

Philanthropic Freedom Pilot Study: Japan Country Report

Overall Philanthropic Freedom Score: 4.33

General Background Information on Japan

- GDP per capita: \$ 45,903¹
- Population: 127 million²
- Percent of population reporting “giving money”: 33%³
- Percent of population reporting “volunteering time”: 21%⁴
- The most common types of organizations in Japan are associations and foundations and special nonprofit corporations (SNCs). There are a number of activities that a special nonprofit corporation can pursue in order to be established with a public benefit status. Associations and foundations can also have this status, which can be verified by a committee review.

Philanthropic Freedom Score Summary

Category	Score	Notes
Civil Society Regulation	5.00	<ul style="list-style-type: none"> • Foundations and associations can be easily established and registered at registry office. • A specified nonprofit corporation may engage in one or more of the ‘specified nonprofit activities’ listed in the NPO Law, which includes health care, environmental work, education, disaster relief, youth activities, and international cooperation and others. • A CSO can terminate its own activities.
Domestic Tax Regulation	4.00	<ul style="list-style-type: none"> • Individuals can deduct 50% of the donation amount, in which 40% is deducted from one's income tax and 10% is from the residential tax at the local level. The ceiling on eligible donations from individuals is 40% of total income. • Corporations also can receive tax deductions on their donations; the amount of this deduction is based on a formula. • Even though the tax deduction law for donations has been expanded, there are still many donors who have not received tax returns because they were not aware of this new system. The application process for tax returns is still cumbersome.
Cross-Border Flows Regulation	4.00	<ul style="list-style-type: none"> • Charitable gifts are exempted from both customs and consumption tax in Japan. Donations to foreign charitable institutions are not eligible for a tax deduction.
Overall	4.33	<ul style="list-style-type: none"> • The policy environment in Japan is relatively conducive to philanthropic activity. While civil society is allowed to flourish, there are small barriers to domestic and cross-border donations.

¹ World Bank. (2012). Data retrieved December 26, 2012, from World Bank Databank.

² Central Intelligence Agency. (2012). Data retrieved December 26, 2012, from The World Factbook 2012.

³ World Giving Index. (2012). Kent, UK: Charities Aid Foundation, 2012.

⁴ Ibid.

Socio-Cultural Background on Japan's Giving Environment
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The origins of Japanese civil society organizations can be traced back to the Edo and medieval periods. Civil society appeared in Japanese history whenever several waves of democratization were witnessed⁵. However, Japanese modernization was based upon a decision-making authority centered on the government bureaucracy and public interest became equated with officialdom. After the defeat of the Second World War, central planning was at the core of pursuing economic development under the strong influence of close central government ties with the business, non-profit organizations had rather a peripheral role to play.

In the late 60s, there were many civic movements against pollution industries as the pollutions caused fatal disease. At that time, citizens' organizations were often regarded as anti-establishment organizations. Civic activities became active in the 80s and the government and local autonomies gradually appreciated them but the term "civil society" thoroughly took root in Japan quite recently.

The legal environment for nonprofits was not conducive to citizens-initiated organizations, small organizations in particular. In fact, before the enactment of the Law to Promote the Specified Nonprofit Activities (NPO Law, hereinafter) in 1998, most nonprofit organization had to remain unincorporated under the jurisdiction of the Civic Code, Article 34, enacted in 1896 as it required that approval and 'guidance' be obtained from an authoritative agency for the establishment of a public interest corporation⁶.

The terms "volunteer" and "civil society" have been widely used since the mid-1990s as the Great Hanshin-Awaji Earthquake in 1995 brought about a rapid increase in volunteer activities⁷. Another factor was the NPO Law as it simplified the process of incorporation and thus encouraged small and emerging organizations to qualify⁸.

Nonprofits have been even more active since the late 90s and legal environment for nonprofits has been improved significantly recently. The Civic Code, Article 34 was abolished and the new Public Interest Corporation laws (PIC Laws) were enforced for foundations and associations as a result of the reform of public interest corporations in 2008. The Laws were composed of the following three laws: General Incorporated Association and Foundation Law, Charitable Status Recognition Law, Relative Transition, Modification & Repeal Law. Each of the PIC Laws is briefly described in Table 1.

