

# **The State of Civil Society in Japan**

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# Introduction: Recognizing Civil Society in Japan

*Frank Schwartz*

Academics, politicians, journalists, foundation executives, development assistance officials, regimes and their opponents alike throughout the world – they have all joined the civil society bandwagon. Civil society’s most ardent advocates could not be more effusive: it is the “hitherto missing key to sustained political reform, legitimate states and governments, improved governance, viable state-society and state-economy relationships, and prevention of . . . political decay” (Harbeson 1994: 1–2). Its detractors, on the other hand, dismiss civil society as a “new cult” (Wood 1990: 63), an idea that “is seductive but perhaps ultimately specious” (Kumar 1994: 130).

It was not always so. Although the origins of the idea of civil society, a realm independent of the state, go back to classical antiquity and it was central to the intellectual debates of early modern Europe, it virtually disappeared from political discourse in the mid-nineteenth century before being resurrected in the 1970s. A term that became “the motherhood-and-apple pie of the 1990s” (McElvoy 1997: 30) made no appearance in the *International Dictionary of the Social Sciences* written in the 1960s. The renewed popularity of civil society resulted from a variety of overlapping and sometimes contradictory forces (Keane 1988b: 1; 1998: 35).

Given the twentieth-century penchant for ideologies such as fascism, communism, socialism, and social democracy, a reaction against centralized state power should have come as no surprise, but civil society explicitly reentered political discourse during the struggle against totalitarianism in Eastern Europe. Some intellectuals there saw in civil society the solution to all their problems, and it became a rallying cry throughout the region after Poland’s Solidarity movement invoked it. Although this did prompt many thinkers in the West to reconsider its applicability to their own societies, there were also endogenous forces propelling the civil society framework to prominence. On the left, the search was on for an alternative to a discredited socialism and an increasingly unviable welfare state. On the right, antistatist values were ascendant. On the ground, market-oriented policies alone were insufficient to address state failures; older forms of associational life seemed

at risk; and new social movements and other private, voluntary activities began mobilizing previously passive citizens.

But what exactly do we mean by “civil society”? Because it touches on so many critical themes, “few social and political concepts have traveled so far in their life and changed their meaning so much” (Pelczynski 1988: 363), and even when they strive for rigor – which they rarely do – different contemporary thinkers stress different aspects, to say nothing of traditions, of the concept, making for ambiguity and outright confusion (Seligman 1992: ix). Of course, there is no one way in which civil society “should” be defined; the test of any definition is whether it illuminates a particular problem at hand. For our purposes, contributors to this volume gravitate around a conception of civil society as that sphere intermediate between family and state in which social actors pursue neither profit within the market nor power within the state. As defined here, civil society is occupied by associations – including economic actors such as employer associations and labor unions when they are active outside the market – and by a “public sphere” of institutions that encourage debate among private persons on matters of common concern (see Habermas 1989). Although such a definition rests squarely within the contemporary Western mainstream, most Japanese commentators take a less inclusive approach, focusing on civic and advocacy groups, private foundations and philanthropies, and research institutions. And that is one of the contributions of this volume: examining Japan’s civil society from a broader perspective than has usually been the case.

### **The Historical and Cultural Specificity of Civil Society**

From the perspective of 5,000 years of civilization, Jenö Szücs (1988: 295) aphorized, “For any sector of society to exist autonomously, independent of the state (even when functionally connected with it) is a rare exception. And exceptions are the luxury products of history.” Rather than an inevitable and invariable concomitant of human existence, civil society was the result of a specific historical process. As Sheldon Garon writes in this volume, “the idea of ‘civil society’ is rooted in a time and a place.” In the modern sense of the term, it first emerged in Europe on the basis of some fundamental institutions and cultural dispositions of Western civilization. The most important of these were the existence of several competing sources of authority and identity that were separate from the state – and one another (Eisenstadt 1995: 240–41). An autonomous legal system that distinguished between public and private spheres was one of the legacies of Rome, and the endless competition attendant on the removal of Rome’s centralized authority penalized states for relying too heavily on sheer coercion vis-à-vis their populations (Wood 1990: 61; Hall 1998: 60–61). The independence of the church helped differentiate society from the state by separating the spiritual and ideological from the temporal and political (Szücs 1988: 300; Taylor 1990: 102), and the subsequent split in the Latin church further pluralized society. Medieval trading cities demonstrated a capacity for self-governance and defended such local control (Schmitter 1997: 255).

