

**Speech Draft for “Comparative Regulation / Accountability: JAPAN”
International Charity Law Comparative Seminar**

October 14, 2004

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Today, I would like to speak about the regulations and supervisions on Japanese corporations that are working for public interest.

As I already shared (Japan’s overview) with you on the first day of this seminar, the systems concerning the corporations working for public interest are formulated by the incorporation systems and the tax systems. Fundamental base for those organizations in Japan is the incorporation systems that differ from those of the United States and European countries.

In the Japanese corporation systems regarding public interest, there are nearly 200 types of corporations including Incorporated Association, Incorporated Foundation, Social Welfare Corporation, Private School Corporation, Medical Corporation, Religious Corporation, and Specified Nonprofit Corporation.

Each one of those Japanese corporation systems applies uniformly throughout the country, different from the systems in the United States. However, in many cases, implementation of the laws is entrusted to the 47 prefectures under national government.

In Japan, the supervision of corporations working for public interest, in most cases, is stipulated as being a responsibility shared by the national government and the prefectures.

Incorporated Associations and Incorporated Foundations are supervised by the competent authorities that approve their establishment. The competent authorities are the governmental agencies having jurisdiction in the areas in which a given corporation

conducts activities, such as the Ministry of Foreign Affairs for international cooperation activities, and the Ministry of Environment for environmental protection activities.

However, authority for supervising corporations that conduct activities in only one prefecture is devolved to the prefectures. For example, for corporations that conduct operations only within Tokyo, whatever their field of activity, the Tokyo Metropolitan Government becomes the supervisory agency.

In the case of Specified Nonprofit Corporations, the supervisory agency, called the *shokatsu-cho* (“competent authority”), irrespective of the type of activity undertaken, is automatically the governor of the prefecture where the office of that corporation is located. If the corporation has offices in more than one prefecture, the competent authority is the Cabinet Office (the Prime Minister).

In the case of Medical Corporations, the competent authority in principle is the prefectural governor, although if offices are located in more than one prefecture, the competent authority is the Minister of Health, Labor and Welfare.

The competent authority for Social Welfare Corporations is also, in principle, the prefectural governor. However, in exceptional cases, it may be a mayor. When offices are located in more than one prefecture, the competent authority is the Minister of Health, Labor and Welfare.

The competent authority for Religious Corporations is also, in principle, the prefectural governor, but when offices are located in more than one prefecture, the competent authority is the Minister of Education, Culture, Sports, Science and Technology.

In the case of universities, the competent authority for Private School Corporations is the Minister of Education, Culture, Sports, Science and Technology; however, in the case of all types of private schools, including elementary schools, junior high schools and special technical schools, the competent authority is the prefectural governor.

Let me move on to the systems of reporting, information disclosure, and

accountability of the Japanese corporations.

In the Japanese system of information disclosure, corporations are required to submit documents to governments, and the corporations are supervised and controlled by the governments, except Religious Corporations and Specified Nonprofit Corporations that is a new corporation system started in 1998. In this manner, the strong authority of government is the most distinguished characteristic of the conventional Japanese incorporation systems.

For example, Incorporated Associations and Incorporated Foundations are required to provide reports to their respective competent authorities each year.

After the end of each fiscal year, they must provide to the competent authority with activity and accounting reports of their activities during that fiscal year.

The activity report must cover various items, including the status and content of the organization's activities, plans for future activities, a budget statement of revenue and expenditure, lists of employees and directors, and reports of general meetings and meetings of the board of directors. The accounting report must include a statement of revenues and expenditures, a statement of changes in net worth, a balance sheet, and an inventory of assets; these must conform to standards established for accounting by Public Interest Corporations.

Three years ago, Japanese government issued direction in which Corporations are directed to make public their activity reports and budget reports on their internet websites. (Nevertheless, there are many corporations that have not made their reports public yet.)

In the case of Medical Corporations, they are to submit annual accounting reports to the prefectural governor. The accounting reports include a profit-and-loss statement, inventory of assets, and a balance sheet. These accounting reports are prepared mainly based on hospital accounting regulations. However, these reports are not open to the public, although they may be made available based on requests under the Freedom of Information Act (Ordinance).