⁵ Tsujinaka, Yutaka, Choe, J-Y and Ohtomo, T. 'Exploring the Realities of Japanese Civil Society through Comparison, ASIEN 105 (Oktober 2007), page 16-17, www.asienkunde.de/.../a105_ref_art_tsujinaka_choe_ohtomo

⁶ Kuroda, Kaori (2003), 'Japan-based non-governmental organizations in pursuit of human security, *Japan Forum*, British Association for Japanese Studies, Routledge Journals, Taylor & Francis Ltd. Page 235-236.

⁷ Tsujinaka, Choe and Ohtomo (2007)

⁸ Kuroda, Kaori (2003)

Table 1

Public Interest Corporation Laws	
Act on General Incorporated Association and General Incorporated Foundation Law	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.
Act on Authorization of Public Interest Incorporated Associations and Public Interest Incorporated Foundation (Charitable Status Recognition Law)	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 commission members as from April 1st 2007, prior to the new Charity Laws going into effect in December 2008.
Relative Transition, Modification & Repeal Law	This law describes procedures for the existing Public Benefit Corporations to convert their legal status to a new one as above-mentioned. In the circumstances, the articles of Civil Code, which define Public Benefit 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.

Source: The Japan Association of Charitable Organization (JACO)’s website:
http://www.kohokyo.or.jp/english/eng_pic.html

When the magnitude 9.0 Earthquake hit east Japan in March 11 2011, many nonprofits were very active in the relief efforts. Nearly 80 percent of the population donated money or in-kind goods to help the disaster-stricken areas. People also donate nonprofits and newly born local civil society organizations that work for the affected in addition to traditional organizations, such as Community Chest and Red Cross. That pushed for the improvement of tax law for nonprofits and the NPO law in 2012.

Below are the two tables of taxation for Public Interest Corporation (PIC) and Approved Specified Nonprofit Corporation (Approved SNC) (Table 2) and taxation for General Nonprofit Corporation and Specified Nonprofit Corporation (SNC) (Table 3)

Table 2: Taxation for Public Interest Corporation and Approved Specified Nonprofit Corporation

	Public Interest Corporation	Approved Specified Non-profit Corporation
Corporation income tax	No tax on earning from business related to charitable activities.	No tax but impose a tax on 34 types of profit earning business, related or not related to charitable activities.
Withholding income tax of interest etc.	No tax	Tax imposition
Deemed Contributions would be capped at...	50% of gross income (51% or more, depends on the condition)	50% of gross income or 2million yen, chose either larger one of the two.
Income/ dividends revenue Tax	Not levied deduction	levied
Donation of bequest	Deductible from inheritance property	Deductible from inheritance property
Donation Tax Benefit for donors (private person)	Donors can choose either tax deduction, ie “deduction from income”, or tax credit, ie “deduction from income tax”. If donors choose tax deduction, they can deduct their taxable income up to 40% of total income. If they choose tax credit, they can save their payable tax up to 25% of income tax and up to 10% of prefectural and municipal tax.	Donors can choose either tax deduction, ie “deduction from income”, or tax credit, ie “deduction from income tax”. If donors choose tax deduction, they can deduct their taxable income up to 40% of total income. If they choose tax credit, they can save their payable tax up to 25% of income tax and up to 10% of prefectural and municipal tax.
Donation Tax Benefit for donors (Corporation)	Be given preferential taxation treatment	Be given preferential taxation treatment to some extent


Authorized by PIC Commission


Authorized by Prefectural Government

Source: The Japan Association of Charitable Organization’s website
http://www.kohokyo.or.jp/english/eng_taxation.html

Table 3 Taxation for General Nonprofit Corporation and Specified Nonprofit Corporation