Feudalism bore an ambiguous relationship to civil society. On the one hand, fragmentation replaced old relations of states and subjects with new social ties of a contractual nature, and decentralization frustrated “descending” mechanisms of exercising power. Collective rights legitimated by custom extended to the lowest levels (Szücs 1988: 301, 302, 306; see also Taylor 1990: 102–3). On the other hand, the modern conception of civil society could not emerge without the corresponding emergence of the modern conception of the state as a separate entity, yet feudalism dispersed the modern state’s functions throughout society and conferred a directly political character on institutions that are today regarded as socioeconomic.<sup>1</sup> The rise of absolutism provided European states with a corporate identity of their own (Wood 1990: 61), and with the rise of capitalism, the elements of civil society threw off what Marx characterized as “the political yoke.”

In explaining the modern distinction between state and civil society, some theorists (e.g., Marx, Ellen Wood) emphasize the growth of capitalism; others (e.g., John Keane, Charles Taylor) portray it as a political development, a defense against the threat of despotism. In any event, the distinction took root in late eighteenth- and early nineteenth-century Europe. Because it developed in distinctively Western milieux, applying the civil society framework across cultures is controversial. Some commentators deny its applicability to non-Western societies altogether. “The current vogue [is] predicated on a fundamental ethnocentricity,” complained Chris Hann (1996: 1). As Hann (*ibid.*: 10, 19–20) himself conceded, however, the idea of civil society exerts an obvious attraction to large numbers of people around the world, and it is not the unique product of the West. Let us examine these normative and analytical aspects of the civil society debate in turn.

In their zeal to defend other cultures, extreme relativists underestimate the extent to which those cultures have borrowed from abroad in the past and overestimate the extent to which they constitute harmonious unities in the present, thus denying their members the fruits of other societies (Keane 1998: 55–56). Defying abstract considerations of authenticity and universality, ideas and institutions are constantly spreading beyond their place of origin to take root elsewhere, where they may be reconceived in local terms (Bayart 1986: 109–10; Iokibe 1999: 57). Although Middle Eastern societies have been sensitive to Western influence, for example, civil society “has entered the discourse of the Arab world and become a central concept in current Arab debate over the direction of politics in the region. State officials use it to promote their projects of mobilization and ‘modernization’; Islamists use it to angle for a legal share of public space; and independent activists and intellectuals use it to expand the boundaries of individual liberty” (Bellin 1995: 121). President Mohammad Khatami galvanized voters with his explicit calls for creation of a civil society in Iran. In another society wary of Western influence, civil society is “almost a mantra in Russian politics these days” (*New York Times*, June 22, 2000).

<sup>1</sup> What exactly constitutes “the modern state” is an enormous question in itself, of course. For a clear and concise introduction to the subject, see Poggi (1978).

As for analytical uses of the term, the (in)applicability of a concept such as civil society cannot be assumed a priori but must be determined in each individual case empirically (cf. Weber 1949: 90). The Western origins of the concept are thus irrelevant; applying it elsewhere is less an imposition of alien values than the posing of a set of research questions that may or may not prove illuminating (Norton 1995: 10). It is important to appreciate the historical specificity of civil society, to avoid treating it “as a static and transhistorical concept, supposedly generative of empirical generalizations about society-state relations across time and space” (Blaney and Pasha 1993: 5). Nevertheless, if the contemporary concept of civil society arose out of theorizing about the specific historical experience of the modern West, aspects of it can be found in other cultural milieus, whether as the result of indigenous developments or foreign influence. Although the spread of the concept outside the West has mobilized what might have remained “undeveloped possibilities” elsewhere (Weller 1998: 236, 242; see also Hefner 1998: 20), it is not necessary for other societies to Westernize to boast their own civil societies.