Also, Social Welfare Corporations must submit an activity report, an accounting

report and a list of directors to the competent authorities after the end of their fiscal year. In principle, these documents are open to beneficiaries or other stakeholders upon request.

In addition, these accounting reports must be prepared in keeping with the Social Welfare Corporation accounting standards.

As for Private School Corporations, they prepare accounting reports after the end of their fiscal year. These accounting reports are comprised of a budget statement of revenue and expenditure, an inventory of assets, and a balance sheet. However, only those Private School Corporations that receive government subsidies are required to submit these reports to the competent authority (as stipulated under the subsidy system), and there is no public information access provision. This information can only be obtained by the public through a request under the Freedom of Information Act (Ordinance). These accounting reports are to be prepared in conformance with the accounting standards established for Private School Corporations.

In Japan, reporting by most of the corporations working for public interest is supervised by the governmental authorities, with systems established to prevent irregularities. However, while the regulations are generally similar for the different types of corporations, the system for Religious Corporations and for Specified Nonprofit Corporations differ in some ways from those for other types of corporations.

Due to the Constitution's guarantee for freedom of religion, governmental involvement in the activities of Religious Corporations is extremely limited.

Religious Corporations, after the end of each fiscal year, must submit to the competent authorities a list of directors, an accounting report, documents concerning buildings on their grounds, and reports of their activities other than religious activities. However, there are little penal provisions for the Religious Corporations for their neglect of duty.

Specified Nonprofit Corporations must submit to the competent authority an activity report, an accounting report, a list of the board of directors and a list of more than 10 members in the organization, after the end of their fiscal year.

The accounting report must include an inventory of assets, a statement of revenue and expenditure, and a balance sheet. There are as yet no unified accounting standards for Specified Nonprofit Corporations.

Information, concerning Specified Nonprofit Corporations, is maintained by the competent authorities, including addresses, lists of directors, accounting reports and activity reports, as to be inspected by any member of the public.

In the case of Specified Nonprofit Corporations, if activity reports are not properly made to the competent authority, a request will be issued for the reports; if this is not followed, either a redress order or a nonpenal fine may be imposed. If the redress order is not followed, approval for the organization may be revoked. Also, corporations that do not submit accounting reports for three years will be regarded as defunct, and the approval for their establishment may be revoked.

However, in keeping with the intent of the law establishing them, it is recognized that it is beneficial to restrict as much as possible governmental involvement in the activities of Specified Nonprofit Corporations. Therefore, government is able to issue an order only when clear fact, that the corporation violates law, can be shown.

For this reason, currently there are an increasing number of cases in which the Specified Nonprofit Corporation system has been used fraudulently; discussions are now beginning as to how to eliminate such abuses and curb the potential for such abuses in the future.

One of the measures to handle those problems, the Cabinet Office presently provides public access via their website of the names, lists of directors, accounting reports and activity reports of all the Specified Nonprofit Corporations under their jurisdiction; the various prefectures are preparing to make such information available on their websites from next year.

The information on these websites is intended to be updated annually, in keeping

with the annual reports received.

Up until 1998 when the NPO law was enacted, in Japan, there are little discussions on information disclosure or accountability of the corporations working for public interest. Government's control and supervision were the only ways to guarantee reliability of the corporations, and it was seen as a standard manner by public.

However, it caused abusive use of the systems. The corporations are used as a tool to acquire governments' subsidies, and government officials have parachuted into those corporations. Throughout 1990's, the systems that allow those abusive use were accused widely by public.

Presently, in Japan, discussions on reforms of Public Interest Corporations have been underway. However, the challenges are how to secure their transparency, accountability, and independent governance from governments.

Thus, Japan's systems on public interest are precisely in the process of the transformation, in terms of accountability, governance, and information disclosure.

Concluding my presentation, I would like to ask you to pay attention also to the future of Japanese reforms. Thank you.