	General Nonprofit Corporation	Specified Non-profit Corporation
Corporation income tax	impose a tax on 34 types of profit earning business, related or not related to charitable activities	impose a tax on 34 types of profit earning business, related or not related to charitable activities
Withholding income tax of interest etc.	No tax	No tax
Deemed contributions would be capped at...	Tax imposition	Tax imposition
Income/dividends revenue Tax	Not levied.	Not levied.
Inheritance tax	Tax imposition	Tax imposition
Donation Tax deducted	Not available	The amount used for specified nonprofit activities from assets obtained from revenue-generating operations shall be deemed to be donations and the percentage limit of tax-deductible amount for said donations shall be 20% of the profit.
Donation tax benefit for donors	Not available	Not available


Registered at Registry Office


Certified by Prefectural Government & Registered at Registry Office

Source: The Japan Association of Charitable Organization's website
http://www.kohokyo.or.jp/english/eng_taxation.html

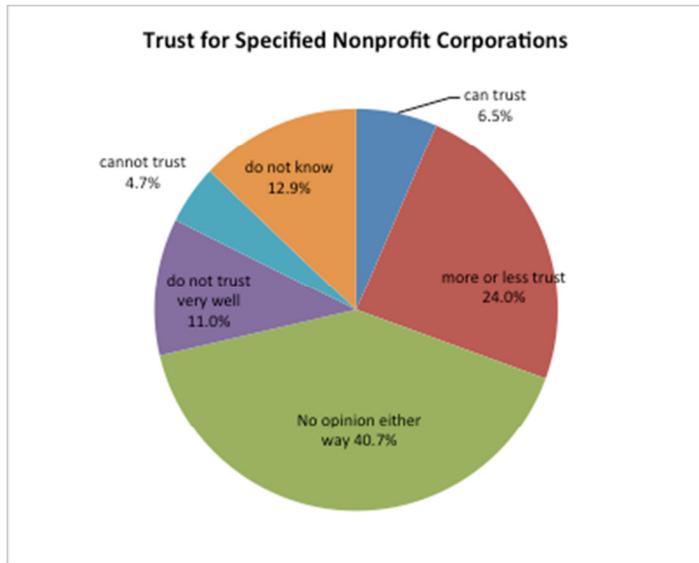
Japan has a large nonprofit sector. Besides PICs (new PICs) and SNCs, other nonprofit organizations exist in Japan as shown below (table 2). This legal system is a significant characteristic of Japan, because in many other countries, charitable nonprofit is unified as one.⁹ There are also other organizations including co-operatives and labor unions. In addition, there are tens of thousands of unincorporated organizations. Thus, it can be estimated that the number of nonprofits in a broad sense exceeds 500,000.

'Trust' is the key issue and a challenge for most nonprofit organizations. It is rather an old data but the Cabinet Office conducted a public-opinion poll on SNCs, which includes a question concerning trust in 2005. Among the respondents, only 6.5% says 'they can trust SNCs,' and 24.0% says 'they more or less trust SNCs' while 4.7% says 'they cannot trust SNCs' and 11.0% says 'they do not trust SNCs very well.' 40.7% says they have no opinion either way. (Figure 1)

⁹ NOPODAS (Database of nonprofit organizations) <http://www.nopodas.com/contents.asp?code=10001004&idx=100326>

Figure 1

Source: NPO ni kansuru yoron chousa (Public-opinion poll on Nonprofit organizations) Cabinet Office 2005.8



According to the 2013 Edelman Trust Barometer survey, 37% of the respondents say they trust nongovernmental organizations in Japan whereas ‘62% of markets surveyed have a trust score 50% or above.’¹⁰ In order to increase the trust level, nonprofits have taken the issue of accountability seriously and make efforts to improve accountability, transparency and governance of nonprofit organizations. Japan NPO Center, a national center for nonprofit organizations, mainly SNCs, worked on the trust issue with regional NPO centers and published ‘Seven

Requirements for NPOs to Gain Trust (Shinrai Sareru NPO no Nanatsu no Jouken)’ in 2004. Japan NGO Center for International Cooperation (JANIC), an umbrella organization of nearly 100 NGOs engaged in the provision of international assistance and humanitarian assistance, has worked on accountability for the past several years and launched an accountability self check in 2008. Registering a CSO depends on which Law a corporation is established under. It takes at least four months for attestation to become a SNC under the NPO law. In case of General Incorporated Associations and General Incorporated Foundations, it takes 2-4 weeks for registration. It takes at least four months for a General Incorporated Association or General Incorporated Foundation to obtain its charitable status.

