented to the Constituent Assembly members present in the respective programmes. After the group presentations, floors were open to provide feedbacks to the leaders of political parties and CA members.

Determination of federal States and Concepts of Political Parties

Fixing the number of provinces, giving them names and delineating the geographical areas for the provinces are the most disputed issues when it comes to writing the new constitution. All political parties have come up with divergent views on carving out new states. The subject has

caused rift even within the parties — Unified CPN-Maoist, Nepali Congress and CPN-UML.

On this backdrop, Forum for Human Rights and Democracy (FOHRID), NGO Federation of Nepal and INSEC organized jointly an interaction programme on December 2, 2009 in Kathmandu. The programme firstly aimed at understanding the proposals of different political parties relating to federal system in Nepal. Secondly, it aimed to present to the political parties some seminal and expert views and facts on these complex issues.

Chandra Dev Joshi, CA member from Communist Party of Nepal Unified, stood strongly against delineating the federal states on ethnic bases. Narayandutta Bhatta, CA member from Rashtriya Janashakti Party, also agreed that the restructuring of the state on line of ethnicity is the continuity of the domination and exploitation of minority by the majority. On the other hand, Santabahadur Nepali, CA member from Rastriya Janamorchha, stressed that federal system is not suitable for a country like Nepal. However, B. P. Yadav, who represents Madhesi Peoples' Rights Forum (MPRF) in the CA, was critical of bringing federal system to dispute.

Binod Kumar Bhattarai, CA member of Nepali Congress suggested that federal system and community rights should be considered separately. Likewise, Lucky Sherpa, Constituent Assembly Member from CPN (UML), said that federal states should be framed maintaining the cultural identity, addressing the voices and concerns of the people of all the cultural and geographical communities, administrative feasibility, and the access to the resources.

NFN President Dr Netra Prasad Timsina stressed on the need of formation of a high-level commission to recommend the overall restructuring of the states. He urged the political parties to be serious about these issues. In this great mission of constitution building, he assured civil society organizations will leave no stone unturned in facilitating the process.

NFN garners commitment for timely constitution

Leaders of the major political parties expressed their commitments to promulgate the new constitution on time while speaking at an interaction program organized by Campaign for Constituent Assembly (CCA) in coordination with NFN on 4 August, 2009 in Kathmandu.

The interaction session “Timely Constitution: A Civic Concern” saw civil society leaders expressing doubts on the claims coming from representatives of the political parties that they can draft and promulgate the new constitution within the stipulated time-frame.

Nepali Congress (NC) leader Arjun Narasingh K. C. and CPN-UML leader Keshav Badal spoke on the occasion.

Civil society leaders appealed for the unhindered functioning of the Constituent Assembly before the nation can achieve its great mission. They said that it should be able to address the issues and concerns of the people rather than that of a particular party.

Women Conference

NFN organized a women conference entitled "Constitution Making and Women Rights: Opportunities and Challenges" on 28th April 2010 in Kathmandu. The major objective of the conference was to share about the opportunities and challenges being faced by the women CA members as well as woman rights activists of Nepal in ensuring the woman rights in the new constitution.

The program was organized in the presence of women activists from the 75 districts of Nepal along with the women CA members and the representatives of the organizations working on the issues of women in the upcoming constitution of Nepal. CA members Binda Pandey, Shanti Adhikari and Mohamadi Sidiqui shared about the current status and updated about the ongoing peace and constitution writing processes. They also shared the challenges and opportunities they are facing as women CA members in addressing the issues of women and their rights. The representatives from the organizations working on the issues of women and focusing to the constitution writing process presented about the positive as well as the negative aspects of the reports submitted by the thematic committees. They also provided some feedbacks that can be incorporated in order to address the women's issues and ensure the woman rights in new constitution.

3-1-3 Campaigns and rallies

NFN is constantly engaged in organizing campaigns and rallies mainly focused on the issues of constitution making, peace process, human rights, good governance and rule of law. It has organised and coordinated sit-in programmes, press-meets, mass rallies, mass meetings and has issued press releases in response to the events at various times. Especially on the occasions of democracy day, republic day, human rights day, thousands have participated in the programmes and rallies organized in coordination with other networking federations, alliances and civil society organizations.

Civil Society Steps Up Pressure

Thousands of people joined the rally organized on 19 March 2010 by various civil society organizations. The rally was organized in order to put pressure on the political parties and the CA members to prioritize the constitution making process and promulgate the new constitution within the stipulated time of 28 May 2010. The rally kicked off from Bhrikutimandap, marched through Putalisadak and Bagbazar before reaching Shantibatika at Ratnapark.

Many civil society organizations, professional organizations, federations, alliances and the public took part in the rally which was coordinated by NFN.

New Constitution and Peace: Basis for Democracy

Loktantra Diwas 2010

The civil society celebrated the fourth Loktantra Diwas (Democracy Day) on 24 April 2010 demanding the new constitution and the logical conclusion of the peace process. Civil society leaders, human rights activists, professionals, journalists and the common people convened at Ratna Park at 7:30 in the morning. They flew balloons with banners hanging on them. The banners read 'Loktantra Day 2010'. At the end, the civil society leaders, professionals and media persons addressed the programme.

Most of the speakers agreed that timely promulgation of the new constitution is essential for the institutional development of federal republic democratic system in Nepal.

"Basis of federal democratic republic: New constitution building and sustainable peace" was the slogan of the programme which was coordinated by NFN.

3-1-4 NFN Launches Human Rights Discussion Series

NGO Federation of Nepal (NFN) has set in motion a series of discussion programmes on the various facets and issues of human rights. Such discussion programmes will focus on the specific human rights issues.

First in the series, it has organized on 24 June 2010 a consultation workshop on 'The Need and Form of Child Protection Policies in NGOs' in coordination with CWIN, a member organization of NFN concerned especially with child workers in Nepal.

The presentation by Tarak Dhital, General Secretary of CWIN, made a significant part of the programme. His simplified presentation helped the audience to add to their knowledge of child rights. He discussed on conceptual development process of child rights, international agreements and conventions Nepal has agreed on and various aspects of child rights. Bringing to fore the legal provisions on child rights in Nepal, he suggested that it is us who should begin the mission now.

Madhav Pradhan, President of CWIN, said that coordination and cooperation is required among the civil society organizations/NGOs in order to introduce child protection policies in these organizations. Sumnima Tuladhar, who is the Executive Coordinator of CWIN, said child protection policy has failed to come in the national level in spite of the ongoing advocacy and lobbying. She expects a sizeable coverage and effectiveness of the child protection policies and programmes provided that they are executed through NFN and its member organizations.

Some remarkable ideas and inputs were received from the participants as well. Durgamohan Shrestha, NFN Bhaktapur President, pointed out the need of delineating ways to punish the perpetrators of child rights. Another participant Luva Raj Neupane assessed that the child protection policies will be much effective if they are introduced by the government. Likewise, Roshani Karmacharya from NFN Lalitpur suggested that there should be instantly recognizable ways

to find out the violations of child rights. Navaraj Lamichhane, Midwestern Regional In charge of NFN central committee, recommended NFN build a monitoring mechanism of the child rights violations.

Having made an assessment of the programme, NFN Secretary General Sharmila Karki said that such workshops can have significant impacts in improving the child rights violation. She added all the levels and organizations need child protection policies and the protection of children.

A draft of the child protection policies was also distributed in the programme. It was assessed that all the CSOs can formulate their own policies. NFN President committed that NFN will make its own policies for the protection of child rights in the central level and encourage and support its members to do the same.

The series will help to sensitize the NFN member organizations on different aspects of human rights issues and facilitate in preparing the rights-friendly policy in their organization.

Major Publications

-Briefing Papers

Briefing papers on 'inclusive democracy', 'federalism' and 'participatory constitution making' aim to establish a uniform understanding of these concepts and trigger discussions amongst experts and policy makers at the national level in order to build a common understanding of these terms amongst themselves.

-Sachetak and Proaction

The mouthpieces of NFN as they are, Sachetak and Proaction are published regularly.

-Posters

Posters, pamphlets and IEC materials are developed based especially on the theme of constitutional issues, participatory constitution making, inclusion and democratic practices.

Towards Inclusive and Democratic Nepal:

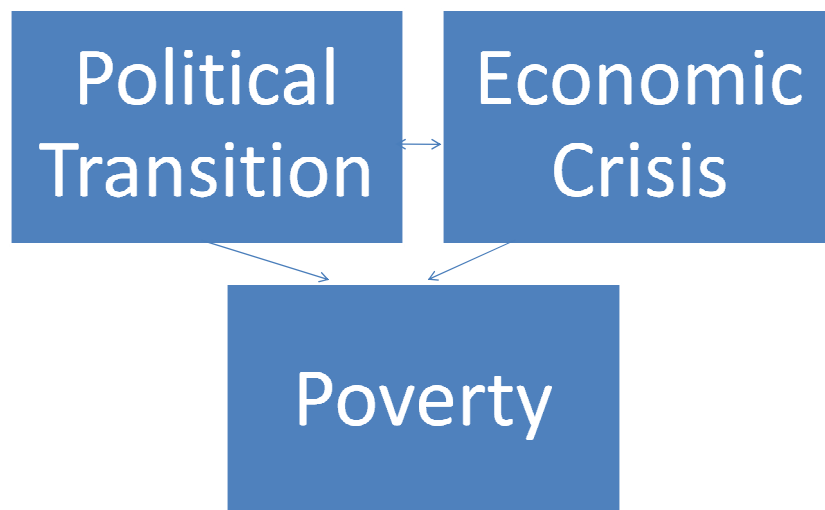
**Strengthening Civil Society movement for
promoting democracy and justice in Nepal**



NGO FEDERATION OF NEPAL

18th August, 2010, Toronto

Political And Economic Transition In Nepal



Nepal at Present

- **3.4 million people go hungry every night.**
- **25% people are landless.**
- **754 Nepali workers died in 2009 in Gulf country.**
- **2.65 cases of gender violence reported every day.**
- **16.4% of Price Rise in food and beverage items.**
- **14% Inflation in 2009/2010.**
- **2.6 Million Child Labor at present in Nepal.**
- **18.3% Unemployment to population ratio.**
- **316,465 metric tons (MT) of food deficit this year.**

Civil Society movement in Nepal

- **Restoration of Democracy in 1990**
- **Royal take over 2005**
- **People movement 2006**
- **Human Rights, Democracy and social justice**
- **Federations & Alliances**
- **Dalits & indigenous nationalities**
- **Associations of disabled persons**
- **Users' associations**
- **Youth, student and trade unions**
- **Women groups**
- **Religious associations**

What We Did / Doing

National, Regional and local level advocacy



Networking and Joint Civil Society Campaign for peace and new constitution

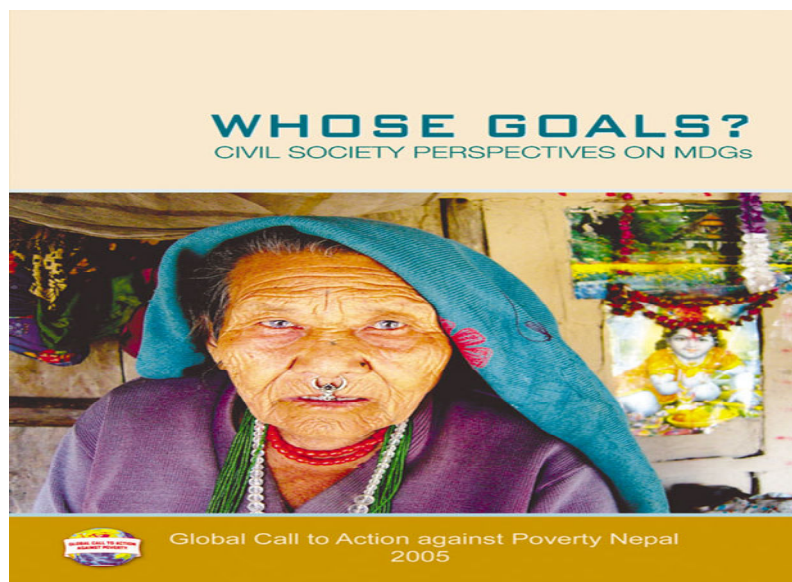


Demonstration and mass mobilization about Peace, Democracy and Social Justice



7

Civil Society perspective of MDGs in Nepal



8

Media Mobilization about new constitution



9

Advocating inclusive and democratic Constitution Making process



10

Mobilization of grass route civil society for Peace, Inclusive democracy and new constitution



11

Mass rally, Public demonstration and Public hearing of constitution and state restructuring



Pressuring to Governments for change policy and programs



What We Achieved

- Millions people are aware of the need for justice, democracy, human rights and peace
- Coalition among key civil society institutions and political parties strengthened
- People could express their concerns and propose their agenda
- People's agenda for democracy, peace and development promoted
- People demonstrated strong commitment and conferred solidarity for the movement
- Civil Society has played a significant role in broadening the civil society spaces
- Success CA election with Inclusive manner

14

Key Issues of Civil Society in Nepal

- Guarantee of human rights, peace, democracy and justice
- Institutionalized democratic republic through new constitutions
- restructuring of the state with Inclusive manner
- Post conflict development and justice
- Trade justice and Debt cancellation
- Unconditional and quality aid
- Federal restructuring of the state and guarantee of people's sovereign rights over resources
- consensus building among the political parties for bringing constitution as planned
- Guarantee of food sovereignty of the people
- Constitutional guarantee to pro-poor development
- Proportional representation of people from all castes, class, gender ethnicity in policy making and implementation level
- Accountable local government
- Implementation of commitments related to MDGs
- Land reform
- Access to basic services

Challenges

- Lack of consensus among the political parties for bringing constitution as planned
- Political instability, focused on government making
- Frequently amended CA schedule
- Respect for diversity and autonomy
- Fighting authoritarian legacy
- Making the political parties accountable to their commitments
- Making inclusive and democratic new constitution
- Linking communication from local to international levels
- Institutionalization of democratic values and principles
- Upholding people's voices and maximizing their involvement
- Different issues emerging.
- How to manage diversity
- Difficulties of making single voice
- Political parties are divided with different issues.
- Some CSOs voice also divided with different issues
- Reconfiguration of Civil Society

3-2 LTA Situation in Nepal

LTA Situation in Nepal



NGO FEDERATION OF NEPAL

18th August, 2010, Toronto

Situation of LTA in Nepal

- Nepal is in the cross road in the political, economical and social transition
- Changing context (From constitutional monarchy to democratic republic Nepal) but all institutions and structure remain to be the Same
- Increasing impunity day by day
- Many illegal insurgent groups existing and increasing., extortion, abduction and all forms of insecurity continue to be exist
- In the transition period State Accountability appear to be weak.

Situation of LTA cont.....

- Most of the government budget of the last 3 years remain to be on spent this year 60% and last year 75 %(development budget for basic service and local development)
- People are deprived of basic services and rights
- Political parties do not have transparent and accountable (PM election have been defeated 5th time)
- CSOs is promoting institutional good governance
- Political vacuum of Local government

Current Economic Situation in Nepal

- 3.5% Economic Growth this year (GDP).
- Increasing Migration of Skilled and Unskilled Manpower.
- Feminization of Agriculture.
- Unbearable rise in Price of Food items.
- Rs. 259.68 billion (41%) of Trade Deficit due to Heavy Import and less export.
- Remittance Income to total GDP – 19%.
- Only 60% Budget Spent in Local Development.

Strategies dimension of LTA

- CSOs facilitating for LTA
- CSOs facilitating dialogue between various actors towards building 'LTA'
- State accountable for delivering different social services
- The national discourses on political transition, Sustainable Peace, state restructuring and civic spaces in general
- Grassroots Mobilization
- Capacity Building of all stakeholders



3-3 Innovative way for information sharing

Innovative way for information sharing



NGO FEDERATION OF NEPAL

18th August, 2010, Toronto

Government level

- Rights to Information Act passed by government but it to be put for proper implementation
- Put bigger board of Citizen chartered at every govt. office
- Public hearing about political appointment

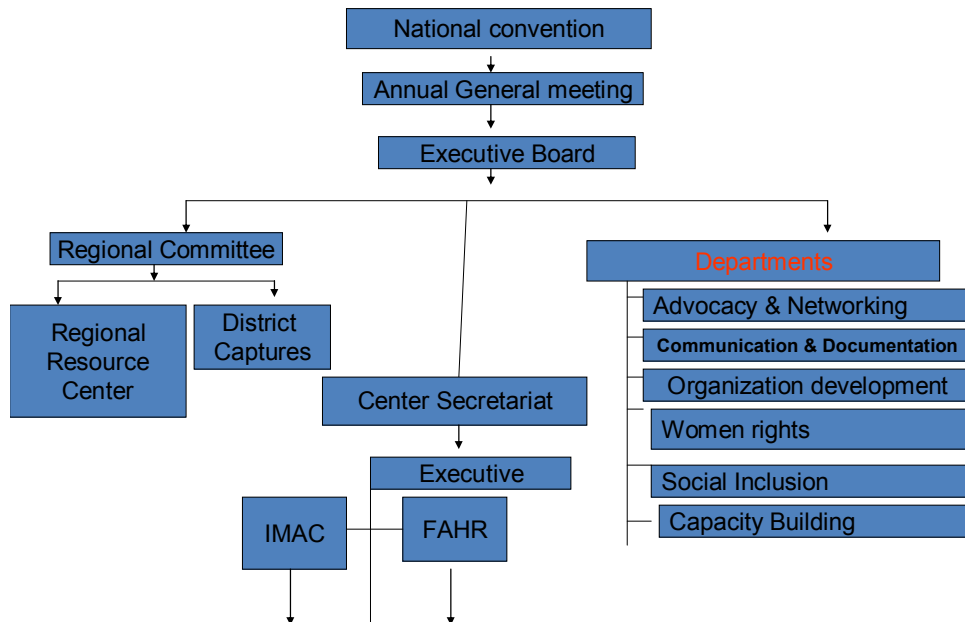
Civil Society

- Confederation of CSOs at local, regional, and national level
- NFN 75 Chapter, 5 region, 5 Civil society Knowdge centre
- Movement from Below
- Civil society mobilized people and interaction with CA members
- Million of people are mobilized for constitution writing processing
- Service monitoring system at district level

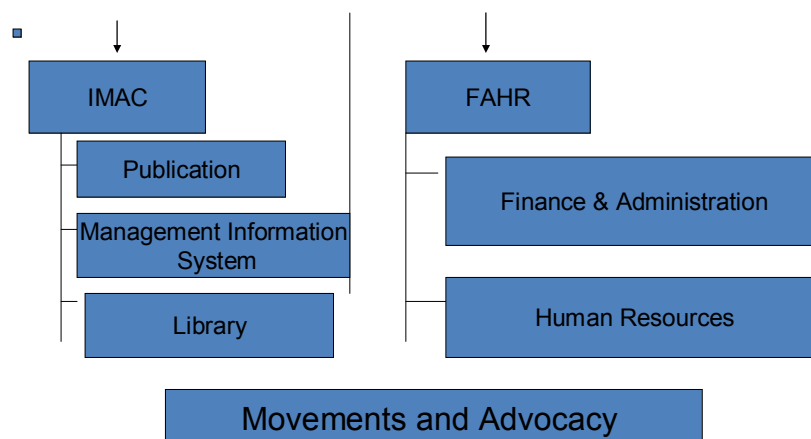
Organizational Structure

- Membership Organization
- National convention
- Annual General meeting
- Executive Board
- Advisory Comittee
- Management Departments
- Regional Committees
- District Captures

NFN organization and information system



Continue.....



