

Evolution of 'Legitimacy' Discussion of International Development NGOs
and its Absence in Japan

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Introduction

The question of NGO legitimacy is a complex one. Along with accountability, legitimacy has become a popular subject among NGO researchers and practitioners. Yet, it seems that international NGOs as a sector have already become powerful players in global governance before NGO legitimacy is fully analyzed and established. Some successful international campaigners that are engaged in global policy or advocacy work seem to have already claimed that they are legitimate players by actually succeeding in exerting influence, rather than by thoroughly analyzing their work, their relationship with funders, governments and constituents.

In Japan, however, the debate has just come to a starting point. As NGOs became more visible, Japanese policymakers, mass media and general public have begun to ask, with dubious eyes, “who are these people in the first place?” Accountability and transparency of NGOs and nonprofit organizations have been called into question as well.

This paper will attempt to situate the understanding of NGO legitimacy in Japan within the larger context of international debate on this question. In essence, the authors found that there is a very weak, if at all, understanding of NGO legitimacy debate in Japan, which might be a reflection of the lack of the debate itself in the international arena. It also points to the fact that there is an entirely different set of criteria by which the legitimacy could be formed.

2. Evolution of ‘legitimacy’ discussion of international development NGOs

Put simply, legitimacy of international development NGOs became a topic of serious discussion when they started to play crucial roles in global governance by making a clear political stance and working side-by-side with states and international organizations to create policies. Traditionally, the central role of NGOs in development was in carrying out development projects and delivering services in the field. In today’s complex global system, things have become not so straightforward. Globalization, complex emergencies, declining capacity of national governments and greater pressure for efficiency – all contributed to the re-thinking and re-shaping the role of international NGOs (Lindenberg and Bryant 2001). As a result, NGOs today are asked to transform themselves from working within the ‘development as delivery’ mode to ‘development as leverage’ mode. (Edwards 2002)

When NGOs started to play roles other than the service-provider role, the question of legitimacy came to the surface. Legitimacy is “generally understood as having the right

to be and do something in society – a sense that an organization is lawful, proper, admissible and justified in doing what it does and saying what it says, and that it continues to enjoy the support of an identifiable constituency.” (Edwards 1999b) What ‘right’ do NGOs have in speaking on behalf of a constituency, receiving financial support in analyzing global issues and exerting influence in policy matters?

Alan Hudson (2000:91) states that “legitimacy is central to the effectiveness of NGO’s advocacy work” and that the persuasiveness of advocacy, which of course has a direct link with the effectiveness, increases when legitimacy increases. In doing advocacy, NGOs have been challenged by 1) governments, international organizations and multinational corporations, 2) institutional funders and 3) southern partners. In a sense, therefore, it is a *backlash* to the fact that NGOs have become powerful actors in global arena, but NGOs cannot take these questions lightly, since they go to the heart of the new identity of NGOs, particularly those in the north, that are forming. In recent years, the importance of maintaining the legitimacy that comes from direct contact in consultative and participatory way with individual beneficiaries of the poor has been emphasized (Borden 2003).

David Brown (2001:64) lists four bases of legitimacy for NGOs concerned with influencing policies and politics. They are 1) moral legitimacy, 2) technical or performance legitimacy -- that NGOs have expertise, knowledge, information or competence that justifies their actions, 3) political legitimacy -- democratic representativeness, participation, transparency and accountability to constituencies, and 4) legal legitimacy. In a similar vein, Edwards and Zadek (2003: 211-213) pose representation, legal bases, competence, moral legitimacy and public benefit as the possible criteria of legitimacy for non-state actors involved in global governance. Yet, there have been no single set of criteria proposed to be the definitive understanding of what constitutes NGO legitimacy. Furthermore, these authors do not claim that NGOs are legitimate when they fulfill certain conditions.

Rather, these components are suggested as possible gauge for the legitimacy question. Moreover, aside from the legal legitimacy where NGOs can generally state that they are lawful and in compliance with the legal framework, NGOs can only *claim* that they are moral, that they have the technical expertise, and that they represent people they serve. These *claims* can be debated and discussed, but they would work as criteria only in so far as people agree that there are some bodies or institutions that could *validate* the claims. In the complex global system today, it is not certain who gets to decide, and it adds more confusion to the already complex debate with regard to the NGO legitimacy.