¹⁰ <http://trust.edelman.com/slides/2013-edelman-trust-barometer/>

Scoring of Japan's Civil Society Regulation Provided by Kaori Kuroda

<p>Indicator Question 1: To what extent can individuals form and incorporate the organizations defined?</p>	<p>Score: 5.0</p> <p>'Rights of freedom of assembly and association' are secured by the Constitution. There are dozens of laws to regulate nonprofit organizations in accordance with their activities. Public Interest Corporation law established under Article 34 of the Civil Code in 1896 was the key legislation for private foundations and associations. Other Public Interest Organizations include social welfare corporations, medical organizations, private schools, and religious organizations that were authorized by special laws attached to Article 34.</p> <p>The Specified Nonprofit Corporation (SNC) Law, passed in 1998, substantially simplified the incorporation process of nonprofits. SNC is certified/authenticated by Prefectural government and registered at registry office. An approved SNC is given the privilege for tax-deduction for donations made to the organization.</p> <p>After many debates, Public Interest Corporation law was drastically amended to become 'Act on General Incorporated Associations and General Foundations' and 'Act on Authorization of Public Interest Incorporated Associations and Public Interest Incorporated Foundations' in 2008. Under this revision, General Incorporated Foundations and Associations can be easily established and registered at registry office. In order to be Public Interest Associations and Foundations, associations and foundations must receive authorization from the Committee for Public Interest Organizations. Benefits for Public Interest Organizations are the privilege of tax-deduction for contribution and tax-exempt status for the income related public-benefit activities.</p>
<p>Indicator Question 2: To what extent are CSOs free to operate without excessive government interference?</p>	<p>Score: 5.0</p> <p>In order to reduce the influence of governments, the NPO law requires a specified nonprofit corporation to disclose information and set the structure and governance of the organization. A specified nonprofit corporation must have at least 10 members, three directors, and one auditor as an officer. It is required to submit activity reports, inventory of assets, balance sheet, and statement of revenue and expenditure for the previous fiscal year within the first three months of each fiscal year as well as to keep these documents at its main office and to show a member or other interested party who asks to view.</p> <p>A specified nonprofit corporation may engage in one or more of the 'specified nonprofit activities' listed in the NPO Law, which includes health care, environmental work, education, disaster relief, youth activities, and international cooperation and others.</p> <p>The law restricts political and religious activities. It says that these activities are not for the purpose of propagating religious teachings, performing ceremonies, or educating or fostering believers, not for the purpose of promoting, supporting or opposing a political principle, and not for the purpose of recommending, supporting, or opposing a candidate (including a prospective candidate) for a public office.</p>
<p>Indicator Question 3: To what extent is there government discretion in shutting down CSOs?</p>	<p>Score: 5.0</p> <p>The governing body with jurisdiction is able to revoke its authentication of establishment of a specified nonprofit corporation when it violates an order specified in the Article of the NPO Law (Article 42) and has not submit an activity report, etc. for at least three years.</p> <p>A specified nonprofit corporation is able to request to hold public hearings concerning the revocation of establishment authentication.</p>
<p>Average Score on Civil Society Regulation: 5.0</p>	