4. Philippines

Sixto Donato C. Macasaet
CODE-NGO

4-1 Philippine Civil Society Organizations (CSOs)¹

In this presentation on the non-governmental organizations (NGOs) or civil society organizations (CSOs) in the Philippines, we will first look at definitions of some important terms. Then, we will discuss the important characteristics of CSOs, the advantages that development NGOs have and the challenges that they face. We will end with a short description of our organization, the Caucus of Development NGO Networks (CODE-NGO).

4-1-1 Definitions

An often used definition of civil society and how it can be differentiated from the state and the business sector is that “the State concerns public action for public good, the Market is about private action for private good, while civil society is private action for public good (see for example N. Perlas).

Based on the broad meaning of civil society, CSOs in the Philippines would include a very diverse set of organizations such as socio-civic organizations (Lions Club, Rotary Club, etc.), religious groups, professional associations (lawyers’ and dentists’ associations for example), business chambers and clubs, non-profit schools and hospitals, people's organizations (associations of farmers, fishers, drivers, neighborhood associations, etc), development NGOs and many others.

An important sub-set of the broad CSO or NGO sector would be what in the Philippines is called development NGOs. Development NGOs would include non-profit organizations that are committed to and working for economic, political and socio-cultural development that base their work on a clear belief in the need for systemic and structural change in society even though their particular organization may be focused on one or a few aspects of that change. In other words, development NGOs are not content only with dole-outs or occasional activities to help the poor such as intermittent medical clinics or livelihood seminars. Development NGOs are often more institutionalized and often (but not always) have a few full-time staff. The term “development NGOs” is also used in the Philippines to refer to “people’s organizations” and cooperatives with the

¹ Paper presented by Sixto Donato C. Macasaet, Executive Director of CODE-NGO, at the meeting of the Affinity Group of National Associations (AGNA)–Asia on August 18-19, 2010 in Toronto Canada.

characteristics described above.

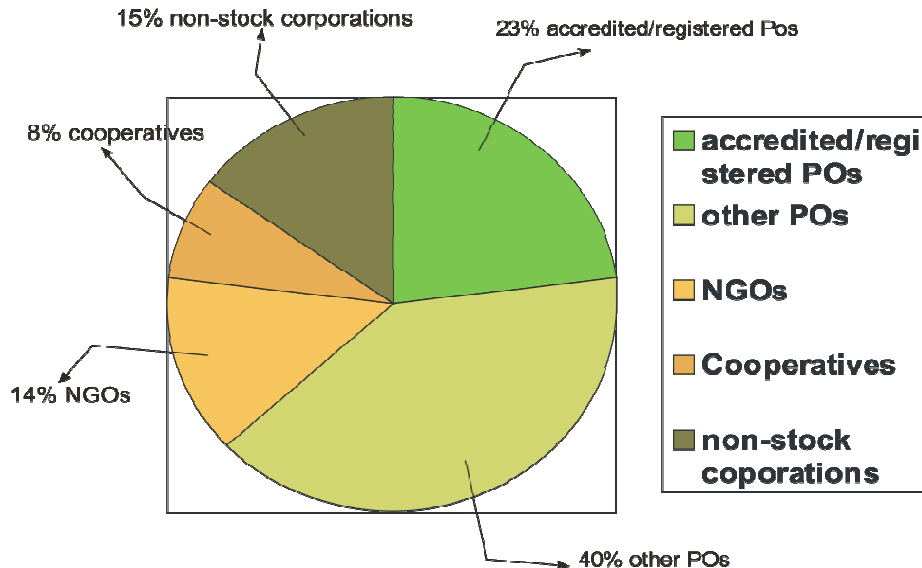
4-1-2 Number and Characteristics of CSOs

It is very difficult to get clear and updated data on the number of CSOs in the Philippines. Most of the government statistics on CSOs are dated and are not totally reliable, although there are now efforts to improve this.

In a study done by Dr. Ledivina Carino of the University of the Philippines in 2002, she estimated the total number of registered and unregistered CSOs in the country, or more particularly the number of NGOs (defined in the study as intermediary or 3rd party organizations, that is, providing services to others), people's organizations (defined as membership organizations, mostly of the poorer sectors), non-stock associations and cooperatives at between 249,000 - 497,000. (It must be noted that while the study was published in 2002, it used government statistics as of 1997.)

Carino determined that around 40% of this number is made up of unregistered people's organizations (POs), mostly small community-based or sector-based associations. Around one-fourth are registered POs, 15% are non-stock corporations, 14% are NGOs and 8% are cooperatives.

Graph 1. Composition of Philippine CSOs (Carino, 2002)



There is however a need to review these figures. Carino's study cited government (Securities and Exchange Commission) data as showing that the registered non-stock corporations, including NGOs and POs, as of June 2002 were 152,535. But after the SEC started delisting inactive and non-reporting organizations, this has since gone down to around 89,000 in 2007-2008.

A study by CODE-NGO in 2009 showed that the four government agencies that register different types of organizations have these figures for registered organizations as of 2007-08 -

- a) 89,000 non-stock, non-profit corporations (including NGOs and POs) – Securities and Exchange Commission (SEC)
- b) 70,000 cooperatives - Cooperative Development Authority (CDA)
- c) 5,000 homeowners associations – Housing and Land Use Regulatory Board (HLURB)
- d) 15,000 workers organizations and trade unions – Department of Labor and Education (DOLE)

The same CODE-NGO study showed that the non-stock and non-profits registered by the SEC are mostly small, with a median annual revenue of only P100,000 or USD 2,200 and median assets of only P750,000 or USD 16,000.

Development NGOs

On the other hand, CODE-NGO's data base, which includes data collected from 444 development NGOs (including POs and cooperatives) in 2006 shows that the average annual revenue of these organizations is 8 Million Pesos or USD 178,000 and that their average assets amount to P30 Million (667,000 USD). This data base also includes information on staffing from 643 development NGOs which show that the average staffing of these development NGOs is 8 full-time staff, 2 part-time staff and an additional 2 full-time project-based staff. This data supports the perception that the development NGOs (as we have defined them here) are more institutionalized compared to the general sector of SEC-registered non-stock and non-profit associations, or the broad NGO or CSO sector.

Many of these development NGOs are also quite old. A CODE-NGO survey of its members in 2003 found that 31% of its member NGOs were more than 15 years already at that time and only 15% were new (5 years old or less).

A study by the Association of Foundations (AF) and CODE-NGO in 2001 showed that a big majority (77%) of the development NGOs was involved in education, training or human resource development and 56% were engaged in community development. Other major involvements of development NGOs were sustainable development and environment, health/nutrition, enterprise and livelihood development, gender and development, social services, micro-finance, cooperative development and community organizing.

This continues to this day. Development NGOs are involved in all aspects of life: economic, political, socio-cultural, at all levels: barangay (village), municipal, provincial/city, regional, national, international and can be found in all places: in urban and rural communities, and in the lowland, upland and coastal areas.

4-1-3 Advantages of Development NGOs

Development NGOs continue to be important actors in Philippine society despite the many challenges that they face. This is because of their distinct advantages:

- a) they are flexible and innovative – this is partly because most of them are small and also because of the passion and commitment of their staff,
- b) they regularly interact and are immersed with the basic sectors and poor communities so that they are able to partner and work closely with them and they bring fresh perspectives to many of society's problems,
- c) they are relatively independent from political interests – this helps them to keep focus on serving the poor and vulnerable peoples and also allows them to become objective “monitors” and “watchdogs” of government policies, programs and projects,
- d) most of their workers are deeply committed to serving and working with the poor and are passionate advocates for social justice and development,
- e) most of them continue to have a culture of simplicity, service and risk-taking, and
- f) they are experienced and skilled in organizing, facilitating, participatory processes and participatory leadership.

4-1-4 Challenges for CSOs and Development NGOs

What are the important challenges that CSOs and development NGOs face? These are -

- a) Decline in funding for CSOs

External funding for CSOs in the Philippines has declined since the 1990s, when the Philippines, despite the marked inequality and considerable poverty in the country, was classified as a low middle income country because of its average income per capita. As early as 2001, the AF/AF/CODE-NGO survey found that only 48% of development NGOs consider themselves financially sustainable, 30% are unsure and 13% are not stable at all.

There have been efforts to promote local and diaspora philanthropy targeting local and overseas Filipinos, but this has not yet taken off to such an extent as to compensate for the decline in external funding. This has affected the financial sustainability of CSOs, with many of them being forced to close or to operate with limited or no full time staff.

- b) Need to continue to strengthen self-regulation and internal management/ governance

The legitimacy, accountability and practice of good governance among CSOs continue to be raised every now by various quarters – including politicians, bureaucrats and businesspersons who are reacting to accusations of corruption or passionate critiques against their policies and programs along with the well intentioned who see or hear dubious or clearly corrupt practices of some CSOs. Thus, there have been recurrent attempts by government to impose more stringent and often inappropriate regulations on CSOs.

CSOs have responded to this in the past through codes of conduct and policies on self-regulation within some CSO networks as well as the Philippine Council for NGO Certification (PCNC). However, the reach and effectiveness of these still need to be improved In order to protect the

good name of the CSO sector and also to guard against unwarranted and inappropriate government regulation.

c) Need to attract more of the young generation

Also since the 1990s, many CSO leaders have noted that it is now relatively more difficult to attract the youth, especially the “best and the brightest” into CSO and development NGO work. The idealist youth of the 1970s and 1980s, given the constrained development and political space under the martial law regime at that time, seemed naturally drawn to CSOs and development NGOs. The current atmosphere of formal political freedoms as well as the many other options (distractions?) in an ICT-enabled global environment seem to work against CSOs and NGOs.

d) Balancing partnership and “watchdog” roles of CSOs

With newly elected President Benigno Simeon “Noy” Aquino III ushering in a government that has pronounced its openness to partnerships with the citizenry and CSOs in its anti-corruption and anti-poverty programs, many opportunities for CSO – government partnerships have been opened.

This is a welcome development, but at the same time it brings into focus again the challenge for CSOs to balance partnership with government for development and their role as “watchdogs”. There have been instances in the past when CSOs that entered into partnerships with government agencies and units found it very difficult – and sometimes impossible – to criticize even the worst practices of such agencies because of the desire to preserve good working relations or the need to continue receiving funding support for the organization or to preserve the “gains” under such partnerships (e.g. approval of policies or projects, distribution of land, etc).

In a broader sense, the challenge here is to balance the CSOs’ active engagement in public governance, politics and elections to pursue reforms and development –and- the autonomy of CSOs from political parties and the government.

There are of course many other challenges that CSOs need to face in the effort to work for social justice and development in the Philippines. But hope lies in their commitment and passion, experience and skills, and in their willingness to take risks and to innovate.

About CODE-NGO

The Caucus of Development NGO Networks (CODED-NGO) is the largest development NGO network in the country. Its membership is composed of 6 regional networks and 6 major national networks, with 1,600 primary NGOs, co-ops and peoples organizations all over the country.

CODE-NGO was established in 1991 with this vision – mission:

“We dream of a society...

That promotes the total well-being of the Filipino people and the full realization of our human rights, where social justice and equitable distribution of wealth prevails, where the basic needs of

the broad majority are met and fulfilled, along with maintaining the sustainability of human survival, where all spheres of national development are participated in by all sectors, where the culture of the Filipino peoples are continuously promoted and enhanced.

We commit ourselves to

-taking civil society leadership in policy advocacy and partnership building in the public arena, as well as developing the capacity and accountability of our member networks towards the realization of a peaceful, just and sustainable Philippine society.”

Philippine CSOs



Sixto Donato C. Macasaet
CODE-NGO (Philippines)
August 2010



Outline of Presentation

- ▣ Definitions
- ▣ Number and Characteristics of CSOs/
Development NGOs
- ▣ Challenges facing NGOs
- ▣ About CODE-NGO

State, Market and Civil Society

- ▣ the State concerns public action for public good,
- ▣ the Market is about private action for private good, and
- ▣ Civil Society is private action for public good

NGOs/CSOs broadly defined includes:

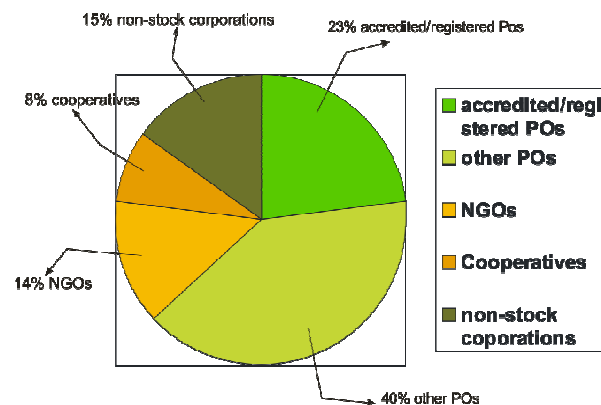
- ▣ socio-civic organizations,
- ▣ religious groups,
- ▣ professional associations,
- ▣ business clubs,
- ▣ non-profit schools and hospitals
- ▣ people's organizations
- ▣ development NGOs
- ▣ others

Development NGOs

- important sub-set of civil society
(plus POs and co-ops)
- committed to and working for economic, political and socio-cultural development
- more institutionalized
- often (but not always) with full-time staff

Number of CSOs (2002 study by L. Cariño)

total no. of NGOs*, POs, non-stock associations and cooperatives: 249,000 - 497,000 as of 1997



*defined as all intermediary or 3rd party organizations (ie. providing services to others)

Number of CSOs

Carino study cites SEC data on non-stocks as of June 2002:
152,535

But SEC official in 2007/08:
only around 89,000

Number of CSOs

Registered Organizations (2007-08)

- 89,000 non-stock, non-profit corporations
- 70,000 cooperatives
- 5,000 homeowners associations
- 15,000 workers organizations and trade unions

Characteristic of non-stocks*

-most are small

>median income is P100,000 or
USD 2,200

>median assets = P750,000 or
USD 16,000

*CODE-NGO/UK-CC, 2008

CODE-NGO Database (2006)

▣ 444 dev. NGOs (incl. Co-ops, POs)

-ave. assets: P30 Million (667,000
USD)

-ave. annual revenues: P8 Million

(178,000 USD)

▣ Average Staffing (643 orgs)

-8 full-time staff, 2 part-time

¹₀

CODE-NGO Survey (2003)

- ▣ 31% of its member NGOs are more than 15 years old
- ▣ only 15% are new, being 5 years old or less
- ▣ 43% of these NGOs have a full-time staff of 10 persons or less
- ▣ only 15% have more than 20 staff

CSOs – in 1987 Constitution

“The state shall encourage non-governmental, community based or sectoral organizations that promote the welfare of the nation.”