3. Japan’s international NGOs and the legitimacy question

Has legitimacy of NGOs become an issue in Japan?

In recent years, accountability has become a flavor-of-the-month topic for organizations in general in Japan, including NGOs. The word has been imported to Japanese lexicon and its translation has been introduced. Nonprofit organizations are making efforts to be pro-active in this area and their leaders promote the concept – mostly with a focus on financial accountability – and its practice. There have also been efforts of self-regulation. For example, The Japan NGO Center for International Cooperation (JANIC), an umbrella body of international NGOs (I-NGOs), has created a code of conducts that set standards of accountability for I-NGOs (www.janic.org).

On the other hand, legitimacy has yet to become an issue even among members of the NGO community or academia. The main reason is, although the NGO sector has grown significantly and their profiles have been heightened dramatically since the 1990s (Kuroda & Imata 2002), that NGOs are yet to become ‘major actors’ in Japanese society. To be more precise, NGOs have raised their profiles as providers of service in welfare, education, health, medical care, and some other fields at local, national and international levels for the past 10-15 years, but their involvement in policy formulation is still limited.

Why are Japanese NGOs yet to become legitimate policymaking actors in society? Traditionally, there was very little room given to nonprofit organizations particularly in policymaking. Historically speaking, nonprofit organizations were initiated or assisted in creating in a top-down manner by the governments as their societal partners to help implement their policies. As a result, established nonprofits had little relevance to ‘voluntary’ or ‘independent’ organizations (Kawashima 2000). The laws that regulate non-profit organizations were designed to reflect such government policy towards nonprofits. For example, the nonprofit public-interest corporation law enacted in the late 19th century, a central piece among the laws for nonprofits even today, requires approval and ‘guidance’ be obtained from an authorizing agency for the establishment of a public interest corporation (Silk 1999), service to the public interest to be defined -- often arbitrarily -- by regulating agencies, and adequate financial assets. While most of legally incorporated nonprofit organizations were integrated into the government’s welfare system, people’s movements emerged to protest harmful by-products of Japan’s economic growth, including pollution and environmental degradation in the 1960s (Wanner 1998; Kuroda 2000; Kuroda 2003). However, such activities were never fully coalesced into a strong national-level movement (Reimann and Forest 2002) or those activists failed to establish organizations to be professional. That is partly because their movements became weak when momentum gained by movements was lost once a tough measure was taken by the governments (Reimann and Forrest 2002; Marimo 1995; Kuroda 2003); partly because some movements were poorly organized and some became

adversaries of the government authorities and big businesses (Wanner 1998; Reimann and Forrest; Kuroda 2000; Kuroda 2003) which resulted in keeping the general public at a distance from their movements (Kuroda 2000). Moreover, such movements did not qualify under the laws for nonprofits at that time despite the fact that freedom of association was ensured under the constitution. Thus, emerging NGOs that were active and independent of government including some advocacy groups had to remain unincorporated in the legal system until the Law to Promote Nonprofit Activities, or so-called the new NPO law, was enacted in 1998.

Limitation of NGOs' involvement in policy making

The youths these days have increasingly been conscious of global issues, such as negative consequences of globalization, violation of human rights, sustainable development and poverty reduction. Today's anti-globalization movement that was born in November 1999 in Seattle was orchestrated largely through the internet (Clark 2003a; 2003b). In fact, anti-globalization movement involves a massive number of young people, specifically in the West. Membership of environmental and human rights groups is increasing, especially among young people (Edwards 1999). However, young people concerned about global issues are increasing only at a slow pace in Japan. A main reason for this may be the 'language divide' or lack of competency of English language among many Japanese. This makes sense when we consider that lots of information that goes through the cyberspace regarding globalization is in English and that most of it is raw information rather than processed, which requires skimming and digesting skills. Consequently, most Japanese people, albeit they are computer literate, are not able to actively participate in recent global campaigns of 'dot-causes' (Clark 2003a; 2003b) unless some individual or organization with high communication skills and a broad network is involved to play a coordinating or facilitating role.

This in return manifests the fact that most of Japanese NGOs are not yet able to tap into the potential of youth power. Similar to other Western nations today, Japanese youths show great interest in global issues, but they do not have enough sources of information that can direct them to cultivating more interest that leads to action. Here, Japanese NGOs are still failing to mobilize what could be very powerful segment of the population.