**Scoring of Japan's Domestic Tax Policy
Provided by Kaori Kuroda**

Indicator Question 4: Are there income tax incentives (at national, state, or provincial levels) in the form of credits or deductions for individuals and/or corporations to donate money or charitable gifts?	Score: 4.0	<p>The tax deduction law for donations has been expanded in order to meet the demands of specified nonprofit corporations for the expansion of tax treatment. In 2011, the Japanese government approved a revision to the tax law. As a result, 50 % of donation amount can be deducted, in which 40% is deducted from one's income tax and 10 % is from the residential tax at the local level. The ceiling on eligible donations from individuals is 40% of one's total income. In the case of corporations, the donation should be included in the loss of money, up to a maximum of $(\text{capital amount} \times 0.25\% + \text{income amount} \times 1.25\%) \times 1/2$. In addition, donations for CSOs covered by the tax deduction law can be separately counted, whose limit is $(\text{capital amount} \times 0.25\% + \text{income amount} \times 5\%) \times 1/2$.</p> <p><i>(The country expert was not required to score this question; CGP applied a score of 4.0. On the positive side, tax deductions are available. On the negative side, there is a limitation on the percent that can be deducted and a ceiling.)</i></p>
Indicator Question 5: To what extent is the tax system favorable to making charitable donations?	Score: 4.0	<p>Even though the tax deduction law for donation has been expanded, about 70% of the people are not aware of the revision. (Japan Fundraising Association, 2011) There are still many donors who have not received tax returns because they did not know of this new system.</p> <p>In addition, the application process for tax return is still cumbersome.</p>
Indicator Question 6: Do CSOs receive tax exemptions in the form of property tax exemptions, income tax exemptions, or others? If so, what are these exemptions?	Score: 4.0	<p>Nonprofit organizations, corporations, and foundations certified as an organization pursuing public benefit, such as Approved Specified Nonprofit Corporations, Public Interest Corporations and some others, can receive income tax exemption for all of their activities. Other nonprofit organizations can receive income tax exemption only for their public service activities. The deemed contribution/ donation system is also applied to Approved Specified Nonprofit Corporations, Public Interest Corporations, Private Schools and Social Welfare Corporations and others certified as an organization pursuing public benefit.</p> <p><i>(The country expert was not required to score this question; CGP applied a score of 4.0. On the positive side, organizations can receive exemptions. On the negative side, there is a limit to which organizations can receive tax exempt status.)</i></p>
Indicator Question 7: To what extent is the tax system favorable to CSOs in receiving charitable donations?	Score: 4.0	<p>As institutional reform of charitable corporations was implemented in 2008 and the law to promote specified nonprofit activities (The NPO Law) was revised in 2011, it has become easier to get the tax deduction status. The required condition for nonprofits to be covered by the law was also relaxed last year. However, the CSOs that take advantage of this tax preferential status are still limited.</p> <p>The upper limit of the return is 25 percent of the income tax.</p> <p>Nonprofit corporations must pay taxes on income on '34 taxable activities' with some exceptions for Public Benefit Corporations.</p>
Average Score on Domestic Tax Policy: 4.00		

**Scoring of Japan’s Cross-border Flows Policy
Provided by Kaori Kuroda**

<p>Indicator Question 8: Are there costs/taxes on cross-border philanthropic cash and/or in-kind donations (e.g. customs, duties, VAT, etc) ? If so, what are these costs?</p>	<p align="center">Score: 4.0</p> <p>Charitable gifts are exempted from both customs and consumption tax in Japan. The tax deduction law does not cover foreign charitable institutions as being eligible for a tax deduction.</p> <p><i>(The country expert was not required to score this question; CGP applied a score of 4.0. On the positive side, charitable gifts are example from customs tax. On the negative side, there are no tax benefits in donating to foreign organizations.)</i></p>
<p>Indicator Question 9: To what extent is the legal regulatory environment favorable to cross-border flows impeded?</p>	<p align="center">Score: 4.0</p> <p>Although cross-border charitable donations can be sent or received without additional custom and tax, tax incentives cannot be obtained for international charitable donations. The tax deduction law does not cover foreign charitable institutions as being eligible for a tax deduction. Cross-border charitable donations are often sent through Japanese CSOs to charitable institutions abroad.</p>
<p align="center">Average Score on Cross-border Flows Policy: 4.00</p>	

Overall Philanthropic Freedom Score*: 4.33

***This score reflects equal weighting of the three categories described above.**