(Art. II, Sec. 23)

NGOs' Work*

- ▣ 77% - education, training and HRD
- ▣ 56% - community development
- ▣ Others - sustainable development and environment, health/nutrition, enterprise and livelihood development, gender and development, social services, micro-finance and cooperative development

*AF/CODE-NGO, 2001

NGOs' Work (2)

- ▣ in all aspects of life: Economic, Political, Socio-Cultural
- ▣ at all levels: barangay, municipal, provincial/city, regional, national, international
- ▣ in urban areas, and lowland, upland and coastal areas

Distinctive Advantages of NGOs (1)

- ❑ Small and flexible, and innovative
- ❑ Interaction and immersion with the basic sectors/ poor communities
- ❑ Relative independence from political interests

Distinctive Advantages of NGOs (2)

- ❑ NGO workers' deep commitment
- ❑ Culture of simplicity, service and risk-taking
- ❑ Skills in organizing, facilitating, participatory processes, leadership

Challenges Facing NGOs (1)

a) Decline in External Funding for NGOs

- External funding has declined since the 1990s

- AF/CODE-NGO survey: only 48% of NGOs financially sustainable, 30% are unsure and 13% are not stable at all

Challenges Facing NGOs (2)

b) Need to continue to strengthen self regulation and internal management/ governance

c) Need to attract more of the young generation

Challenges Facing NGOs (3)

d) Balancing:

- active engagement in politics and elections to pursue reforms and development – AND – autonomy of NGOs from parties and the government

- partnership with government for development – AND – role as “watchdogs”



CODE NGO CODE NGO CODE NGO CODE NGO CODE NGO CODE NGO CODE NGO



The largest development NGO network in the country.

Membership:

- 6 regional networks
- 6 major national networks

Consisting of 1,600 primary NGOs, co-ops and peoples organizations.





VISION FOR PHILIPPINE SOCIETY

We dream of a society...

That promotes the total well-being of the Filipino people and the full realization of our human rights.

Where social justice and equitable distribution of wealth prevails.

Where the basic needs of the broad majority are met and fulfilled, along with maintaining the sustainability of human survival.



VISION FOR PHILIPPINE SOCIETY

Where all spheres of national development are participated in by all sectors.

Where the culture of the Filipino peoples are continuously promoted and enhanced.



MISSION

We commit ourselves to

**-taking civil society leadership
in policy advocacy and
partnership building in the
public arena, as well as -
developing the capacity and
accountability of our member
networks**

**towards the realization of a
peaceful, just and sustainable
Philippine society.**

4-2 Legitimacy, Transparency and Accountability of CSOs – Philippines¹

First, let us define these terms – legitimacy, transparency and accountability. The Asia Pacific Philanthropy Center (APPC) has these definitions -

- a) Legitimacy – refers both to derived legitimacy, which comes from legal registration and adherence to laws of CSOs, and generated legitimacy, which includes support from stakeholders, knowledge or expertise, relationships, trust and credibility, integrity and reputation of CSOs,
- b) Transparency – the extent and quality of information on activities and resources that an organization is willing to disclose, and the mechanisms for accessing such information, and
- c) Accountability – this includes 4 types:
 - Financial: answering for the use of resources,
 - Performance: Documenting and reporting results vis-à-vis expectations, goals, targets and quality standards,
 - Voice: Veracity of what one says, and authority with which one speaks, and
 - Accountability to improve: responding to feedback and assessments and reporting on actions taken.

4-2-1 Issues on LTA of CSOs

What then are the issues related to the legitimacy, transparency and accountability of CSOs in the Philippines today?

The first issue regarding CSO legitimacy is the apparently increasing number of “pseudo-CSOs or NGOs”. These are CSOs that are registered with government agencies for dubious purposes, including to serve as conduits of public funds to be siphoned by politicians and government officials. Recent corruption scandals in the country such as the so-called “fertilizer scam” which involved P 740 Million involved the use of such questionable CSOs.

Related to this, another issue is the relatively low compliance among CSOs with government reporting requirements and weak monitoring by government. While there have been efforts in recent years to improve on this, the government’s regulatory bodies for CSOs – the Securities and Exchange Commission (SEC), the Cooperative Development Authority (CDA), the Housing and Land Use Regulatory Board (HLURB) and the Department of Labor and Education (DOLE) - have been hindered by limited resources from enforcing strict compliance with reportorial requirements and

¹ Paper presented by Sixto Donato C. Macasaet, Executive Director of CODE-NGO, at the meeting of the Affinity Group of National Associations (AGNA) Asia on August 18-19, 2010, in Toronto, Canada.

from looking into these reports to prevent abuse and misuse.

A third issue that affects CSO legitimacy is the poor financial sustainability of many CSOs and their dependence on a few donors. This sometimes leads to questions about their autonomy from such donors, whether foreign or local, institutional or individual, and their donors' personal or organizational agendas.

Regarding transparency among CSOs, the major issue seems to be the reluctance of many CSOs, particularly "development NGOs" to disclose their financial reports to the public.² This reluctance seems to be related to the fear that such disclosure may lead to unrealistic expectations on the part of the public in terms of the grant or loan funds or services that they could provide. Another fear seems to be that such transparency could lead to unwarranted and burdensome investigations by government agencies.

The issues concerning CSO accountability are accountability systems that are too donor/funder-focused, lack of Board accountability, difficulty in defining and operationalizing public accountability and the tendency, in terms of performance accountability to focus on process rather than outcomes.

Many CSOs, being dependent on donors, tend to define their accountability too much in terms of their donors, to the neglect of their accountability to their Boards, their staff, to the public and the government and especially to their partner communities or sectors.

It is also too often the case that many CSO Boards are not so active and become mere figureheads who do not exercise their duty to ensure the accountability of the organization – and they usually get off free even when the organization suffers fraud or misuse or neglect of resources because the dominant thinking is that they are "only Board members" who are not so involved, and it is really the Executive Director or President or Secretary-General who is in command and responsible.

CSOs would in principle agree that they are also responsible to the public because of their nature as organizations "imbued with public interest". However, there is as yet no clear definition of this principle, much less a mechanism or process to make this a reality.

² This excludes cooperatives, at least those that regularly conduct annual membership assemblies, since they are required by law and co-op practice to render reports at such assemblies; in addition, they are required to post a copy of their audited financial reports at their offices.

Finally, CSOs focus on the development process, which they believe should be participatory and empowering. While this is crucial and valid, this has often been taken to the extreme that CSOs do not clarify and measure the development outcomes that they commit to in their work and for which they are also accountable.

4-2-2 Improving LTA among CSOs

How have Philippine CSOs tried to improve LTA among themselves?

First, various CSO networks have developed their codes of conduct and the implementing rules and mechanisms for this. CODE-NGO, for example, formulated the Code of Conduct

for Development NGOs in 1991. This code and its implementing rules have been signed by all the member networks of CODE-NGO and mechanisms such as the Commission on Internal Reform Initiatives (CIRI) and PCNC certification targets have been agreed upon. (See below for a discussion on PCNC or the Philippine Council for NGO Certification.)

There have also been Board Governance Seminars to improve the capacity of the Board members. CSO networks have also developed members monitoring tools and systems to track the compliance of their members with good governance practices (e.g. annual assemblies, submission of annual reports and audited financial statements, etc).

CSOs in the Philippines have also conducted studies on the government regulatory framework for CSOs, identified and developed policy recommendations to improve CSO regulation and have held dialogues/ meetings with government agencies.

Also, in 1998, CODE-NGO and several other CSO networks in the Philippines formed the Philippine Council for NGO Certification (PCNC), a certification body that looks into the governance of CSOs, is directed and managed by CSOs with government participation and is legally recognized by the government.

Cooperatives in the country have also developed a self-rating system (called COOP-PESOS) with the participation and support of the government.

4-2-3 Challenges

Challenges remain for the promotion of LTA among CSOs in the Philippines.

There is a need to build consensus among CSOs and government on the appropriate mix of government regulation and self-regulation by the CSO sector. The extreme of heavy handed and almost always inappropriate government regulation of the sector should clearly be avoided. However, it is also clear that the other extreme of only CSO self regulation without any role for government would also be open to abuse and conflicts of interest. Defining the correct middle ground would then be the challenge.

It is also important in the immediate future that Board accountability for the performance of

their organizations must be increased and improved.

Finally, it is crucial to more effectively link CSO LTA efforts to increased access to funds and improved financial sustainability such that improved LTA actually and more immediately leads to tangible benefits for CSOs.

Legitimacy, Transparency and Accountability of NGOs – Philippines

Sixto Donato C. Macasaet
CODE-NGO – Philippines
August 2010

NGO Legitimacy

- Derived: legal registration, adherence to laws
- Generated: Support from stakeholders, knowledge/expertise, relationships, trust and credibility, integrity and reputation

NGO Accountability

- Financial: Answering for the use of resources
- Performance: Documenting and reporting results vis-à-vis expectations, goals, targets and quality standards
- Voice: Veracity of what one says, and authority with which one speaks

NGO Transparency

- Extent and quality of information on activities and resources that an organization is willing to disclose, and the mechanisms for accessing such information

Issues: Legitimacy

- increasing number of “pseudo-NGOs”
- low compliance with government reporting requirements and weak monitoring by government
- donor dependency/ poor financial sustainability

Issues: Accountability

- Donor/funder-focused accountability systems
- Lack of Board accountability
- Difficulty in defining public accountability
- Tendency to focus on process rather than outcomes

Issues: Transparency

- Reluctance of NGOs re disclosure of financial information

Improving NGO L-T-A

- Code of Conduct for Development NGOs and implementing rules
 - > Signed by all member networks of CODE-NGO
- Board Governance Seminars
- Members Monitoring System
- Development of a Performance Monitoring Tool
- Study on Government Regulatory Framework for NGOs and Dialogue with Government Agencies

Improving NGO L-T-A

- Philippine Council for NGO Certification (PCNC)
- COOP-PESOS rating system for cooperatives

Continuing Challenges

- Defining appropriate mix of government regulation and self-regulation
- Increasing Board accountability for the performance of their NGOs
- Linking more effectively NGO L-T-A efforts to increased access to funds and improved financial sustainability

4-3 Information Sharing and Participation - Among Philippine CSOs¹

First, let us explain the challenging context of informational sharing and participation among CSOs in the Philippines.

The population of the country is quite large – there are now more than 90 million Filipinos. Then, the people and CSOs are spread across 10 major islands and more than 7,000 other islands. The country also has numerous CSOs (once estimated at 250,000 to 500,000), which are also very diverse in what they believe in and in what they do.

The country also has poor inland and water transportation infrastructure and improving but limited information and communication technology (ICT) systems.

So, what have been the traditional methods for information sharing and participation to bridge across these many constraints? They include

- a) local, regional and national consultations and forums,
- b) thematic discussion and working groups,
- c) regular general assemblies of CSO networks, and
- d) newsletters and other publications.

These have been proven to be effective, but are also quite costly.

Thus, in recent years, with the advent of improved ICT systems, new methods have also been tried-

- a) internet based e-groups,
- b) E-newsletters/ website, and
- c) Simultaneous regional assemblies/ consultations linked via video-conferencing.

However, these are still limited by ICT access constraints among CSOs, especially the smaller ones and also by the heavy workload of many CSOs which means limited time in the offices and in front of their computers.

Thus, these challenges remain for more effective information sharing and participation among CSOs in the country:

- maximizing ICT – this would include improving the access of CSOs to ICT hardware as well as building up their capacity and skills to use ICT for information sharing and for discussion across geographical areas
- forming / strengthening regional/ provincial networks – given the country's population and geography, provincial and regional level CSO networks remain important because they can more easily sustain information sharing and discussions among organizations in their areas; the

¹ Paper presented by Sixto Donato C. Macasaet, Executive Director of CODE-NGO, at the meeting of the Affinity Group of National Associations (AGNA) Asia on August 18-19, 2010 in Toronto, Canada.

national networks could then more easily link such local networks to each other for nationwide information sharing and discussions among CSOs.

Information Sharing and Participation

S.C. Macasaet
CODE-NGO – Philippines
August 2010

Challenges to Info Sharing & Participation:

- 90 million Filipinos
- numerous and diverse CSOs
- 7,000 islands
- poor transportation infrastructure
- improving but limited ICT systems



Traditional Methods

- Consultations: local, regional, national
- Thematic groups
- General Assemblies
- ++newsletters/publications
- *constraints: costly

Newer Methods

- E-groups
- E-newsletters/ website
- Simultaneous regional assemblies/
consultations linked via video-conferencing
- *but all still limited (access constraints,
heavy workload, etc)

Challenges

- maximizing ICT for information sharing and participation
- forming/strengthening regional and provincial NGO networks

5. Japan

Yoshiharu Shiraishi

The Japan Association of Charitable Organizations (JACO)

5-1 The Situation of Civil Society in Japan



5-1-1 JACO as an umbrella organization

The Japan Association of Charitable Organizations, commonly called JACO, is a registered Public Interest Corporation (PIC) which gives voice and support to civil society.

JACO, established in 1972, is the largest umbrella body and is also PIC's only umbrella body in the PIC sector of Japan with more than 1,600 dominant organizations in membership at present, and is fulfilling its mission by undertaking a wide variety of activities covering a diverse range of CSOs. The new PIC laws went into effect in December 2008, and JACO was recognized and granted its new legal status as PIC by the PIC Commission, as the first one under the new legal scheme in March 2009.

Our new goal is to promote and support public benefit activities operated by PICs and contribute further development of whole the third sector in Japan. To achieve this goal, we are going to have three main programs including,

1. Dissemination and enlightenment program on civil public benefit activities

2. Operational support and capacity development program for civil public benefit activities
3. Promotion of research and advocacy campaign program on civil public benefit activities, organizations and systems

1

Basic Fact about JACO

- Established in 1972
 - Recognized as newly reformed PIC by PIC Commission
 - National wide remit
 - 1600 approx member organizations
 - 30 staff
 - ¥ 200 million approx. income
- Role: give voice and support to civil society
- Purpose: promoting and supporting public benefit activities operated by PICs and contribute further development of whole the CSO sector in Japan.

Our programs:

- Dissemination and enlightenment program on civil public benefit activities
- Operational support and capacity development program for civil public benefit activities
- Promotion of research and advocacy campaign program on civil public benefit activities, organizations and systems



5-1-2 Radical Reform of PIC

1. Japanese CSOs basic institutional structure (1997)

Japan is now in a period of major change regarding the legal system for citizens' activities. Before 1997, corporate status was regulated by both the Civil Code and the Special Laws.

The Civil Code, which is the body of law regulating incorporation, applies only to nonprofit public interest corporations – incorporated foundations and incorporated associations recognized by an authorizing governmental agency.

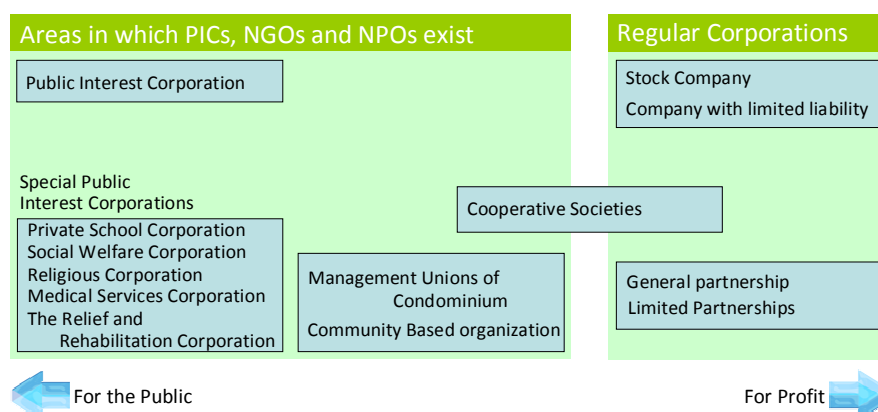
The Special Laws regulate the incorporation of nonprofit organizations whose primary activities are not necessarily for the public interest. Each of the Special Laws was made to give legal-person status to those special-purpose organizations. The special laws designate the legislation governing establishment and the authorizing agency, taking into account individual organizational objectives. For example, private schools are regulated under the Private School Law, social welfare corporations are regulated under the Social Welfare Services Law, and religious corporations are regulated under the Religious Corporations Law. After the World War II, various legal system such as “Religious Corporation Law, 1946”, “Consumer Life Cooperative Union Law, 1948”, “Private School Law, 1949”, “Medical Law, 1950”, “Social Welfare Services Law, 1951”, “Revision to the Construction Property Division Law, 1984”, “Revision to the Regional Local Autonomy Law”, “Relief and Rehabilitation

Enterprise Law, 1995” were established as the Special Law under the Civil Code. Each of them is regulated by different laws so that governance framework and the extent of transparency imposed by each law are different one by one. This legal framework is a significant characteristic of Japan, because in most countries charitable and nonprofit organization is unified as one.

The concept of non-profit in Japan is this; PIC, other special PICs and newly created legal entity in 1998, Specified Non-profit Corporation (SNPC), are charitable and nonprofit organizations. Being nonprofit means that economic benefit to members is not among the aims of the organization and that organizational income is not shared with members. Being nonprofit does not mean that an organization cannot engage in profit-making activities; it means that the organization must use its income for the public good.

2

Radical reform of PIC Japanese CSOs Basic Institutional Structure (1997)

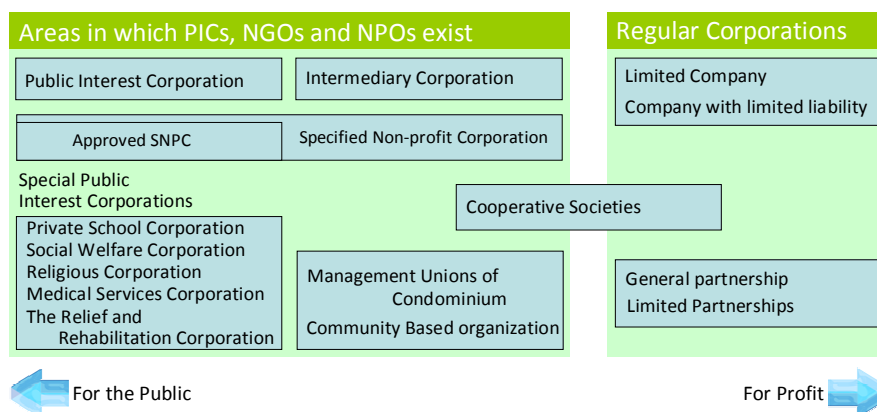


2. Japanese CSOs basic institutional structure (2001)

In 1998, the Act on promotion of Specified Non-profit Activities went into effect, and also, SNPC Approved system was created in 2001 and SNPC captures a better tax benefit if they are approved by Japanese tax office.