There are two notable corollaries to the fact that Japanese NGOs are not very active in policy formation. First, advocacy and campaigning do not attract *either* the government funding *or* private funding since the role of NGOs in policymaking and consultation is yet to be legitimized in public minds. In an upsurge of worldwide interest in the voluntary sector, the Japanese government became interested in including NGOs in

pursuit of the public benefit (Kuroda & Imata 2002). The Japanese government, which had formerly neglected NGOs in the Japanese Official Development Assistance, came to recognize their value in helping in distributing the ODA and has increased its funding support to NGOs for the past 15 or so years (Kuroda & Imata 2002). The different ODA dispersing agencies, including the Ministry of Foreign Affairs, Japan International Cooperation Agency which provide grants and technical assistance to developing countries, Japan Bank for International Cooperation which provides loans, and the Ministry of Finance started a consultation meeting with representative NGOs respectively in the late 1990s or afterwards to discuss ODA policy-related affairs on a regular basis. However, government funding tends to be channeled disproportionately to the provision of services on a project basis (Kuroda & Imata 2002). It is also true that NGOs tend not to seek the government's money for advocacy and campaigning work for fear of generating conflict of interest. The private foundations and companies are not good sources of funding, either. Because of the long sluggish economy, they have reduced their financial support to NGOs (Kuroda & Imata 2002). Even if they have some money for NGOs, they tend to follow the government's footsteps and prefer to fund service delivery. Thus, for their advocacy and policy work, some Japanese NGOs go after US private foundations and some membership-based organizations use its revenue from their membership (Reimann 2002).

Second, NGOs' policy work, advocacy and campaigning have not yet gained the public support when it is the public that can and should support advocacy work because it is the very area where governmental or other institutional funding is hard to come by. This may be attributable to that Japanese NGOs, with the exception of few established ones, do not make a considerable staff and resource investment to either develop strategies and tools for campaigning and advocacy or to expand and maintain a strong domestic support base (Kuroda & Imata 2002). Core advocacy NGOs active in environment and international development issues have much fewer members in Japan than those of North America and Europe (Reimann 2002). For example, WWF Japan has approximately 40,000 members (JANIC 2002) whereas WWF US enjoys more than 1 million (Ibid). Friends of the Earth Japan (now it is called FoE Japan) which is active in advocacy has fewer than 1,000 members. Because NGOs do not have the public support in doing advocacy, they cannot strengthen advocacy work which could appeal to the public and thus lead to gaining support, mostly from individuals – thus a vicious circle. This has a lot to do with the fact that many NGOs have yet to gain the public *trust*, either. Foster Plan, a member of Plan International conducted a survey of the Japanese public ranging from the age group of teens to 50s to find out the level of their interest in and recognition of international NGOs in 2000 and 2002. The results show that the percentage of respondents who recognizes the term NGO went up to 90.6 % in the 2002

survey from 54.1 % in the 2000 survey. However, what is more revealing is that those who 'trust NGOs' went down to 27.8 % in 2002 from 33.3 % in 2000. In fact, negative stories about nonprofit organizations are covered more in the mass media recently. Because NGOs are still not very well known to the public, a scandal of an NGO seems to worsen the image of the whole sector (SPA, November 6, 2003).

NGOs and policy work, advocacy and campaign

Thus far, we have described Japanese NGOs as immature 'policy entrepreneurs'. Nonetheless, some NGOs and NGO networks have begun to be fairly active in policy work, advocacy and campaigns. According to Reimann, there are at least three distinct types of organizations of advocacy NGOs mainly engaged in global environmental issues and sustainable development. A first type includes organizations that were founded prior to the 1980s with a primary focus on domestic issues and that started to become more active in global environmental issues in the 1990s (Reimann 2002:14). A second type includes professional advocacy groups, most of which were set up in the late 1980s and 1990s, such as the Japan Tropical Forest Earth (CASA), Friends of the Earth Japan (FoE Japan) and Greenpeace Japan (Ibid: 14). In fact, this second group is actively involved in policymaking and some campaigns and advocacy work have been quite effective and successful. A third type consists mainly of international development NGOs that have actively participated in advocacy campaigns in addition to their service delivery functions (Ibid: 14). Below are two cases in which NGOs successfully worked as professional advocacy groups. One was effectively involved in the creation of environmental guidelines for an ODA agency and the other worked with a company to develop an environmentally sound line of refrigerators.