In other words, civil society is not a dichotomous variable, a phenomenon that is either wholly present or wholly absent (Gold 1990: 20). When defined broadly, as it is here, “civil society exists, even if in defensive or underground form, under all types of political regimes. . . . There are always uncaptured social groupings that enjoy a sphere of autonomy beyond the reach of the state” (Bratton 1994: 57; cf. Stepan 1988: 4; Gold 1990: 25; Carapico 1996). We proceed, then, on the assumption that in all but the most totalitarian of modern contexts, there is some kind of civil society that can be identified and compared cross-nationally.

### Why Japan?

That said, Japan may not strike the casual observer as the most fertile ground for such an investigation. It is not a country that celebrates diversity. Even foreigners who know little else of the country are familiar with the proverb “the nail that sticks out gets hammered down” (*deru kugi wa utareru*). Moreover, state-centric ideas are deeply rooted. The word *okami*, which has long signified the government or authorities, literally means “those above.” That a modernizing Japan had to coin new words for “society” and “public” is telling, and although it came to be translated as “public,” the word *ōyake* originally referred to the house of the emperor and still has strong connotations of “governmental” (Deguchi 1999: 15, 19; Yoshida 1999: 26).<sup>2</sup> Neatly encapsulated by the maxims “sacrifice self in service to the public” (*messhi hōkō*) and “respect for authorities, contempt for the people” (*kanson minpi*), the traditional attitude (the attitude traditionally sustained by power holders, at least) called for the subordination of what were regarded

<sup>2</sup> On the subject of nomenclature, how to translate “civil society” itself is a subject of dispute among Japanese. Although the term *shimin shakai* (literally, “citizen society”) was generally used in the past, the word *shimin* (citizen) carries so much ideological baggage that it is becoming common simply to transliterate the English word as *shibiru sosaeti*. Given its novelty and foreignness, this term is more neutral if less familiar.

as necessarily partial when not downright evil private considerations to public interests that only the bureaucracy could discern and act on. The public sphere was also impoverished by individual attention to immediate connections within one's in-group (*uchi*) rather than to more anonymous, collective interests.

In this respect, modernization brought fewer changes than might have been expected. Because it centralized state power and heightened officials' prestige, the Meiji Restoration of 1868 reduced what vigor private nonprofit activities had enjoyed during the preceding feudal Tokugawa period (Deguchi 2000: 18–19). Fukuzawa Yukichi (1835–1901), the preeminent intellectual of his age, refused to accept any government appointment precisely because he saw a pressing need to set an example of independence in a country whose citizens relied so heavily on the state (Iokibe 1999: 67–68). Prewar Japan was marked by a “failure to draw any clear line of demarcation between the public and private domains,” asserted Maruyama Masao (1963: 6). The fact that the development of a modern state in Japan was prompted and guided in response to external necessity encouraged the assumption that “the state is a prior and self-justifying entity, sufficient in itself,” and the external imposition of democracy after the Pacific War permitted that mentality to survive (Matsumoto 1978: 38, 36).

Even in the postwar period, when ministerial bureaucrats have retired to assume what are typically higher-ranking and more lucrative jobs outside government, they are still said to “descend from heaven” (*amakudari*). Jealously guarding their authority over the provision of public services, officials have regarded private associations as useful only to the extent that they cooperate with the government or perform functions insufficiently important for the state to shoulder. Even when nongovernmental organizations (NGOs) have gained recognition as service providers, they have commonly been slow to take on advocacy functions vis-à-vis the state. Independent and voluntary nonprofit activities have long been suspect, with Japanese often viewing NGOs as “exotic, unique, different, strange and bizarre entities” (Yamaoka 1999: 30).

Several of the contributors to this volume have previously emphasized how narrow is the sphere that lies outside state and market in Japan. Sheldon Garon (1997: xiv) has pointed to “a powerful pattern of governance in which the state has historically intervened to shape how ordinary Japanese thought and behaved – to an extent that would have been inconceivable in the United States and Britain, and would probably have strained the limits of statism in continental Europe.” Because Japan's state and business have been inextricably joined since the beginning of the Meiji era, Helen Hardacre has argued (1991: 219), “both have shaped and molded public discourse on the public good in such a way that it is extremely difficult to discern the existence of a public sphere standing between the two. The scope for a public sphere in the classic, liberal sense, therefore, has throughout modern Japanese history been extremely limited, in addition to being dominated by marketplace issues.”