In 2001 another type of nonprofit organization, the Intermediate Corporation was added to the legal framework, and has been used by citizens to establish mutual benefit organizations. The process for establishing such organizations is a certification process. This legislation was needed to fill the gap in the legal framework, which did not at the time provide for non-public interest legal entities to be established.

Japanese CSOs Basic Institutional Structure (2001)



3. Japanese CSOs basic institutional structure (2008)

There had been no systematical change for PIC system since the civil code for PICs was established in 1896. However, new three laws (“General Incorporated Association and Foundation Law”, “Charitable Status Recognition Law”, “Relative Transition, Modification & Repeal Law”) were finally enacted in 2006 and newly reformed PIC system took effect on December 1, 2008. It involves Intermediate Corporation under the Intermediate Corporation Act and PIC under the Civil Code Article 34.

The legal entity of Intermediate Corporations automatically transferred to the new legal entity called General Non-profit Corporation under the General Incorporated Association and Foundation Law. The General Incorporated Association and Foundation Law permits nonprofit organizations to apply for registration at the Registry Office, after a notary has inspected the corporate documents for conformance with the law.

Old PICs require to be transferred their legal entity as well. If they wish to have new public interest status, they need to be recognized by a new independent body called Public Interest Corporation Commission (PIC Commission), which is similar to the Charity Commission for England and Wales, or there are some possibilities to become other legal entities such as general non-profit corporation, SNPC or break up.

Introduction of a new application system for charitable and nonprofit organization that seeks to be classified as recognized PICs. This status is determined by a PIC Commission as I mentioned. The Commission has been established in the Cabinet Office and it includes a mix of academics, lawyers,

certified CPA and sector professionals.

Public interest status is determined at the national level or prefectural level. The law states that the seven members appointed by the Prime Minister are to exercise their authority independently and are to have excellent knowledge and experience for law, accounting or activity pertaining to PICs. The commission is to take the determinations of public interest status. The terms of office for commissioners is three years but they may be reappointed. As a result of the first expiration of the term of commissioner on April 1, 2010, three commissioners were reappointed and four commissioners were newly appointed by the Prime Minister as shown below.

■ Reappointed PIC Commission board members

Mr. Morio Ikeda, an executive advisor of Shiseido Co. Ltd., (chair of PICC)

Ms. Takako Amemiya, a former professor of Meiji-gakuin University (deputy chair)

Mr. Masayuki Deguchi, a former professor of the National Museum of Ethnology

■ Newly appointed PIC Commission board members

Mr. Yutaka Hori, a lawyer

Mr. Tatsuaki Kitachi, certified public accountant

Ms. Izumi Kadono, a professor of Seisen University

Mr. Hidekazu Kaito, a former of Takashima city mayor.

This time, respectable members have chosen as PIC Commission board members and people on the line believe that they will carry out their work from real world standpoint. However, it will be necessary to monitor the movements of their recognition work.

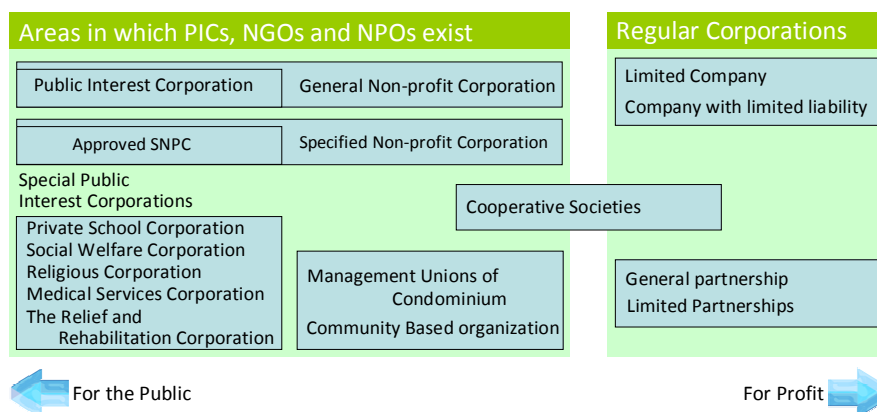
The Commission must judge according to clear requirements and not exercise discretion. Public interest requirement is includes;

1. having a charitable purpose as the organization's primary purpose
2. the benefit must be provided for many and unspecified persons
3. charitable activities of the organization must constitute the majority of the corporation's overall activities
4. the organization may not make a profit from its charitable activities
5. although an organization may carry out profit-making activities, the profits must in principle be used only for the charitable purposes of the organization
6. There must be no risky investments, etc., that would tend to harm the possible retention of assets for carrying out the charitable purposes
7. and meeting the non-distribution constraint.

In this sense, the new PIC system has received constant attention from the general public.

* There are also 47 Council Organizations established at each of the local prefectures for the purpose of dealing with the matters that are caused to belong to its authority by Charitable Status Recognition Law.

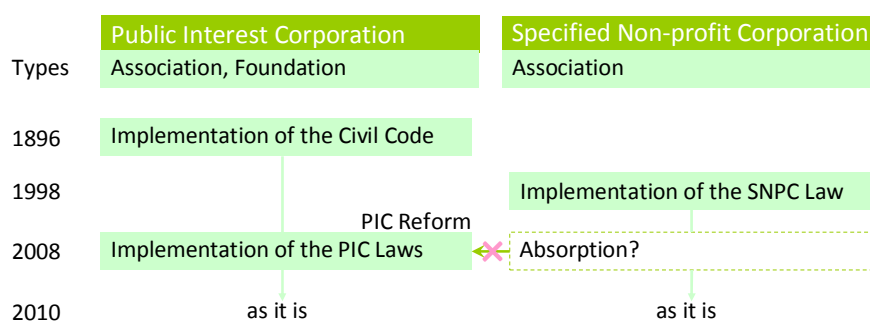
Japanese CSOs Basic Institutional Structure (2008)



5-1-3 Chronological events of PIC & SNPC

The activity of SNPC is very similar to PIC in terms of the subject what they do, because the objectives for both legal entities could do any activities for charitable purposes. Therefore, the Government started to realize that it is necessary to put SNPC to be involved with PIC systematical

Chronological events of PIC & SNPC



For more information about radical reform of Public Interest Corporation;
 Ohta Tatsuo 2010: Toward New Paradigm for Public Benefit Society at Citizens' Initiative
 – From standpoint of drastic PBC reform –, Social Design Review, 1.
 Kala W. Simon 2009: Enabling Civil Society in Japan: Reform of the Legal and Regulatory
 Framework for Public Benefit Organizations, Journal of Japanese Law, 27.



reform. Although some sector professionals from SNPC were not happy about the Government decision because the location of PIC was more close to the government (but not any more though), therefore they did some advocacy campaign regarding this matter. In fact the Government decided not to put SNPC in the PIC systematical reform even they look like the same characteristically.

5-1-4 Purpose of the entity



1. Public Interest Corporation and Intermediate Corporation (before the legal reform)

As I explained in the last few pages, the legal framework was exceptionally complex. There were ten forms of legal entity that could be called nonprofit corporations including PIC which was required under Civil Code Article 34 to have permission to be established and other PICs (Private School Corporation, Social Welfare Corporation, etc) under the special laws. Except for SNPCs and small community groups, these all were required a high level of government involvement and discretion in the process of establishment and oversight of a legally registered entity.

In addition, it should be noted that until 2001 no non-profit legal entity in Japan was permitted to be established as a mutual benefit organization. Passage of the legislation in 2001 temporarily remedied this defect. As a result, new legal entity called Intermediate corporations was newly created to cover mutual benefit activities to establish non-profit organization. Although, the enforcement period of intermediate corporation act was quite short, started from 2001 up to 2008, and it had been involved in the process of PIC reform.

6

Purpose of the entity: 1

-  **Public Interest Corporation** (before the legal reform)
 Governing Law (Date): Civil Code, Article 34 (1898-2008)
 Purpose: Associations and foundations with the objective of worship, religion, charity, education, arts and crafts, and other activities for public interest, and not for profit.
 Central permitting body: Competent Government Agencies
 Permitting standard: Permission
-  **Intermediate Corporation** (before the legal reform)
 Governing Law (Date): Intermediate Corporation Act (2001-2008)
 Purpose: It has been used by citizens to establish mutual benefit organizations.
 Central permitting body: No particular regulatory authorities
 Permitting standard: Registration



2. Public Interest Corporation and General Nonprofit Corporation (after the legal reform)

After the new PIC law took effect in 2008, emergent PIC and General Non-profit Corporation were created. As heretofore, PIC and General Non-profit Corporation have two types of organizations “Incorporated Association” and “Incorporated Foundation”. An incorporated association is defined as an organization of people who assemble for the sake of a certain nonprofit objective. An incorporated foundation is defined as an organization that manages and uses its endowments according to the aims of its contributors. To become General Nonprofit Corporation, registration at the registry office is required, and for these organizations or newly established organization, it will be necessary to apply for the recognition at the PIC Commission to be recognized as new PIC.

7

Purpose of the entity: 2



Public Interest Corporation (after the legal reform)

Governing Law (Date): Act on Authorization of Public Interest Incorporated Association and Public Interest Incorporated Foundation (2008)

Purpose: Associations and foundations with the objective of 22 purposes of activities (see page 22) for public interest, and not for profit

Central permitting body: Public Interest Corporation Commission

Permitting standard: Recognition



General Non-profit Incorporation

Governing Law (Date): General Incorporated Association and Foundation Law (2008)

Purpose: There are no limitations concerning the purposes and activities of that corporation, except the non-distribution constraint on surplus fund every year.

Central permitting body: No particular regulatory authorities

Permitting standard: Registration



3. Social Welfare Corporation and Private School Corporation

Social Welfare Corporation and Private School Corporation are special PICs that organized and registered pursuant to special laws developed in connection with Civil Code Article 34.

The basic framework of the existing social welfare system of Japan was created in the 1940s as an emergency measure to cope with various problems of those days involving the war wounded, orphans, poverty and so on, and Social Welfare Corporation under the Social Welfare Business Law was created to promote social welfare activities in the nation.

Private School Corporation was created in 1949. The purpose of this law is to establish and operate kindergarten, elementary school, middle school, high school or university. A private nursery is being under the jurisdiction of the Ministry of Health, Labour and Welfare.

Purpose of the entity: 3



Social Welfare Corporation

Governing Law (Date): Social Welfare Business Law, Article 22 (1951)

Purpose: Corporations established under the law with the objective of social welfare business

Central permitting body: Ministry of Health, Labour and Welfare

Permitting standard: Approval



Private School Corporation

Governing Law (Date): Private School Law, Article 3 (1949)

Purpose: Corporations established under the law for the purpose of establishing a private school

Central permitting body: Ministry of Education, Culture, Sports, Science and Technology

Permitting standard: Approval



4. Religious Corporation and Medical Corporation

Religious corporation and Medical Corporation are also special PICs that organized and registered pursuant to special laws developed in connection with Civil Code Article 34.

Religious Corporation is created in 1951, having the purpose of evangelizing, conducting religious rites, and educating and nurturing believers. The number of Religious Corporation is extremely large. It counts 182,868 in 2006.

Medical Corporation, established in 1950, is associations and foundations whose objectives are to establish a hospital or clinic where doctors and dentists are regularly in attendance, or a facility for the health and welfare for the elderly.

Purpose of the entity: 4

Religious Corporation

Governing Law (Date): Religious Corporation Law, Article 4 (1951)

Purpose: Corporations having the purpose of evangelizing, conducting religious rites, and educating and nurturing believers

Central permitting body: Ministry of Education, Culture, Sports, Science and Technology

Permitting standard: Certification

Medical Corporation

Governing Law (Date): Medical Law, Article 39 (1950)

Purpose: Associations and foundations whose objectives are to establish a hospital or clinic where doctors and dentists are regularly in attendance, or a facility for the health and welfare for the elderly

Central permitting body: Ministry of Health, Labour and Welfare

Permitting standard: Approval



5. Public Charitable Trust and Approved Community Based Organization

Trust Law established in 1922 regulates the Public Interest Trust System but this system was not actually implemented until 1977. Public Charitable Trust operates trusts with the objectives of worship, religion, charity, education, arts and crafts, and other purposes in the public interest.

Purpose of the entity: 5

Public Charitable Trust

Governing Law (Date): Trust Law, Article 66 (1923)

Purpose: Trusts with the objectives of worship, religion, charity, education, arts and crafts, and other purposes in the public interest

Central permitting body: Competent government agency

Permitting standard: Permission

Approved Community Based Organization

Governing Law (Date): Local Autonomy Law 260 (2) (1991 amendment)

Purpose: Organizations formed by residents of a community

Central permitting body: Mayor or town or village headperson

Permitting standard: Notification



Approved Community Based Organization is a charitable and nonprofit organizations formed by homeowners of a community in the same district or a certain place in a town or village.

6. Relief and Rehabilitation Corporation and Specified Non-profit Corporation

An additional type of PIC called Relief and Rehabilitation Corporation came into existence in 1995 and it is one of the special PICs. The Relief and Rehabilitation Corporation, which is permitted to be established under the Relief and Rehabilitation Enterprise Law, was added as another kind of PIC. These organizations are designed to address the rehabilitation of imprisoned criminals; they should also be included in the larger group of what constitutes a PIC in Japan – as Special PICs.

Specified Non-profit Corporation is newly created legal entity established in 1998. Certification by the prefectural governor's offices is the only requirement for an SNPC to come into existence. In 2002 amendments were made to the SNPC Law and the tax law affecting SNPCs to address specific issues that had hampered the growth of the part of Japan's CSO sector. Along with these amendments to the SNPC Law itself, the tax law that applied to the approved SNPCs also underwent revision during this time period. Although, the tax law was too restricted with regard to giving tax benefits to SNPCs.

11

Purpose of the entity: 6



The Relief and Rehabilitation Corporation

Governing Law (Date): Relief and Rehabilitation Enterprise Law, Article 86 (1995)

Purpose: They are designed to address the rehabilitation of imprisoned criminals.

Central permitting body: Ministry of Justice

Permitting standard: Approved



Specified Non-profit Corporation (SNPC)

Governing Law (Date): Act on Promotion of Specified Non-profit Activities (1998)

Purpose: Not-for-profit entities whose activities include those in promotion of health, education, community development, arts, culture, sports, disaster relief, international cooperation, administration of organizations engaging in these activities, etc. (17 examples after the 2002 amendments)

Central permitting body: Prefectural Governor

Permitting standard: Certification



5-1-5 CSOs in Japan

1. The number of organizations

As I explained in previous pages, there are many kind of charitable and nonprofit organizations in Japan acting their charitable activities in the various fields of society; social welfare, education,

environmental protection, human right, health, etc.

This table shows the number of organizations and the date of implementation by legal entities. The total number of charitable and nonprofit organizations is approximately more than 320,000, but if the unincorporated voluntary associations, approved community based organizations and other organization other than organizations listed below are included, the number will increase.

12

Civil Society in Japan

The number of organizations

Status of legal entities	Number of existing entities	The date of implementation of the relative law
Public Interest Corporation	23,856(2009)	1896*
New Public Interest Corp.	335(2010)	2008
General Corporation	8,963(2010)	2008
Specified Non-profit Corp.	36,620(2010)	1998
Medical Services Corp.	41,720(2006)	1948
Private School Corporation	7,884(2007)	1949
Religious Corporation	182,868(2006)	1951
Social Welfare Corporation	18,634(2007)	1951
The Relief and Rehabilitation Corporation	163(2009)	1995

*New PIC laws and regulations are to be fully enforced on December 1st, 2008.

*Cooperative association, labour union, credit union, labour credit association, benefit association and charitable trust are also non-profit organizations but they are not in this list.



2. The size of expense and employees salary

The table shown below describes the size of expense and employees salary by legal entity.

In case of expenses, Medical Corporation indicates quite large amount of expenses, followed by PIC, Social Welfare Corporation and Private School Corporation. Labor Organization and SNPC indicate the smallest amount of expenses of all.

In case of employees salary, Medical Corporation indicates the largest amount of employees salary, followed by PIC, Social Welfare Corporation and Private School Corporation. In contrast, the amount of employees salary for Community Based Group and SNPC is extremely small.