Japan Bank for International Cooperation (JBIC) was established in October 1999 by combining the Japan Export Import Bank and the Overseas Economic Corporation Fund. When the Bank was established, JBIC had two different guidelines, one for the International Finance Operations and the other for the Overseas Economic Corporation Operations. JBIC, thus, made a plan to establish new and integrated environmental guidelines to be applied to both operations. In the process, JBIC were careful about keeping the procedure and discussions as open, inclusive and transparent as possible.

As soon as JBIC announced its plan to integrate the two guidelines to make new ones, a study group on environmental guidelines for JBIC was formed in October 2000 to discuss the contents of new and integrated guidelines based on which they would make recommendations to JBIC. The study group was composed of NGO activists, a parliamentarian, government officials from the Ministries of Environment, Foreign Affairs and Finance, and staff members of JBIC. After intensive discussions were held at 16

meetings between October 6, 2000 and July 25, 2001, the study group made its recommendations which contributed to the making of the environmental guidelines for JBIC (www.sg-egl-jbic.org/topE.htm). Representatives from FoE Japan with a few other NGOs participated in the study group. FoE Japan in particular took the initiative to share the study group discussions with wider civil society organizations by disseminating information through internet, holding meetings and other means, and try to reflect views of a wider part of society into the guidelines (www.foejapan.org). Not only in participating in the study group, FoE Japan and some other NGOs were very active in bringing attentions of many people from different backgrounds to the guidelines to make the whole procedure more open and transparent.

Taking these recommendations into account, JBIC also invited comments from the general public for two months and held consultation forums six times from December 2001 to March 2002 to exchange views with participants who represented a broad spectrum of civil society (www.jbic.go.jp). Finally, JBIC issued 'Japan Bank for International Cooperation Guidelines for Confirmation of Environmental and Social Considerations on April 1, 2002. It also issued the 'Procedures to Submit Objections Concerning Japan Bank for International Cooperation Guidelines for Confirmation of Environmental and Social Consideration' after receiving many inputs from the public, NGOs, industry and academia (www.jbic.go.jp).

The main features of the new guidelines include 'promotion of community participation and emphasis on dialogue,' 'environmental and social considerations,' and 'active information disclosure.' The guidelines are significant in that 1) its creation was carried out in an open and transparent manner and thus reflected views of a wider public; 2) they were made as a result of effective collaboration among NGOs, academia and government officials; and 3) the objection procedures were drawn up a year later by the strong recommendation of NGOs. The guidelines were implemented on October 1, 2003.

Another case is a successful 'Greenfreeze' campaign by Greenpeace Japan. 'Greenfreeze' are refrigerators with use of no chlorofluorocarbon (CFC) or CFC alternatives. When natural fluid (HC) refrigerators were developed in Europe in 1992, Greenpeace which wanted to make this technology available in Japan initiated a large-scale promotion (Matsushita 2003). HC refrigerators contain no CFC or hydrofluorocarbon (HFC) that damage the ozone layer and thus promote global warming. In the campaign, Greenpeace organized a series of seminars for corporate members, and working directly with parliamentarian to stop using CFC (www.greenpeace.or.jp).

In 1999, a leading manufacturer, Matsushita Electric Industrial Co., Ltd. announced that it developed HC refrigerators in Germany. It followed that Greenpeace Japan strongly urged Matsushita to produce Greenfreeze in Japan. After having repeated dialogues with Greenpeace Japan, some of which are quite confrontational, and

overcoming the technical and legal difficulties that had hampered the start of HC refrigerators in Japan, Matsushita succeeded in developing them in Japan. Matsushita then encouraged other manufacturers in the industry to follow. Going to an electric appliance shop today, we will see HC refrigerators produced by leading manufacturers, including Matsushita, which attract many consumers who are concerned about global warming.