Should we thus conclude that it would be unproductive to investigate Japan's civil society? On the contrary, these observations highlight how setting bounds to the state and market and freeing space for plurality – the foci of a civil society

approach – are key issues for Japan, and they have been intensely and widely debated by Japanese themselves as well as by foreign scholars. In Japan, such debates flared during the Occupation (1945–52), a major goal of which was to establish and strengthen institutions operating outside the state; during a period of citizens' movements and popular protests in the 1960s and early 1970s; and during a period of renewed civic engagement that has continued unabated since the mid-to late 1980s (Bestor 1999: 2; cf. Deguchi 1999: 11). As a matter of fact, although it went unnoticed in the West, the contemporary revival of the language of civil society began *in Japan* during the second half of the 1960s with the work of such Marxists as Uchida Yoshihiko and Hirata Kiyooki (Keane 1998: 12–14), of whom Andrew Barshay writes below.

There are many other theoretical justifications for an examination of civil society in Japan. Western theories require broad, cross-national testing to determine the scope of their applicability; “with its Western institutions but Eastern cultural background, Japan represents the perfect case of ‘experimental’ variation” (Broadbent 1998: 6). Recent research has emphasized the complementarity of state and civil society, and even Europeanists (e.g., Levy 1999) pay homage to the instructiveness of the Japanese example in this regard. Theories of social capital, which have provided such a stimulus to the study of civil society, lay at the heart of many analyses of Japanese politics long before that term came into vogue.

To apply concepts that are Western in origin is not to deny the distinctiveness of Japan, and, indeed, every contributor to this volume has something to say on that issue. Many observers have presumed that the development of civil society in Japan has been handicapped by what they regarded as an unusually strong state and that stereotype is not devoid of empirical support. In the aftermath of Aum Shinrikyō's attacks, for example, state monitoring of religion has tightened, undermining its position in Japan's civil society and effectively nullifying any capacity it had to restrain the state (Hardacre). Although the Internet has the potential to alter the situation, the mass media have frequently worked together with, or on behalf of, Japan's political core to delimit rather than augment the discursive realm (Freeman). The Japanese state has not only adopted an activist stance vis-à-vis civil society as a whole, it targets policies at specific groups and sectors (Pharr). On a micro level, the informal discretion enjoyed by Japanese bureaucrats permits them to advantage some associations at the expense of others (Estévez-Abe). Thus, state influence in Japan has served primarily to shape rather than suppress civil society, resulting in a plethora of small, local groups and a dearth of large, professionalized, independent organizations (Pekkanen). State policies accounted for both the way Japanese international development NGOs long lagged behind their Western counterparts and for the way they have boomed since the mid-1980s (Reimann).

Nevertheless, it would be a mistake to overemphasize state primacy. Although much of this volume explores the influence of the state on civil society in Japan, this is by no means to suggest that civil society should be treated as a dependent variable vis-à-vis the state. Max Weber (1952: 183) concluded his seminal investigation of

the influence of the Protestant ethic on the spirit of capitalism with the following caveat: "It is, of course, not my aim to substitute for a one-sided materialistic [i.e., vulgar Marxist] an equally one-sided spiritualistic causal interpretation of culture and of history. Each is equally possible, but each, if it does not serve as the preparation, but as the conclusion of an investigation, accomplishes equally little in the interest of historical truth." Correspondingly, neither the accountability of Japan's state nor the voice of its civil society can be ignored. Portions of the state apparatus such as public prosecutors are actually more accountable in Japan than elsewhere (Johnson). Even in the extreme case of organizations originating from top-down directives of the Japanese state, they may succeed in winning independence over time by taking advantage of the countervailing leverage offered by competitive elections (Bullock). The bottom line is that the Japanese state's considerable capacity to manage society has rested on the active cooperation of groups in civil society (Garon).