The size of expense and employees salary

Status of legal entities	Expense (billion yen)	Employees Salary (billion yen)
Public interest Corp.	20,338	3,679
Society welfare Corp.	18,300	3,597
Religious Corp.	3,651	655
Labor organizations	540	119
Industry group	6,877	935
Medical services Corp.	33,940	8,880
Private school Corp.	10,876	3,301
Specified nonprofit Corp.	738	112
Community based group	1,811	40

Source: Mitsubishi UFJ Research and Consulting (2008)



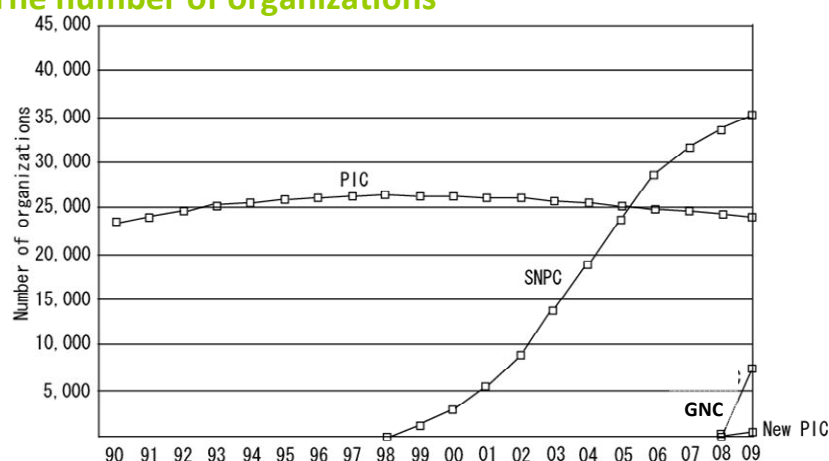
5-1-6 PICs a view point of statistics

1. The number of organizations

The figure shown below shows the changes of organization number by legal entities. The number of PIC was increasing until the year 1998 but it started to decrease very slowly from 1999. It

PICs a view point of statistics

The number of organizations



PIC: Public Interest Corporation regulated under the Civil Code 34

New PIC: PICs are regulated under the new PIC laws including General Incorporated Association and Foundation Law, Charitable Status Recognition Law and Relative Transition, Modification & Repeal Law.

SNPC: Specified Non-profit Corporation regulated under the Law to Promote Specified Nonprofit Activities.

GNC: General non-profit corporation that regulated General Incorporated Association and Foundation Law



is because the SNPC legal system was created in 1998. From 2000, the number of SNPC increased rapidly because the citizens started to realize it is much easier to become incorporated association if they apply for the SNPC, although the growth rate slowed down a bit since 2007.

The number of General Nonprofit Corporation accounts more than 7,000 in 2009 according to the figure. At the present in 2010, the number of General Nonprofit Corporation reached 10,000. However, new PIC, having best tax treatment of the four in the figure, increases very slow. Just 422 organizations recognized by PIC Commission since December 2008. The reason is that application process is very much complex and getting public interest status is much more difficult. CSO sector professionals have this situation as the key task.

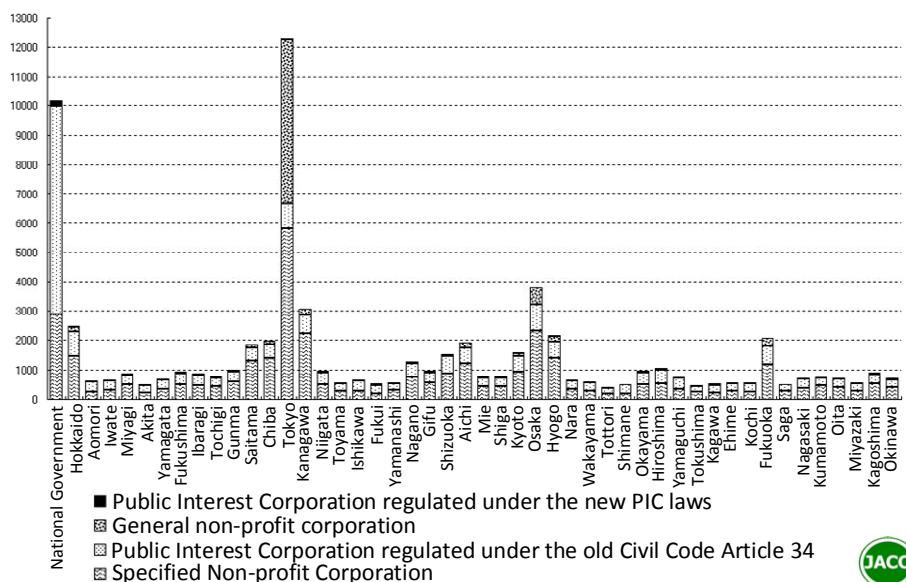
2. The number of nonprofit organizations by legal status per government agencies

The figure shown below shows the number of organizations by legal status per government agencies.

According to the figure, most of prefectural governments account for less than 1,000 but prefectural government in populated regions such as Tokyo accounts for more than 12,000 which is the largest number of all, and Osaka, Kanagawa, Hokkaido have larger number compare with others.

16

The number of nonprofit organizations by legal status per government agencies in 2010



The number of SNPC and old PIC authorized by prefectural governments is very large generally. In contrast, in case of organizations authorized by Tokyo metropolitan (prefectural) government, approximately 50% of nonprofit organizations are General Nonprofit Corporations and old PICs are

covered only less than 10%. The organizational mix of national government is quite different from other structures of organizational mix.

3. Percentage of legal status per government agencies in 2010

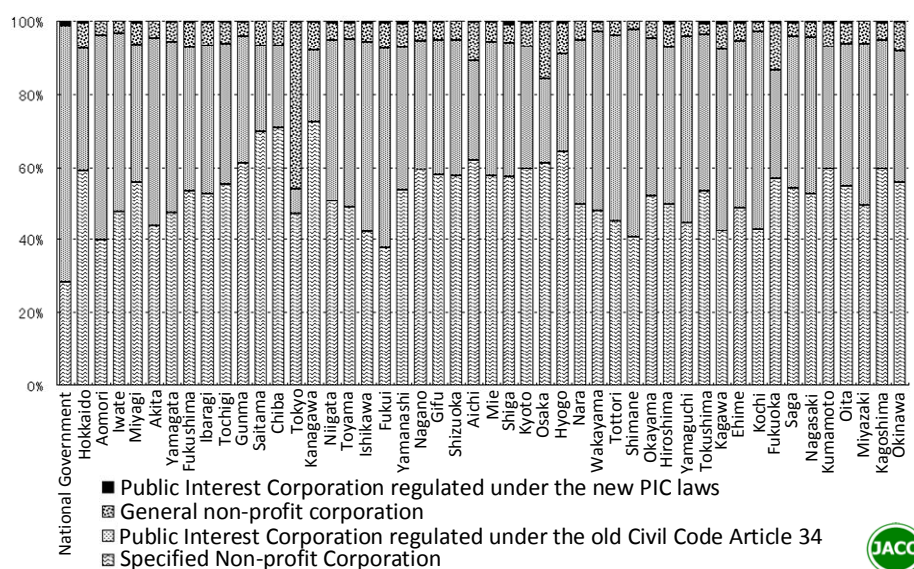
According to the structures of organizational mix except Tokyo, it is possible to say that SNPC and old PIC are major groups, moreover SNPC is very popular in unpopulated regions. In case of Tokyo, about 53% of organizations are General Nonprofit Organizations and only 4% of organizations are old PICs which is quite deferent from other prefectures structurally.

General Nonprofit Corporation is created in December 2008 and increased rapidly since 2008. It will be the major organizational group near the future.

In case of the national government, about 75% of organizations are old PICs and SNPC indicates less than 15%. The reason why the percentage of SNPCs approved by national government is quite small is, there are not many organizations doing their activities in two more prefectures.

17

Percentage of legal status per government agencies in 2010



4. The increase in organization number and the growth rate (2005-2010)

In case of Tokyo, 4,000 of nonprofit organizations are newly established since 2005, and growth rate is also very high. Even the organizations authorized by national government increased only 1,500. Most of organizations authorized by Tokyo metropolitan government probably are General Non-profit Corporations.

Prefectural government in unpopulated area, the growth of organization number is very slow. Particularly the growth of organization number of four prefectures including Aomori, Fukui, Tottori

and Shimane could not reach 100.

18

The increase in organization number and the growth rate (2005-2010)

	A	B(%)		A	B(%)
National Gov.	1,506	17.5	Mie	151	24.9
Hokkaido	727	42.1	Shiga	235	44.0
Aomori	95	18.2	Kyoto	437	39.0
Iwate	103	19.0	Osaka	988	35.2
Miyagi	188	24.1	Hyogo	761	55.0
Akita	114	30.2	Nara	171	35.3
Yamagata	182	30.9	Wakayama	130	29.0
Fukushima	268	40.2	Tottori	94	31.9
Ibaragi	227	36.0	Shimane	86	21.1
Tochigi	197	34.7	Okayama	284	42.5
Gunma	229	30.8	Hiroshima	226	27.1
Saitama	707	61.7	Yamaguchi	133	21.9
Chiba	621	45.7	Tokushima	137	42.0
Tokyo	4,171	51.4	Kagawa	118	29.7
Kanagawa	1,058	52.6	Ehime	119	27.0
Niigata	204	27.1	Kochi	105	23.5
Toyama	152	37.8	Fukuoka	679	48.5
Ishikawa	129	25.3	Saga	148	41.5
Fukui	80	13.4	Nagasaki	194	36.7
Yamanashi	186	50.7	Kumamoto	221	41.4
Nagano	312	32.9	Oita	211	41.7
Gifu	289	44.2	Miyazaki	169	42.5
Shizuoka	410	37.0	Kagoshima	355	66.0
Aichi	580	43.3	Okinawa	258	57.0

A: The increase in organization number
B: The growth rate



5. The number of organizations per Government agencies and charitable categories

New PIC has 23 and SNPC has 17 charitable categories. The meaning of those category numbers shown in the lists below are indicated under the table.

19

The number of organizations per Government agencies and charitable categories

Public Interest Corporation (newly recognized)

Category	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
National Gov.	42	28	16	14	5	9	27	3	16	0	10	0	1	9	16	15	3	4	20	5	2	5	0
Hokkaido	3	2	4	2	0	0	6	0	0	0	0	0	0	0	0	1	1	0	3	0	0	0	0
Tohoku	1	1	0	0	0	1	1	0	0	0	0	0	0	0	0	1	0	0	0	1	0	1	0
Kanto	2	2	0	1	0	1	8	1	2	1	1	0	0	1	0	2	2	0	0	0	0	0	0
Tokyo	4	8	2	0	2	1	4	2	9	0	3	0	1	0	1	4	2	0	6	1	1	0	0
Hokuriku	0	1	5	0	0	2	1	0	0	1	0	0	0	0	0	1	0	0	3	2	2	1	0
Koshinetsu	4	1	4	2	0	3	2	0	3	0	0	0	0	0	1	3	0	0	3	0	0	0	0
Chubu	2	3	2	0	0	1	4	0	1	0	0	0	0	1	0	0	0	0	2	0	0	0	0
Kinki	7	5	5	2	1	5	9	1	9	0	1	1	0	2	4	5	3	0	2	1	1	0	0
Chugoku	3	1	3	0	0	0	1	0	1	0	0	0	0	0	0	1	0	0	0	1	0	0	0
Shikoku	3	5	2	1	0	0	4	1	5	0	0	0	0	0	1	2	0	0	3	0	0	0	0
Kyusyu	4	1	6	1	3	6	3	0	0	0	2	0	0	1	2	0	1	0	4	0	1	0	0
Total	75	58	49	23	11	29	70	8	46	2	17	1	2	14	25	35	12	4	46	11	7	7	0

Specified Non-profit corporation

*See page 16 for the charity categories

Category	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
National Gov.	1672	1821	1072	1213	1169	330	456	510	1203	301	1229	484	326	647	729	335	2015
Hokkaido	919	586	666	432	389	51	85	139	153	41	502	92	52	210	248	57	605
Tohoku	1414	1098	1161	839	788	228	333	350	353	249	1071	267	138	407	524	153	1042
Kanto	4238	2774	2617	2053	1750	350	623	984	1023	545	2830	469	247	792	1192	340	2412
Tokyo	3323	3482	1987	2340	1595	377	550	1044	1941	558	2458	609	827	1107	386	4084	
Hokuriku	405	266	292	218	188	34	52	66	85	38	322	39	25	75	98	17	255
Koshinetsu	928	781	841	552	605	122	168	212	237	124	785	150	73	286	340	79	772
Chubu	1963	1750	1623	1190	1102	285	435	592	615	362	1670	358	171	498	777	215	1617
Kinki	3732	2714	2730	1973	1556	323	601	1213	1040	521	2382	436	232	726	1125	300	2612
Chugoku	1240	909	990	696	635	152	236	415	315	216	864	199	107	318	489	120	916
Shikoku	620	466	514	351	358	68	101	162	147	95	429	102	50	177	218	64	431
Kyusyu	2570	1768	1861	1330	1287	202	374	611	617	277	1853	361	158	650	971	243	1573
Total	22924	18415	16354	13187	11422	2522	4013	6298	7729	3327	16395	3566	1988	5613	7818	2309	18334

*See page 16 for the charity categories



According to the list of PICs, 75 organizations are doing their charitable activities to promote academism and scientific technology. Only one PIC located in Kinki region doing activities to prevent and eliminate unreasonable discrimination and prejudice by reason of race, gender or others. As I mentioned, still 422 PICs exist at the present, therefore it is very difficult for PICs to cover all the activities in every regions.

In case of SNPC, the largest number of organizations is 22,924 under the category 17 which are doing their activities to promote health, medical treatment or welfare. All regions have a lot of organizations doing charitable activities from category 1 to 17.

6. Regulation (PIC & SNPC)

This is the list of regulation comparing with PIC and SNPC. These two legal entities provide very similar services and programs to the general public but some part of the regulation is different as you can see the list.

Firstly, permitting standard is different. To be PIC, it must be recognized by PIC Commission which is independent regulator established in Cabinet Office or prefectural office. In case of SNPC, it must be certified by Cabinet Office or prefectural office. It is more common for association and foundation to apply to the PIC Commission, but some of associations apply to the Cabinet Office or prefectural office to become SNPC.

20

Regulation (PIC & SNPC)

	Public Interest Corporation	Specified Non-profit Corporation
Governing law	Act on Authorization of Public Interest Incorporated Association and Public Interest Incorporated Foundation *	Act on Promotion of Specified Non-profit Activities
Recognition	Recognized by PIC Commission	Authorized by governmental agencies
Type	Association & Foundation	Association
Activities	22 indicated *	17 indicated
Political activities (support to specific parties)	Prohibited	Prohibited
Business activities	Permitted to some extent	Permitted to some extent
Residuary assets distribution	Cy-pres	Cy-pres



	Public Interest Corporation	Specified Non-profit Corporation
The least number of members	2 or more	10 or more
Qualification of members (association)	Special qualification to be permitted	Unfair qualification constraint
Amount of endowment (foundation)	3 million yen or more	Not applicable

*Act on Authorization of Public Interest Incorporated Association and Public Interest Incorporated Foundation is shown page 11.

*Charitable activities to be registered are shown below.



Reference

■ Charity category for Public Interest Corporation

1. Activities to promote academism and scientific technology
2. Activities to promote culture and arts
3. Activities to support persons with disability or needy persons or victims of accident, disaster or crime
4. Activities to promote welfare of senior citizens
5. Activities to support persons having will to work for seeking the opportunity of employment
6. Activities to enhance public health
7. Activities to seek sound nurturing of children and youths
8. Activities to enhance welfare of workers
9. Activities to contribute to sound development of mind and body of the citizen or to cultivate abundant human nature through education and sports, etc.
10. Activities to prevent crimes or to maintain security
11. Activities to prevent accident or disaster
12. Activities to prevent and eliminate unreasonable discrimination and prejudice by reason of race, gender or others
13. Activities to pay respect or protect the freedom of ideology and conscience, the freedom of religion or of expression
14. Activities to promote the creation of gender-equal society or other better society

- 15.Activities to promote international mutual understanding and for economic cooperation to overseas developing regions
- 16.Activities to preserve global environment or protect and maintain natural environment
- 17.Activities to utilize, maintain or preserve the national land
- 18.Activities to contribute to sound operation of the national politics
- 19.Activities to develop sound local community
- 20.Activities to secure and promote fair and free opportunity for economic activity and to stabilize and enhance the lives of the citizenry by way of activating the economy
- 21.Activities to secure stable supply of goods and energy indispensable for the lives of the citizenry
- 22.Activities to protect and promote the interest of general consumers

■Charity category for Specified Non-profit Corporation

1. Promotion of health, medical treatment, or welfare
2. Promotion of social education
3. Promotion of community development
4. Promotion of science, culture, the arts, or sports
5. Conservation of the environment
6. Disaster relief
7. Promotion of community safety
8. Protection of human rights or promotion of peace
9. International cooperation
10. Promotion of a society with equal gender participation
11. Sound nurturing of youth
12. Development of information technology
13. Promotion of science and technology
14. Promotion of economic activities
15. Development of vocational expertise or expansion of employment opportunities
16. Protection of consumers
17. Administration of organizations that engage in the above activities or provision of liaison, advice, or assistance in connection with the above activities

■Public Interest Corporation Laws

(1) “General Incorporated Association and Foundation Law” (Act on General Incorporated Associations and General Incorporated Foundations)

This law is so to speak a general nonprofit corporation law. People can set up a general nonprofit association or foundation simply by registration at the Public Registration Office, without

any kinds of approval or permission by central or local government. There are no limitations concerning the purposes and activities of that corporation, except the non-distribution constraint on surplus fund every year.

(2) "Charitable Status Recognition Law" (Act on Authorization of Public Interest Incorporated Association and Public Interest Incorporated Foundations)

This law describes requirements and procedures necessary to a general incorporated association or foundation that applies for obtaining its charitable status. For this purpose, the new Public Interest Corporation Commission, which is a charitable status recognition committee as Japanese version of the Charity Commission for England & Wales, inaugurated its start-up operation with official appointment of seven commissioners as from April 1st 2007, prior to the new Charity Laws going into effect in December 2008.

(3) "Relative Transition, Modification & Repeal Law "

This law describes procedures for the existing Public Interest Corporations to convert their legal status to a new one as above-mentioned. In the circumstances, the articles of Civil Code, which define Public Interest Corporations, are to be abolished and meanwhile the "Specified Nonprofit Corporation Law (which is so far generally referred to as the NPO law in Japan) remains as it is for a while. In another word, citizens can choose two types of NPOs when they want to set up a corporation with charitable purposes.

■ Outline of new PIC legal scheme

(1) Public Interest Corporation Authorization

General Incorporated Association or Foundation is an organization that has made an application for its set-up at a registry office. Meanwhile, Public Interest Incorporated Association or Foundation (PIC) is a general incorporated association or foundation (GIO) that recognized by Public Interest Corporation Commission under the Act on Authorization of Public Interest Incorporated Associations and Public Interest Incorporated Foundations. Their activities must fall under one of the headings shown on the appended table that relates to academic and scientific promotion, art and culture or other public interests and must be the activities that contribute to the promotion of benefits for many and unspecified persons of the general public.

*Article 4: GIO that operates the business for public interest purposes may be authorized by the administrative agency.

The administrative agency shall grant PIC authorization if any GIO meets requirements for Standards for PIC Authorization. Criteria of these standards are as follows.

- (i) Its principal objective is to operate the activities for charitable purposes.
- (ii) It has an accounting base and technical capability necessary to operate the activities for charitable purposes.

- (iii) At its operation, it does not provide its members, councilors, directors, auditors, employees or other concerned persons specified by Cabinet Order with any special benefits.
- (iv) At its operation, it does not engage in any act providing any donation or other special benefits with any persons who run a stock company or other business for profit purposes or any other persons specified by Cabinet Order as ones that engage in any activity to seek interest for any specific individual or entity; provided, however, that this shall not apply to cases in which it engages in any act providing a public interest corporation with any donation or other special benefits for the activities with charitable purposes operated by the said PIC.
- (v) It does not operate any speculative transaction, financing with high interest or other businesses specified by Cabinet Order as ones being not suitable for maintaining the social trust of a PIC or business that could be harmful to public policy.

*Skip the rest of articles (vi)-(xviii).

(2) Revenue of activity for charitable purposes

PICs shall not obtain revenue that exceeds an amount compensating the reasonable costs required for operation of the above-mentioned activities for charitable purposes.

(3) Ratio of activities for charitable purposes

The expenditure ratio of the activities for charitable purposes each operational year shall be 50/100 or more.

(4) Restriction on possession of idle assets not used for charitable purposes

The amount of idle assets not used for charitable purposes of a PIC at the end of each business year shall not exceed an amount that is calculated, as the amount necessary to operate continuously in the following business year the activities for charitable purposes of the same contents and scale as the activities for charitable purposes operated by the PIC in the business year in question.

(5) Name

GIO that has received PIC authorization shall amend the legal status of GIO and its name into PIC, respectively.

(6) Governing body

Councilors

- The procedure of appointment depends on the articles of association or foundation (Directors cannot elect councilors).
- a term of office should be 4 years in principle, but extendable up to 6 years.

Directors

- must be elected by councilors' meeting
- a term of office should be 2 years in principle, but able to be shortened up to 1 year.

Executive directors

- must be elected by board of directors

Auditors

- more than one must be elected by councilors' meeting (should not be elected from board of directors).
- a term of office should be 4 years in principle, but able to be shortened up to 2 years.

(7)Accounting

should adopt "PIC Accounting Standards"

(8) Disclosure

Should always prepare at office such documents as articles of incorporation; an inventory of property; a name list of directors, auditors and councilors; financial statements; a document that describes the standards for payment of the remuneration to directors, auditors and councilors; annual report; and in addition to those items, other documents provided for in Cabinet Office Ordinance.

These documents should be disclosed upon request of third parties and also must be submitted to relevant authorities of which disclosure at web-site is recommended.

(source: Act on Authorization of Public Interest Incorporated Associations and Public Interest Incorporated Foundations)

5-2 Legitimacy, Transparency and Accountability in case of Japan



5-2-1 Accountability and transparency in the Japanese CSO sector before 2008

1. Limited capacity for ALT within the PIC (up to 2008)

Before 2008, supervisory authorities controlled PICs through the regulatory management, authorized PICs to establish its organizations, monitored PIC's governance and checked their charitable status according to the PIC system under the civil code enacted in 1896. PIC system was also based on such remarkable features as existence of sectionalism among regulatory government offices and PIC's governance led by each of government authorities, etc.

In this sense it was possible to say that there was a general tendency of state monopolized charitable and social service activities. As a result, most of PICs remained unaware of having a responsibility to answer for particular performance expectations to specific stakeholders, and also, it was difficult for PICs to have self-made governance and accountability system under that situations.

After the SNPC law took effect in 1998, the Japanese government initiated discussion to create new PIC laws, and JACO conducted some independent researches on several topics and advocated to government agencies if necessary.

It has been eight years since JACO started the research, and finally new PIC laws went into effect in December 2008. Japan now has a new independent regulator (PIC Commission) for charitable activities by PIC, and the considerable growth in activities of PICs is expected hereafter.

Accountability and transparency in the Japanese CSO sector before 2008

1

Limited capacity for LTA within PIC

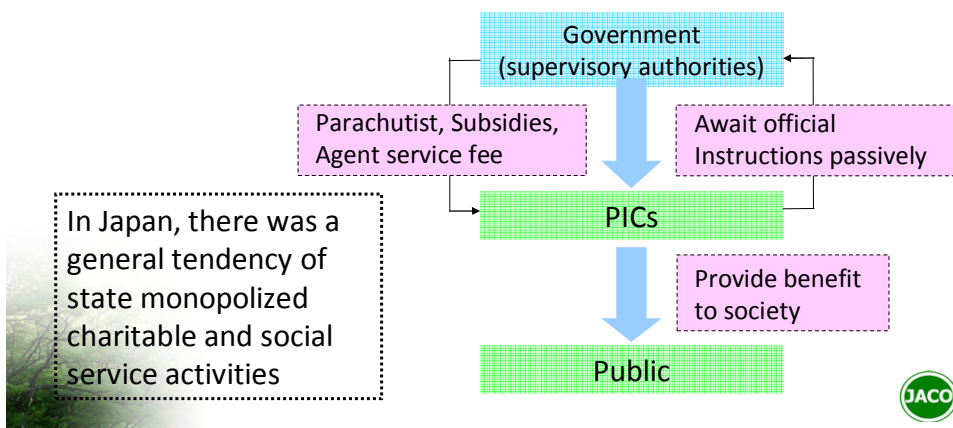
- ✓ PICs have been under the strict control by government offices through the regulatory management.
- ✓ Government made a discretionary decision to authorize establishment of PICs.
- ✓ Supervisory authorities monitored PIC's governance and checked their charitable status.
- ✓ Existence of sectionalism among regulatory government offices.
- ✓ PIC's governance led by government offices.



2

The reason why PICs had poor LTA

- ✓ Most of PICs remained unaware of having a responsibility to answer for particular performance expectations to specific stakeholders.
- ✓ It was difficult for PICs to have self-made governance and accountability system under the above situations.



2. What we have done to solve the issues existed before 2008

Since the early 2000s, JACO as the most advanced research institution in the field of PIC's self-regulation, has been working to promote a clear understanding by the PICs of Japan about their self-regulatory mechanism.

In June 2001, JACO launched a project to study how the PIC system should function in the 21st century and established its Steering Committee and two specific research groups on PIC sweeping reforms as well as on governance. JACO also sent a mission to the US in April 2002 to study organizational governance there and released a report titled *“Considering the ideal future for the PICs and its system”* in November 2002. This report became theoretical support for putting forward a proposal to government agencies with regard to PIC development from the perspective of PICs, not from the view point of the government itself.

At the same time, JACO established three internal committees, legislative committee, taxation system committee and compliance committee, to help implement PIC sweeping reforms. Committee members discussed what governance of PICs should look like under the new system. In particular, compliance committee members vigorously argued about code of ethics and self-regulatory mechanism and prepared several templates and guides related to compiling codes of conduct and ethics, etc.

In the past, supervisory authorities monitored PIC’s governance and checked their charitable status, but the development of PICs led to strong demands for higher level of autonomy today. However, it is also necessary for citizens to monitor and evaluate charitable organizations. As a result JACO released a research paper entitled *“Organizational Assessment of PICs”* and created the organizational assessment committee and study group in 2003 in response to this situation. The committee and study group conducted a robust discussion from various standpoints since April 2003 and prepared a final report in March 2004 that resulted in increased recognition of the importance of having an information site and evaluation agencies for PICs in the CSO sector.

A research paper entitled *“Setting-up an Organizational Assessment body for PICs”* was initiated and a study group was launched in July 2006 to examine the role of the information site and evaluation agencies for PICs. This study group released a final report which documented PICs evaluation in April 2007.

While this research was being conducted, JACO also sponsored the GuideStar seminar held in November 2006 where Buzz Schmidt, CEO of GuideStar International and two other senior officers spoke on the significance of the disclosure of information by CSOs and the situations in other countries those are party to the GuideStar International Alliance.

JACO believes that PIC directors have realised the need for such changes based on the values and principles of self-responsibility and self-regulation which aid organizational autonomy. In light of this, we came to the conclusion that as a national umbrella organization, JACO should assume the responsibility of sending a mission to the US to conduct research on actual activities and management of leading CSOs in the US from the view-point of internal governance, prior to our new charity laws becoming effective as from December 1, 2008. We sent 15 members of the research mission in September 2008, and had the privilege of gaining some insight into the several

What we have done to solve the issues

JACO is the most advanced research institution in the field of PIC's self-regulation and governance and we have research programs for emerging from its situation as follows.

- 2001 Established steering committee and two specific research groups on PIC sweeping reforms as well as on governance (2003*)
- 2002 Sent a mission to the US to investigate organizational governance
Established legislative committee, taxation system committee and compliance committee
- 2003 Initiated a research titled *"Organizational Assessment of PICs"* and launched committee and study group (2004*)
- 2006 Initiated a research titled *"Setting-up an organizational assessment body for PICs"* and launched study group (2007*); Sponsored the GuideStar seminar held in Tokyo

*Date of report appearance



- 2007 Sponsored *"UK-Japan international symposia"* (2008*)
Established financial accounting committee
- 2008 Sent a mission to the US (focused on organizational management, internal governance, disclosure and accountability) (2009*)
Sponsored a symposium *"PIC sweeping reforms & new landscape of civil society"*
- 2009 Implement code of ethics; Released the newest version of templates of articles of incorporation and several by-laws under the new laws for PICs

*Date of report appearance



issues particularly those that focused on management, internal governance, disclosure and accountability by the CSOs in the US.

On 25th November 2008, a symposium entitled *"PIC sweeping reforms and new landscape of*

Civil Society in Japan” was held in Tokyo, and discussed the most important issues PICs currently face such as internal governance, LAT (Legitimacy, Transparency, Accountability), operational efficiency, self-regulation and so on.

As I mentioned above, the new legal framework and taxation system for PICs became effective on December 1, 2008. Simultaneously, JACO released the newest version of templates of Articles of Incorporation and several by-laws under the new laws, which we recommend that PICs use as a reference (Figure 3). JACO also launched a new non-profit database system called NOPODAS on December 1, 2008 which will be described further below.

Self-regulatory initiatives and governance were the themes of a number of projects that we worked on and JACO finally instilled the idea of self regulatory mechanisms for PICs through a variety of measures. However, some issues still need to be tackled as CSOs need to be able to address all these challenges in the 21st century.

Figure 1 Templates of Articles of Incorporation and several By-Laws which JACO prepared

1. Code of Ethics
2. Policy& regulations on admission and withdrawal from membership for associations
3. Regulations on membership for foundations
4. Managerial regulation on the general assembly of members
5. Managerial regulation on the board of councilors
6. Managerial regulation on the board of directors
7. Regulations on compensation and expenses for association’s directors
8. Regulations on compensation and expenses for foundation’s directors
9. Authority of management policy for directors
- 10 .Policy on handling of endowments
11. Policy on assets management
- 12.Rules on the internal committees
- 13.Public disclosure policy
- 14.Privacy policy
- 15.Risk management policy
- 16.Regulations on whistle- blower protection
- 17.Audit charter

Figure 2 Code of Ethics of JACO

(Preamble)

JACO has done consistent charitable activities which contribute to the sound growth and development of Public Interest Corporations (PICs) and promote public welfare in Japan.

JACO needs to carry out its mission to promote charitable activities in light of the inception of the new PIC system and respond to the change in socioeconomic circumstances

internationally and domestically.

With the above recognition of the current situation, JACO established the Code of Ethics shown below to conduct charitable activities in a fair manner and in compliance with this code.

All office staff and members of the board have to realize our social mission and be fully aware of our function and have to try to continue the constant efforts to improve self discipline to make full use of the principles into their decision making and specific actions.

The details of our new Code of Ethics came into effect on May 25th, 2009

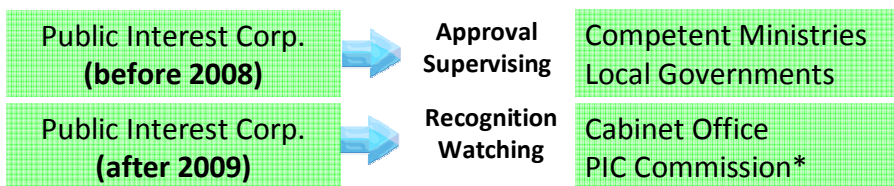
- Mission & Social Responsibility of the JACO (Article 1)
- Ensuring the Credibility & Confidence in the Society (Article 2)
- Compliance with Laws & Regulations as well as the Articles & By-laws of JACO (Article 3)
- Prohibitions of pursuing Individual Private Interests & Profits (Article 4)
- Disclosure on the Probable Conflict of Interests (Article 5)
- Thoroughness of Transparency & Accountability (Article 6)
- Privacy Policy on Personal Information (Article 7)
- Fostering the Self-Active Education & Personal Development (Article 8)
- Ethical Practices Committee (Article 9)
- Improvement or Elimination of the Code (Article 10)

2. After the new law enforcement in 2008

5

Accountability and transparency in the Japanese CSO sector after 2008

Regulation change in 2008



*Role & Function of PIC Commission

Recommendation Panel (in principle) on the regulatory actions by Prime Minister

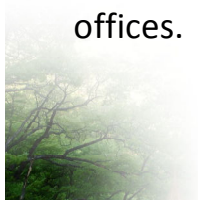
- ✓ Recognition of PIC Status
- ✓ Advisory Improvement of Operations
- ✓ Various Orders & Instructions
- ✓ Disqualification of PIC Status



After the new law enforcement in 2008

Most of problems are solved

- ✔ No more under the strict control by government offices.
- ✔ Independent committee makes discretionary decisions.
- ✔ PICs now need to have self made governance & LTA culture.
- ✔ PICs now have responsibility to answer for particular performance expectations to specific stakeholders.
- ✔ PIC has the best taxation scheme than other CSO groups.
- ✔ No more sectionalism among regulatory government offices.



After the new PIC laws took effect in December 2008, several critical issues as described previously were resolved. Charitable and nonprofit organizations now can apply for the recognition of PIC status whenever they want to and PICs are now able to operate their organization under the self-governance and self-regulation.

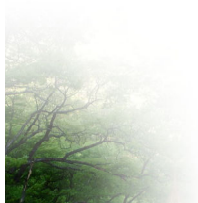
3. Emerging issue

However, most of PICs feel difficult to show initiative for establishing organizational governance and self-regulation by themselves because of the PIC's habitual reliance on the lead by government authorities. And also the PIC reform created new kind of problems, such as PIC laws are too much complicated to understand for charitable and nonprofit organizations and charitable activities are strictly limited by the PIC laws. For example, application procedures for initial registration and annual reporting form thereafter are rather difficult and too much complicated. As a result, small organizations doing activities for charitable purpose cannot apply for the PIC recognition.

To resolve these problems, JACO started to provide such services as consulting, training programs, providing guide books to improve the capabilities of PIC's self-governance and self-regulation, and help PICs to enable their organizations to getting new PIC status. JACO was also advocating on all PIC systematic matters representing the PICs and other charitable and nonprofit organizations. As a result, PIC Commission started to gradually recognize charitable and nonprofit organizations as PIC.

Emerging issue

- ✔ Difficult to establish organizational governance and self regulation because of the PIC's habitual reliance on government authorities.
- ✔ PIC laws are too much complicated to understand for PICs
- ✔ Charitable activities are strictly limited by the PIC laws
 - ▶ application procedures for initial registration and annual reporting form are rather difficult and too much complicated
 - ▶ small organization can't apply for new PIC status.



5-2-2 Legitimacy of JACO

1. Solidify position as the umbrella body of PICs

It seems that legitimacy is extremely important to civil society organizations particularly national umbrella bodies. JACO is currently concentrating on associational connection to others widely seen to be legitimate, and enhancement of ability to meet the interests of stakeholders from the view point of organizational legitimacy.

Umbrella body's presence in the field of charitable and nonprofit organizations is indispensable in creating standards which charitable sector can share with, sending voices to government agencies to help revising existing laws for charitable and nonprofit organizations, and providing wide range of information on charitable sector to the public. However, it would be meaningless if the basis of organizational legitimacy is weak, because it would be difficult to make a voice on behalf of all charitable and nonprofit organizations. Realistically, most of umbrella bodies abroad feel very difficult to enhance their legitimacy therefore it seems to me that they need to face a monumental challenge to conduct a comprehensive deliberation on legitimacy in incremental steps.