If civil society is conceptualized as a sphere apart from the state and the market, its relationship with the latter is logically as important as its relationship to the former. Although the Western literature tends to be state-centric, postwar Japanese discussion of civil society has been inseparable from debates about the nature of Japanese capitalism (Barshay). The hegemony of corporate management and the integration of workers as members of corporate communities rather than as citizens of political society as a whole have prevented Japanese labor unions from becoming important actors in civil society (Suzuki). Japan's consumer movement has struggled not only to represent the interests of its constituency to state authorities, but also to educate individuals about their rights and responsibilities as consumers and citizens in order to build a consumer society that is independent of market as well as state control (Maclachlan).

What of the future? Civil society in Japan is expanding and becoming more pluralistic, gradually moving away from the predominance of business associations typical of a developmental state (Tsujinaka). Japanese society as a whole is moving from a security-based society in which individuals pursue cautious, commitment-forming strategies to a trust-based society in which individuals pursue more open, opportunity-seeking strategies (Yamagishi).

An examination of Japan's civil society has strong practical as well as theoretical justifications. Explorations of the role of civil society in governance are taking place around the world, and building civil society has joined the encouragement of democracy and the promotion of liberal capitalism as a basic policy objective shared by the United States and Japan in their dealings with the developing world. Only comparative study will permit in-depth analysis of the diverse factors stimulating and constraining the growth of civil society, and Japan's experience offers a useful reference for other countries (Yamamoto 1999: 8), particularly in East Asia, where Japan's demonstration effect is profound.

A better understanding of civil society in Japan can make an important contribution to international dialogue. As the history of U.S.-Japan relations has demonstrated time and again (Iriye 1967), Americans and Japanese continue to operate



on the basis of distinct images of one another that color how they approach issues of common concern. When the subject has arisen, it is often presumed that Japan is a civil society laggard (e.g., Wolferen 1991; Carothers 1999: 23), but such criticism rarely proceeds from a systematic analysis that is put in historical and comparative perspective. As Gerald Curtis (1997: 141) observed, "In terms of traditions of self-rule and the existence of a multitude of voluntary organizations, Japan has always had a stronger civil society than neighboring countries (and a much stronger one than is often presumed to be the case, by both Japanese and foreigners)." Given the growing importance of the civil society framework as a guide for policy around the globe and the importance of Japan as an international actor, it is essential that the debate over civil society in Japan be well informed.<sup>3</sup>

The most compelling reason to study Japan's civil society, however, is that it has been burgeoning. Although the rest of this volume gathers a variety of evidence for – and against – this claim, it would not be out of place to touch on a few recent developments here.

Beginning with sectoral organizations rooted in key industries and followed by "policy-beneficiary" organizations concerned with the distribution of government resources and finally "value-promotion" organizations devoted to particular ideas or movements, interest groups proliferated in Japan over the first two decades of the postwar period (Muramatsu, Itō, and Tsujinaka 1986). Tsujinaka Yutaka (1996: 18) has found strong trends toward even greater participation and pluralization since then, with Japan's level of associational activity steadily catching up with America's (which has changed little). In 1960, Japan's density of nonprofit associations was only one-third that of the United States (11.1 associations per 100,000 people vs. 34.6). By 1991, however, Japan had reached a level more than 80 percent of America's (29.2 vs. 35.2). Although the density of employees in Japanese associations was only a little over half the U.S. figure in 1991, it had increased even more quickly than associational density over the previous three decades (3.3 times vs. 2.6 times), and that growth accelerated in the 1990s. Aggregate pluralization aside, the composition of the interest group sector has shifted as the dominance of business groups has weakened. A growing divergence of interests has hollowed out established federations of businesses (and labor unions), and increasing moderation among formerly ideological and confrontational groups has enhanced their access to the policy-making process and reduced the leverage of traditional interest groups.

The uneven distribution of resources may still favor established interest associations, but Tsujinaka (1996: 57) has found that newer, citizen-initiated movements enjoy a dynamism and mass appeal that the former lack. Because the citizens' or resident movements (*shimin* or *jūmin undō*) that mobilized large numbers of ordinarily apolitical Japanese from the 1960s through the early 1970s tended to

<sup>3</sup> Scholars are increasingly applying the civil society framework elsewhere in East Asia. See, e.g., Robert Weller's *Alternate Civilities: Democracy and Culture in China and Taiwan* (Boulder, Colo.: Westview Press, 2001) and Hagen Koo's *State and Society in Contemporary Korea* (Ithaca, N.Y.: Cornell University Press, 1993).

be locally based and limited to protesting against specific grievances, ameliorative government policies dampened their activity, and many disbanded once they achieved their immediate goals. Civic involvement experienced a resurgence in the mid- to late 1980s, however, and has grown substantially since then. Coinciding with a decline in confidence in government among virtually all the advanced industrial democracies (Pharr and Putnam 2000), the general public – and some leaders – in Japan have concluded that the state lacks the flexibility and resources to cope with increasingly complex socioeconomic issues, and more and more citizens have responded with their own initiatives.