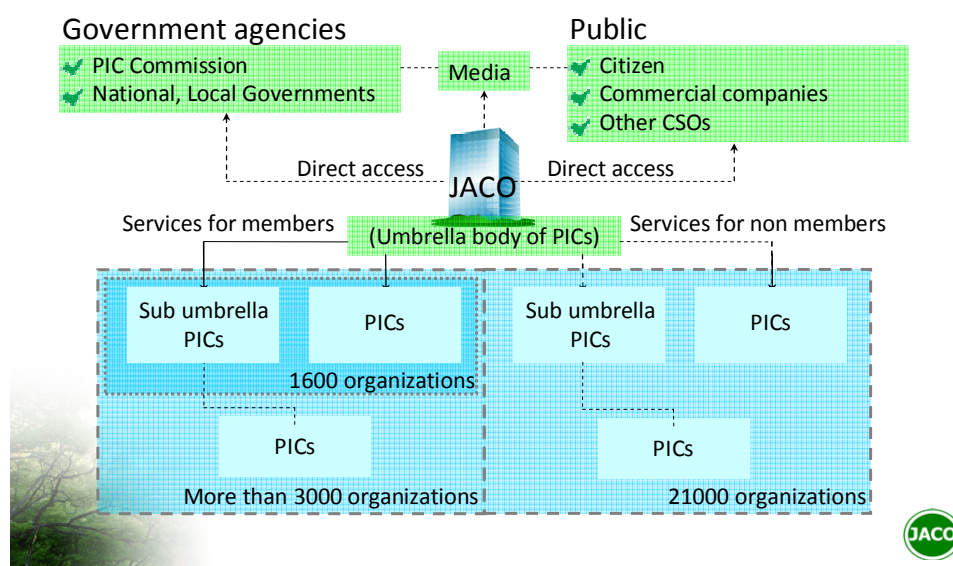
In case of JACO, more than 1,600 PICs out of 24,000 are its members and these members cover almost all the leading PIC groups. However, even a large number of local PICs which comes under the sub umbrella body of JACO members are included, it is still not good enough to make a voice representing whole the PIC sector. For that reasons, it is necessary for JACO to promote relationship with non-members as well in order to collect voices from all PICs, and at the same time JACO also

need to try to expand its membership share much bigger.

Strengthening cooperation and relation with stakeholders such as PIC Commission, national and local governments, commercial companies, citizens and other charitable and nonprofit organizations is also a key issue. Particularly, making a good relationship with media is predictably effective because the influence of media is extremely powerful to send a message to the public and government agencies at the same time.

8

Legitimacy of JACO Solidify position as the umbrella body of PICs



2. Stakeholders around JACO (to keep up legitimate organization as an umbrella body for the PICs)

JACO provides several support services to not only JACO members but also non-members to increase the capacity of governance, such as...

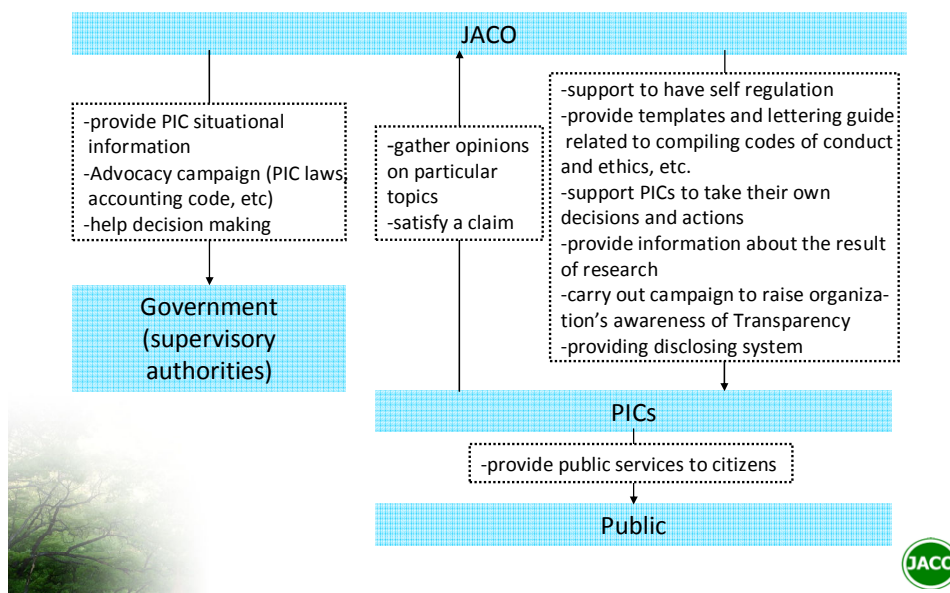
- Supporting PIC to have self regulation
- providing templates and lettering guide related to compiling code of conduct and ethics
- supporting PICs to take their own decisions and actions
- providing information about the result of research
- carrying out campaign to raise organization's awareness of Transparency
- providing disclosing system

On the other hand, JACO receives voice including opinions and claims from PICs and forges a convergence of them to make recommendations directly to supervisory authorities PIC Commission. It is also important to provide PIC situational information to PIC Commission, and help their decision making from the charitable sector perspective. Strengthening PICs relationship with other organizations or government is also important to increase the capacity of organizational governance.

In this sense, JACO has a responsibility to boost the prosperity of the CSO community according to the points explained previously.

9

Stakeholders around JACO (to keep up legitimate organization as an umbrella body for the PICs)



5-2-3 Run for the PIC hub centre

1. In case of PIC information

We believe that charitable and nonprofit organization database system is one of the most effective tools which help to make a link to the government agencies, charitable and nonprofit organizations and others, and to show them how much legitimate powers and extensive knowledge of charitable and nonprofit organizations we have. Of course an organization that has database site on behalf of CSOs can provide information on the situation of charitable and nonprofit organizations, and gives comments and opinions to them according to the factual data. Providing functions as a centre of general information and communication covering the broad range of charitable sector is also a part of focal point to appeal as an umbrella body. From this standpoint, it is expected for umbrella organizations to have or control database system with legitimate powers.


In December 2008, when the new PIC system went into effect, JACO launched a new database called NOPODAS, which is designed to provide comprehensive information on PICs. The ultimate goal of the NOPODAS project is to cultivate the culture of giving in Japan, by encouraging PICs to disclose as fully as possible information on their operational and charitable activities. Information on NOPODAS includes not only basic official and self-reporting data on 24,000 PICs as prescribed by the new law but also general information on charitable and nonprofit organization in Japan.

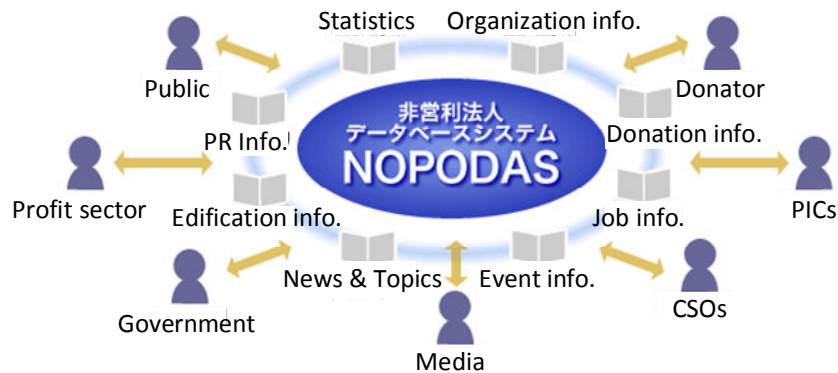
JACO is the organization having a relationship with GuideStar International in Japan, and

working together on the subject of database system.

10

Run for the PIC hub centre In case of PIC information

 JACO started to provide database system called “NOPODAS” for enhanced transparency and disclosure. NOPODAS provides database which includes PIC official data, self reporting data, organizational PR news and contents about CSO sector of Japan.






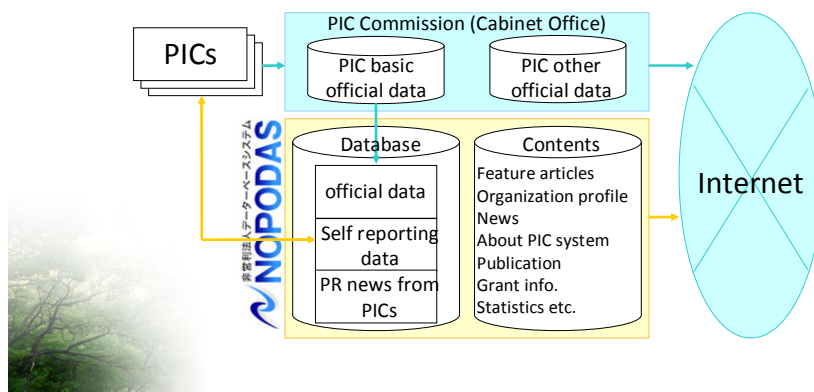
2. Benefit of operating database system

Establishment of this database system had a great influence on awareness of JACO’s role and function in the civil society of Japan, because all sectors started to respect JACO as a sole and

11

Benefit of operating database system

-  Creating database system called NOPODAS helped JACO to become a PIC information hub centre.
-  Operating NOPODAS has caused a increase in legitimacy of JACO.
-  JACO created an opportunity for PICs to increase their LAT. (each PIC can put their additional information into the database).



legitimate national umbrella body of PICs. In other words, JACO needs to take on an increasingly important role, providing database site to all sectors and people on behalf of charitable and nonprofit organizations not only for enhancing its organizational legitimacy, but also for achieving a prosperous civil society in the country or in the world.

3. The reason why JACO had to develop NOPODAS

Sharing organizational information among PICs and citizens is important to enhance transparency. At present, there are three ways to access to the PIC official data. However, only basic official data is available from PIC Commission database site. Therefore the comprehensive database system operated by charitable and nonprofit organization is very much expected to enhance transparency in Japanese civil society from that stand point.

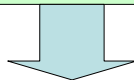
12

The reason why JACO had to develop NOPODAS

To support PICs' LTA

To access to the PIC official data, we need to...

1. see PIC Commission database site, but only limited basic data is shown there
2. apply to the PIC Commission for more details
3. go to the said PIC office direct



It is not good enough to help PICs to increase LTA!

It is meaningless if...

1. public cannot get information when ever they want.
2. specific data is not on the database site.
3. PIC cannot upload announcement and message.



4. PIC needs DB site operated by PIC because;

We had several reasons why JACO needed to operate database site. It is because,

1. Government cannot make distinction, comparison or evaluation among CSOs to keep the playing field level but JACO as charitable and nonprofit organization can.
2. JACO can provide opportunities and challenges affording PICs services to upload information or announcement themselves using online editing tools. PIC can show what they are trying to achieve, how they operate their activities...
3. JACO can provide self reporting system to develop PIC's autonomy and also voluntarily submission data for making disclosure can give rise to responsibility.

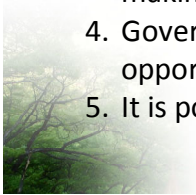
4. Government provides a minimum of data but PIC has an opportunity to provide a maximum of data to the public.

It is possible to grow the DB site with stakeholders.

13

PIC needs DB site operated by PIC because;

1. Government cannot make distinction, comparison or evaluation among PICs to keep the playing field level but JACO can.
2. PIC can provide opportunities and challenges affording PICs services to upload information or announcement themselves by using online editing tools. PIC can show what they are trying to achieve, how they operate their activities...
3. PIC can provide self reporting system to develop PIC's autonomy and also voluntarily data submission data for making disclosure can give rise to responsibility.
4. Government provides a minimum of data but PIC has an opportunity to provide a maximum of data to the public.
5. It is possible to grow the DB site with stakeholders.

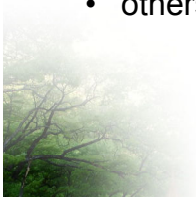


5. How can information disclosure help PICs to increase LTA and governance

14

How can information disclosure help PICs to increase LTA and governance

- PIC shall be legitimate, transparent, accountable if organizational report is open to the public because...
- PIC will be trusted and expected by stakeholders.
 - PIC will be expected as a modest organization enhancing openness and transparency.
 - Providing data helps to have responsibility to answer for particular performance expectations to stakeholders.
 - Monitoring organization via DB site promotes PICs to have a self regulation & governance
 - others



PIC shall be legitimate, transparent, accountable if organizational report is open to the public because...

1. PIC will be trusted and expected by stakeholders.
2. PIC will be expected as a modest organization enhancing openness and transparency.
3. Providing data helps to have responsibility of answering for particular performance expectations to stakeholders.
4. Monitoring organization via DB site promotes PICs to have a self regulation & governance
5. others

As you can see, operating database system gives us an opportunity to be a information hub centre and legitimate organization. Also, we can help PICs to have LTA and good governance by providing services from database portal site.

5-3 Innovative ways of information sharing promoting participation



5-3-1 To promote participation





1. Underlying concept

One of the issues that national umbrella organization faces today is promoting participation and information sharing.

1

To promote participation

Underlying concept

-  Participation of PICs is very important to make national umbrella activities more effective and fruitful.
-  National umbrella openness is important for participants
 -  to validate national umbrella legitimacy and integrity
 -  to have confidence to support and join

This means “Information sharing ” is mandatory for promoting participation by constructing the common grounds of activity .



Participation of PICs is very important to make national umbrella activities more effective and fruitful. And national umbrella openness is crucial for participants to validate national umbrella legitimacy and integrity, and to have confidence to support and join. So what I am trying to say is, information sharing is mandatory for promoting participation by constructing the common grounds of activity.

2. JACO carries several participatory activities

JACO carries some participatory activities with involvement of charitable and nonprofit organizations, such as 4 expert committees including Legislative committee, Taxation committee, Compliance committee, Financial committee. Collaborative advocacy, several research projects & research missions, publications, symposia & seminars, and NOPODAS are also our major activities for other charitable and nonprofit organizations or other sectors involved to grow a national platform of CSO sector in Japan.

If we do not show openness to the public, charitable and nonprofit organizations or other sectors will not participate to JACO's activities, and at the same time, JACO will lose the status of legitimate organization.

2

JACO carries several participatory activities

- ▶ 4 expert committees
 - Legislative committee
 - Taxation committee
 - Compliance committee
 - Financial committee
- ▶ Collaborative advocacy
- ▶ Research projects & research missions
- ▶ Publications
- ▶ Symposia and seminars
- ▶ NOPODAS



5-3-2. Innovative ways of information

1. From conventional ways to innovative ways

There are traditional ways of information sharing called conventional ways and another one called innovative ways which is more like modern approach. Conventional ways were often used to

communicate and share information in the past, but at the present, following innovative ways is a key issue for national umbrella organizations to not only communicate or share information but also promote participation from all over the sectors.

Innovative ways of information exchange is two ways communication not one way, sending message with pictures or videos not text data only, sending message via internet not paper based and so on, and it is much easier to have communication each other and more effective if the information sharing style is more like innovative.

3

Innovative ways of information

From conventional ways to innovative ways

Conventional	Innovative
One way	Two ways
Text-base	Multi-media
Paper	+ Internet/ Web
Isolated	Link and drill-down
Distribution	Intensive



2. In case of GuideStar US

GuideStar US, a 501(c)3 organization in the United States, is a good example, because the way of information sharing is very modern, and the style of their database site is more like innovative.

GuideStar US is an operator of database for charitable and nonprofit organizations. It is not providing just organizational data but also the functions of information exchange between charitable and nonprofit organizations and the public, information goes like back and forth. They provide basic organizational text data, and also photos and videos which are uploaded by charitable and nonprofit organizations themselves. GuideStar US is digitalizing organizational data from paper based documents provided by tax authorities IRS and disclosing them in digital via internet. The database site also has many links of sector information. It takes us to the webpage we wish to visit. The status of GuideStar US is more like an information hub centre among people and sectors belong to charitable related world.

In case of GuideStar US

Two ways: Not just providing data but also organization and public can provide some information and messages.

Multi-media: Not just providing text data but also photos and videos.

+Internet/Web: GuideStar US digitalized organizational data provided from IRS and disclosing them in digital via internet.

Link and drill-down: GuideStar database system takes us to the destination where we want to go or provide us any information on non-profit.

Intensive: GuideStar US is an information hub center for non-profits in the US.

The URL of GuideStar is as follows;
 GuideStar US: <http://www2.guidestar.org>
 GuideStar UK: <http://www.guidestar.org.uk>
 GuideStar Isreal: www.guidestar.org.il



3. NOPODAS: Run for the PIC hub centre

The charitable and nonprofit organization database system “NOPODAS” started their operation on December 1st 2008 and since then we have developed it as a participatory database site. Organizational data and sector information all are provided to the general public as well as specific

NOPODAS: Run for the PIC hub centre

NOPODAS as a participatory project

Organizational data and sector info are provided by NOPODAS. Several information are provided from PICs as well.

To be two ways

JACO started to develop NOPODAS as a community site which public can join with to develop database together.

NOPODAS is well supported by a navigation service

It is cross-linked with other charitable related web pages in Japan and database system abroad.

The URL of NOPODAS is as follows: <http://nopodas.com/>



organizational data registered with PICs in terms of performing transparency. PIC itself can make an announcement if they wish to. From here onwards, JACO is aiming to develop NOPODAS as a community site which the public can join with.

NOPODAS is well-supported by a navigation service. It links with other charitable related web pages in Japan and abroad. You will know anything about information related to charitable sector by accessing NOPODAS.

NOPODAS is still undeveloped database site if we compare with Guidestar US, but it grows step by step although a little at a time.

5-3-3 NOPODAS database system

1. NOPODAS objective

This section introduces about the database system called NOPODAS. The objective of NOPODAS is as follows,

1. to be a comprehensive portal site and database system which provides with information about Japanese CSO sector including Public Interest Corporations (PICs) , so-called NPOs, etc..
2. To foster and promote giving culture in Japan by sending various information about the new structure of legal frameworks and tax exemption.
3. To encourage PICs to disclose their activity data and meet their accountability requirements.
4. To enable users to search PICs and other non profit organizations together at the same time.

6

NOPODAS database system

NOPODAS objectives

- ▶ To be a comprehensive portal site and database system which provides with information about Japanese CSO sector including Public Interest Corporations (PICs) , so-called NPOs, etc..
- ▶ To foster and promote giving culture in Japan by sending various information about the new structure of legal frameworks and tax exemption.
- ▶ To encourage PICs to disclose their activity data and meet their accountability requirements.
- ▶ To enable users to search PICs and other non profit organizations together at the same time.



2. Types of information retrievable on NOPODAS

NOPODAS is providing information on new legal framework, taxation system, donation, charitable giving and granting information, publications, seminar & event information, topics & news and statistics of charitable and nonprofit organizations in Japan. NOPODAS is also linked to the charitable related websites and acting as an information hub for charitable and nonprofit organizations.

7

Types of information retrievable on NOPODAS

Interpretive information about CSO sector

- ✔ New legal frameworks, Taxation system
- ✔ Donation/Giving, Granting
- ✔ Publications, Seminars, Events
- ✔ Topics, News
- ✔ Statistics

Links to other CSO Websites

- ✔ To perform a general portal site for the CSO sector



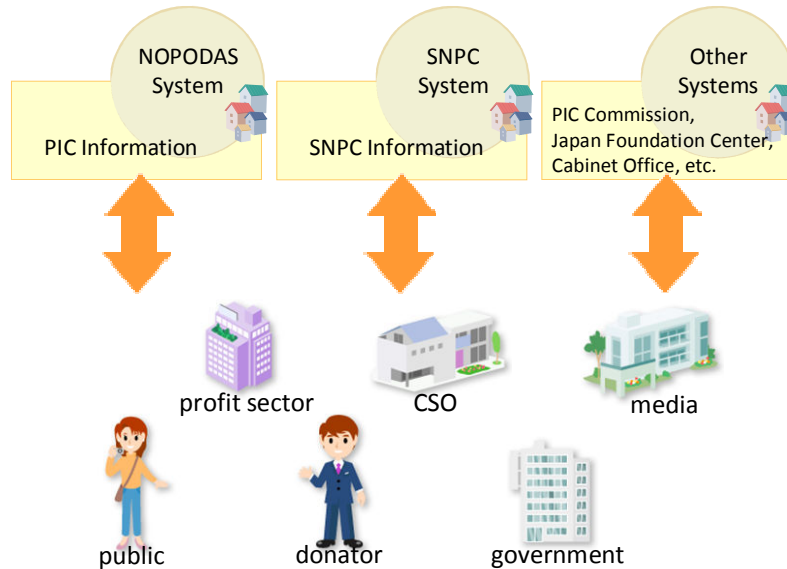
3. Environments around JACO

In addition to NOPODAS, Japan has several database systems for charitable and nonprofit organizations operated by Japan NPO center, Japan Foundation Center, PIC Commission, and Cabinet Office. PIC Commission and Cabinet office disclose PIC and SNPC organizational data but only basic organizational data is disclosed by them.

Japan NPO Center, a non governmental organization, operates database system for SNPC and discloses basic organizational data and other voluntary submission data such as financial, activities, announcement and etc. Also Japan Foundation Center operates database for incorporated foundation, and Tokyo metropolitan government operate the database system for social welfare corporation. NOPODAS is the database system disclosing PIC basic organizational data and other voluntary data such as financial, activities, announcement and etc.

Thus, many of database systems for charitable and nonprofit organizations exist in Japan and each of them have several distinguishing characteristics as you can see the slides below.

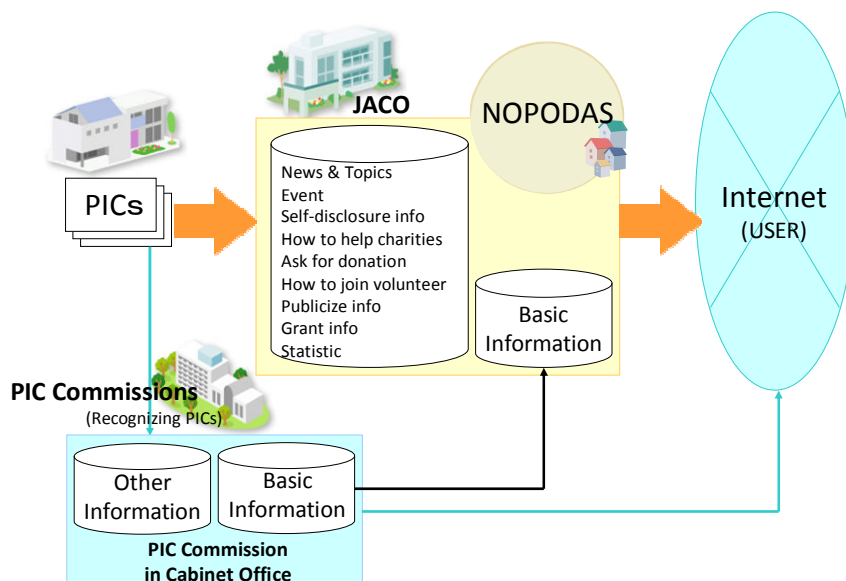
Environments around NOPODAS



4. Creating culture of voluntary submission

As I mentioned before, NOPODAS is quite different from other system operated by PIC Commission. NOPODAS provides several kind of organizational and sector information to the general public in real time but PIC Commission has only a limited disclose to the general public. This

Creating culture of voluntary submission



part is one of the differentiations between NOPODAS and database system operated by PIC commission.

It is necessary to look for something government cannot do, in order to make a position oneself apart from the government or the rest. And we also need to enable government to understand what government can do or can not do and what charitable sector or private sector can do or can not do. But this is only for the case of developing database system besides database system operated by government.

5. Page sample (Top page)

All the functions of NOPODAS including organizational search and entrance of contents such as news, close-up, statistics, etc., all are located in this page as shown below. It will take you directly to the pages or other sites where you wish to go and search information. For example, it is easy to research how to donate, where you can donate, where you should donate for charitable and nonprofit organizations by taking a look at the NOPODAS database system.

If there is an announcement from organization, you will see it by clicking organization name or title located in the box called "several information from PICs". The information of events & publications, job opportunity, grant information, etc. also are available on NOPODAS.

Page sample: top page

1. Home
2. About PIC system
3. Donation & grant information
4. Organization search
5. Statistics
6. Custom search
7. Organization search (advanced, keyword, map, link to other DB)
8. Log in page for PICs
9. E-mail magazine
10. Sector Information (PIC system info., taxation system, legal system, movement of commission, how to apply for the PICs, etc.)
11. Donation & grant information (How to donate, several ways of donation, how to look for grants, etc.)
12. "Close Up" (same as no.15)
13. Information on CSO (consultation service, seminar & event, glossaries, statistics, publications as a reference)
14. Link (major CSOs in JPN, PIC commission, major CSOs in abroad)
15. "Close Up" (same as no.12)
16. Corporate activities introduction
17. "News & topics"
18. Announcement from NPODAS
19. The number of newly recognized PICs
20. Updated information from PICs
21. Several information from PICs

It is also possible to search charitable and nonprofit organizations by typing keywords in the free word search blank box, then the system will response to your request, showing the list of organizations you are looking for. If it is necessary to search organizations in a completely different

11

6. Page sample (Organization search)

1. Quick search
2. Advanced search
3. Search from map
4. Search from other database
5. Organization name
6. Organization category
7. Organization address
8. Collecting donation
9. Applying for grants
10. Recruiting volunteer
11. Recruiting staff
12. Search

ホーム
法人制度
寄附・助成
法人検索
統計情報
文字サイズ変更

ホーム > 法人検索

法人検索

下記の4つの方法で法人検索が可能です。
 調べたい方法のタブをクリックして、画面を切り、検索してください。
 ※絞り込みが1回以上ある場合は、留まる画面にしてくださいはこちら

1すばやく検索

2詳しく検索

3地図から検索

4その他項目から検索

すばやく法人検索ができます。

5法人名称

6法人区分

7主たる事業所の住所

8寄付集募集

9助成申請

10ボランティア募集

11職員募集

Page sample: search results

1. Organization category
2. Name of organization
3. Office location
4. Disclosing items

- A. Public Interest Incorporated Association
B. Public Interest Incorporated Foundation
C. General Incorporated Association
D. General Incorporated Foundation

- A. Basic information
- B. Organization information
- C. Information of activities
- D. Financial information
- E. Announcement from organization

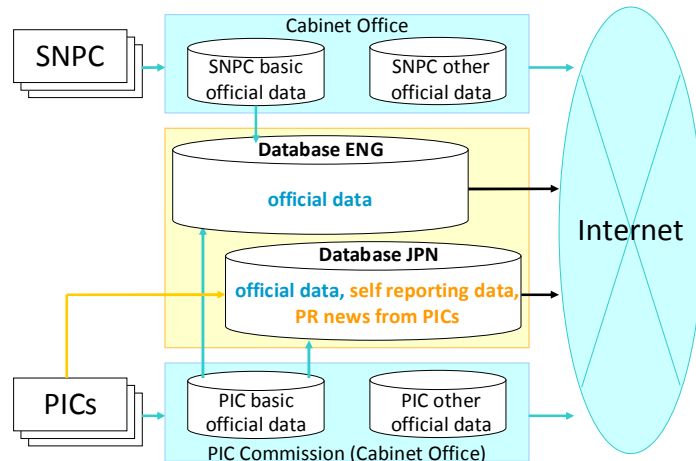
1	2	3	4	5
法人名	所在地	新着展示項目		
公財 公益財団法人一般財団法人文化・メディアセンター・青森県民会館	東京都	絵巻 紙芝居 時計		
公財 公益財団法人クリカ・環境文化事業財団	東京都	絵巻 紙芝居 時計		
公財 公益財団法人公益法人協会	東京都	絵巻 紙芝居 時計		
公財 公益財団法人助成財団 センター	東京都	絵巻 紙芝居 時計		
公財 公益財団法人私立大塚学園児童福祉会	東京都	絵巻 紙芝居 時計		
公財 公益財団法人三井住友海上福祉財団	東京都	絵巻 紙芝居 時計		
特財 株式会社JTB記念財団	東京都	絵巻 紙芝居 時計		
公財 公益財団法人三井住友海上文化財団	東京都	絵巻 紙芝居 時計		
公財 公益財団法人大友文芸会館財団	北海道	絵巻 紙芝居 時計		
公財 公益財団法人岩手県地産物推進会	岩手県	絵巻 紙芝居 時計		
公財 公益財団法人岡山地域文化・スポーツ推進機構	広島県	絵巻 紙芝居 時計		
公財 公益財団法人実業団体育館公益財団	東京都	絵巻 紙芝居 時計		
公財 公益財団法人スズラン福祉施設 財団 MARUW A財団	東京都	絵巻 紙芝居 時計		
公財 公益財団法人社会福祉会館 東京所	東京都	絵巻 紙芝居 時計		
公財 公益財団法人皇居博物館	東京都	絵巻 紙芝居 時計		
公財 公益財団法人東京国際研究クラブ	東京都	絵巻 紙芝居 時計		
公財 公益財団法人桑田町まちづくり推進財団	愛知県	絵巻 紙芝居 時計		
公財 公益財団法人村田信太郎記念堂 公益財団	東京都	絵巻 紙芝居 時計		
公財 公益財団法人横浜芸術文化センター	神奈川県	絵巻 紙芝居 時計		
公財 公益財団法人青島市国際交流センター	広島県	絵巻 紙芝居 時計		
公益財団法人東京・横浜芸術文化センター	大阪府	絵巻 紙芝居 時計		
公益財団法人東京・横浜芸術文化センター	大阪府	絵巻 紙芝居 時計		

NOPODAS is developing and operating by two JACO staffs and providing additional stability to the general public is one of the challenges facing NOPODAS team at the present.

174

NOPODAS in the Future: English version of NOPODAS

JACO started to develop English version of NOPODAS from this year. It will come out in next year.

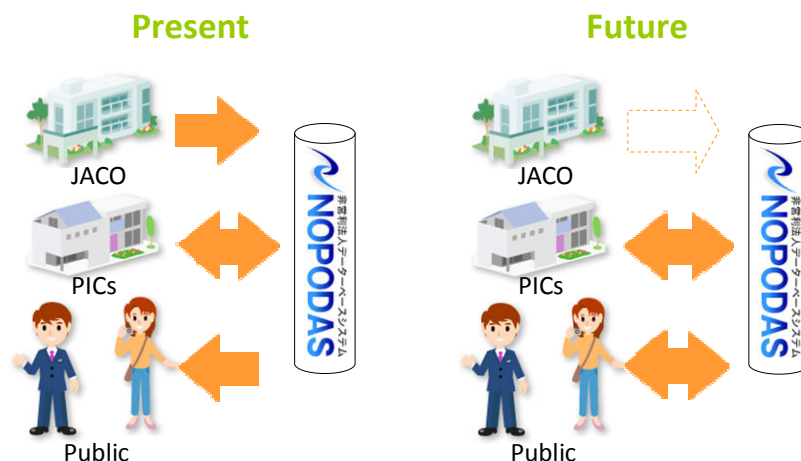


9. NOPODAS in the future (Develop as a community site)

JACO is also trying to develop NOPODAS as a community site. In this plan, we just do basic operation and maintenance but the central players will be PICs and the general public.

NOPODAS in the Future: Develop as a community site

NOPODAS is now becoming as a tool to use information sharing among PICs and the general public.



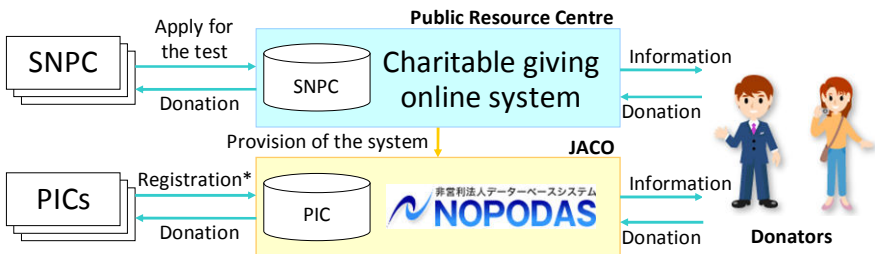
10. NOPODAS in the future (Online donating function)

In near the future, NOPODAS will achieve progressive steps in promoting giving culture through cooperation with SNPC named Public Resource Center. They are a charitable giving operator which is like Canada Helps, registered charity in Canada located in Toronto. If this plan comes off, people will be able to donate directly to PICs using NOPODAS.

15

NOPODAS in the Future: Online donating function

NOPODAS will achieve progressive steps in promoting giving culture through cooperation with Public Resource Center.
Public Resource Center is a charitable giving operator.



*Newly recognized PICs already passed a rigorous screening. In fact, it is not necessary to set up board of review to register PICs into database for online donation system.



6. Turkey

Derya Kaya

Third Sector Foundation of Turkey

6-1 Civil Society in Turkey



About TUSEV

TUSEV was formed by Turkey's 23 leading foundations and associations in 1993.

The main objective is to strengthen the legal, fiscal and operational infrastructure of the third (non-profit) sector in Turkey.

TUSEV has currently more than 110 members. 85 percent of the members are foundations, while 14 percent are associations.

TUSEV members focus on different areas such as education (41 %), health (16 %), youth (13%), social assistance and solidarity (12%) and arts and culture (%12) . More information is available at TUSEV Member Profiles, www.tusev.org.tr/member.

TUSEV is member of European Foundation Centre (EFC), International Society for Third Sector Research (ISTR) and World Alliance for Citizen Participation (CIVICUS).



1

Our Programmes



Civil Society Law Reform



Social Investment



International Relations and Networking



Research and Publications

1



**For further
information:**

www.tusev.org.tr

Historical Background of the Civil Society in Turkey

Foundations in the Ottoman Era

- The Foundation was the most important philanthropic institution throughout the Ottoman realms.
- More than 35,000 foundations were established and operational throughout the Ottoman Era.
- The earliest documentation of a foundation in Anatolia dates back to 1048 (during the Seljuk Empire)
- In the year 1546 there were 2,515 foundations in Istanbul alone.

Republican Era

- **Historically-** Foundations since Ottoman Era, Associations in the New Republic
- **1960s** - Traditional 'charitable' foundations, mainly those established by Turkey's industrialists from the late 1960s onwards
- **1970s-1980s**- Turbulent times politically and socially, causing great restrictions on civic engagement
- **1996 Habitat Conference-** generated civic action
- **1999 Earthquakes-** generated civic response and awareness
- **2001 EU Candidate for Accession and Copenhagen Criteria-** generated political will and momentum for democratic reforms greatly affecting civil society

1

Today

- **2000s – More enabling environment**
 - 2004: Law on associations
 - 2008: Law on foundations
- **New roles for traditional foundations**
- **More networks and cooperation with public and private sectors**
 - Education Reform Initiative
- **Improved international relations**

1