Thanks in large part to exogenous developments, NGOs and nonprofit organizations (NPOs) have become household words in Japan.<sup>4</sup> In a watershed event, many Japanese got involved in helping Indochinese refugees in 1979, and NGOs gained visibility in the late 1980s, when many of the dramatic changes sweeping Japan were attributed to the country's internationalization (*kokusai-ka*). They have benefited from exposure to and cooperation with foreign organizations at home and abroad, and Japan's NGO movement gained new momentum thanks to a series of United Nations conferences held in the 1990s. Although they often regarded NGOs as interlopers in what should remain affairs of state, Japanese officials were faced with the reality of these organizations' playing a substantive role in shaping international treaties and with the international expectation that they, too, should include representatives of NGOs in their delegations and even subsidize their activities. The move away from patron-client relations that began in the government's treatment of internationally oriented organizations is now being extended to more and more domestic groups (Menju and Aoki 1995: 143–46; Yamamoto 1998: 131, 140, 151; Yamamoto 1999: 99–103).

Since the early 1970s, Japan has undergone continuous structural transformation. Increasing affluence and diversity have enhanced the ability of private groups to organize independent of the state and make demands on it, resulting in a qualitatively different type of political interaction. Japanese politics now has a “more competitive, strenuously negotiated character” (Allinson 1993: 48). As the grip of the nation-state and a system of production based on massive mobilizations of capital and labor weakens, Japan seems poised to move in the direction of the decentralization that characterized its history until the late nineteenth century, a decentralization that would reinforce civil society (Inoguchi 2000: 103, 105). But as Tsujinaka contends in this volume, the optimism of a pluralist analysis must be tempered by the greater caution of an institutionalist analysis. For all the growth that civil society has enjoyed in Japan, it still faces many obstacles, foremost among them a strict regulatory environment.

<sup>4</sup> In Japanese usage, these terms have narrower meanings than in English. Because they were the first organizations to adopt the label, Japanese tend to use “NGO” for groups that are active in international relations, especially civic groups involved in international development cooperation. They are thus distinguished from NPOs, by which Japanese mean less the totality of nonprofit organizations than *domestically* active civic groups, especially voluntary groups not incorporated as public-interest corporations (Wada 1999: 173, 181).

### Japan's Strict Regulatory Environment

Japanese enjoy a high degree of freedom – in recent years, Freedom House ([www.freedomhouse.org](http://www.freedomhouse.org)) has consistently rated their political and civil rights as (a high) 1 and 2, respectively, on its seven-point scale – but Japan may be the strictest of all advanced industrial democracies in regulating the incorporation of NGOs. Organizations must obtain the status of “legal person” (*hōjin*) to have legal standing. Although it is possible to operate without that status, groups lacking it cannot sign contracts, and that makes it impossible for them to do such things as open a bank account, own property or sign a lease for office space, undertake joint projects with the government, or even lease a photocopy machine (Pekkanen 2000b: 113). The lack of legal standing may also deprive organizations of social recognition they would otherwise win.

Although Article 21 of the Meiji Constitution guaranteed freedom of association, Article 33 of the Civil Code of 1896 required that all legal persons be formed in accordance with its regulations. And while Article 35 of the code provided for the establishment of for-profit organizations, rather than provide for a corresponding category of nonprofit organizations, Article 34 provided only for the much narrower category of “public-interest corporations” (*kōeki hōjin*). Specifically, “an incorporated association or foundation<sup>5</sup> relating to worship, religion, charity, science, art or otherwise relating to public interests and not having for its object the acquisition of gain may be made a juridical person subject to the permission of the competent authorities.”

As Robert Pekkanen (2000b: 116–17) forcefully argues, “This creates a legal blind spot – most groups that are nonprofit but not in the ‘public interest’ had no legal basis whatsoever to form. . . . There was simply no legal category for these groups to exist in and, as a result, they were reduced to operating as informal, voluntary groups, or perhaps even becoming [limited liability] corporations.”<sup>6</sup> Occupation pressure and a movement for revision of Japan’s civil law in the early postwar period resulted in several reforms. Separate, less restrictive laws were enacted to regulate such specialized organizations as private school corporations (*gakkō hōjin*), social welfare corporations (*shakai fukushi hōjin*), religious corporations (*shūkyō hōjin*), and medical corporations (*iryō hōjin*), and governors were empowered to approve the incorporation of organizations that operated within the borders of a single prefecture. Otherwise, that part of the Civil Code regulating public-interest corporations remained unchanged into the 1990s.

The important points here are that a public-interest (or “civil-code”) corporation had to operate for the public good and had to win the permission of the competent state authority to gain legal recognition. First, activity for “the public interest” was interpreted to mean for the benefit of society in general or of many and unspecified

<sup>5</sup> The difference between incorporated foundations (*zaidan hōjin*) and incorporated associations (*shadan hōjin*) is more legal than practical.

<sup>6</sup> On the basis of an examination of the framing of Japan’s Civil Code, Pekkanen (2000b: 117) goes further to argue that “this disincorporation by categorization was deliberate.”

persons. Activity for the benefit of specific groups was ipso facto regarded as for a private interest (Amemiya 1998: 64), and this legal interpretation actually narrowed over time. National ministries and prefectural governments reached an agreement in 1972 that only nonprofit organizations with clear, unambiguous, and direct public benefits were to be granted the status of public-interest corporation. Those corporations approved before 1972 retained their legal status, but so-called intermediate organizations (*chūkan hōjin*) such as business organizations, sports clubs, and alumni associations, which do not necessarily have public benefit among their primary objectives, no longer qualified for incorporation as public-interest corporations (Amenomori and Yamamoto 1998: 4). The incorporation of organizations that were set up for neither the public interest nor economic gain required passage of a special, separate law for that purpose. Second, “the competent authorities” who granted incorporation were normally officials of the ministry with jurisdiction over the field in which an organization was active. But because of a lack of explicit and standardized criteria, bureaucrats decided on a case-by-case basis at their own discretion whether to approve or reject applications for incorporated status, and groups whose activities cut across ministerial jurisdictions were in a special bind.

Unless the government itself took the lead, winning state approval as a public-interest corporation was a very difficult process. The Civil Code stipulated that successful applicants had to have “a sound financial basis,” and government agencies generally interpreted that clause to require an endowment of at least ¥300 million (about \$3 million). In addition, they had to have an annual budget of ¥30 million (about \$300,000), an activity plan, and a board consisting of publicly respected individuals to be eligible for incorporation. Even when these demanding conditions were met, it normally took from several months to a year to explain the application to the appropriate ministry before it granted incorporation. Just as firms often hire retired bureaucrats to maintain relations with their government regulators, there was a trend for organizations to employ officials who could expedite the application process thanks to their ministerial connections, but that practice also had the potential to compromise an organization’s independence. Once registered as a legal entity, an organization was then obliged to submit a budget and a plan of proposed activities before the start of each fiscal year and a financial report and description of its activities after the end of the year. These reports were closely scrutinized, and accounting procedures required adherence to rigid guidelines. A ministry could revoke incorporated status if, in its judgment, an organization failed to fulfill its requirements (Yamamoto 1999: 108; see also Menju and Aoki 1995: 150).

Such an exhaustive application process and such intrusive supervision discouraged organizations from registering. In contrast to the 1,140,000 groups to which the Internal Revenue Service had granted nonprofit status in the United States, only 26,089 Japanese groups had attained legal status as public-interest legal persons by the mid-1990s (Pekkanen 2000b: 113). As a result, unincorporated associations (*nin’i dantai*) greatly outnumber public-interest corporations. Positively encouraged by the state, community organizations are extremely numerous. Throughout