Advocacy and policy work of international development NGOs

We have other cases where Japanese international development NGOs that actively participated in advocacy campaigns in addition to their service delivery functions. It is quite natural that NGOs begin to expand their activities to include policy work when they reach a certain stage of their organizational development. Japan International Volunteer Center (JVC) is one of the oldest international development NGOs in Japan that has long stressed its research and advocacy function. JVC's president, together with some NGOs, legal professionals and researchers, founded the People's Forum on Cambodia, Japan (PEFOCJ) in 1993. PEFOCJ works closely with local NGOs and grassroots organizations in Cambodia, conducts research and carries out advocacy for policy change concerning issues faced by Cambodian people (Kuroda 2003). Their research ability is highly valued by peer NGOs, researchers and donor community. World Vision Japan, one of the biggest NGOs in Japan, established an advocacy division under the auspices of the country director's office a few years ago. JOICFP, another leading I-NGO in Japan, advocates on the issues of population and sexual and reproductive health, and takes extensive and various approaches to promote its advocacy activities to raise awareness on population and SRH issues and mobilize resources for this line of work (www.joicfp.or.jp). It is linked with other like-minded international organizations' advocacy work to have greater impact. One of the sector-based networks formed in recent years with the assistance of the Ministry of Foreign Affairs, Japan NGO Network for Education (JNNE), is active in putting pressure on government offices and international organizations for a better education cooperation policy, specifically an increase of ODA channeled to primary education. Another network of NGOs working on the issue of rehabilitation in the northeast region of Sri Lanka was launched this year. As previously mentioned, there are other NGOs which have consultation meetings with respective ODA agencies. These are only a few examples but shows that NGOs are steadily expanding their activities to include policy and advocacy work.

The legitimacy question in Japan

It is a welcoming sign that NGOs acquire knowledge, expertise and skills to be involved in policy dialogue and formation. If they are successful, however, NGOs in Japan will soon be faced with questions regarding their legitimacy. By trying to be influential and exercising their power over policy matters, NGOs inevitably will be scrutinized for their representation, expertise and support. Their accountability will be questioned not only to their donors but also to the “downward” direction. Legitimacy needs to be established as a pre-requisite for an NGO to make a difference in policy and laws. It will be a challenge for Japanese NGOs, especially those which will have a hard time securing enough resources to be responsive to this set of questions.

We have mentioned at the outset that legitimacy of NGOs has not become an issue in Japan. Does it mean that hundreds of thousands of nonprofit organizations that exist in Japan today have not been challenged with the legitimacy question? Probably not, if we are asking the question from the standpoint of the recent discussion of NGO legitimacy in the West. However, Japanese NGOs have been challenged with a different line of questioning with regard to their legitimacy – which has a lot to do with *authority*.

The Japanese word *okami* literally means ‘god,’ but in everyday usage it refers to the government. As previously mentioned, the central government bureaucracy was the decision-making authority that held jurisdiction over the public interest in Japan until quite recently (Yoshida 1999). In addition, they were prime determinants of policies and this was widely accepted by the general public (Takesada 1999). The people of Japan entrusted *okami* or the state as supreme overlord in policy matters (Takesada 1999, Kusumi 2002). When *okami*’s policy does not live up to the people’s expectation or fulfill their needs, the people will lodge a protest against it but they will never negate the authority of *okami* (Takesada 1999). After the 1990s, a series of scandals involving bureaucrats have led many Japanese to conclude that Japan’s bureaucracy-centered society had begun to malfunction (Kuroda 2000), *okami* still means much to many people. There is a phrase, ‘*okami no osumitsuki*,’ meaning ‘guaranteed by the state as supreme overlord’. As mentioned, core laws to regulate nonprofits which existed before 1998 required approval and guidance from an authorizing agency for the establishment of an organization. Thus, the authorizing agency was the one, and the only one, which can put a legitimacy stamp to the nonprofit organization. Interestingly, such laws did not have a clause that directs an organization to disclose information, unlike commercial laws. In fact, the new ‘NPO law’ promulgated in 1998 was the first law which stipulated information disclosure. It is as if saying that once the organization has the government legitimacy stamp, it would be enough. Furthermore, there are still a lot of people who feel that the organizations incorporated under the new NPO law have gained some ‘approval’ from the state, although it is not the case with this new law, where the organizations with proper paperwork can ‘register’ itself to become a nonprofit

corporation.

Another aspect of Japanese version of legitimacy is brand and history. An organization with a long history have built certain 'public trust', 'credibility' and perhaps 'legitimacy' as well, such as the Young Men's Christian Association (YMCA), Rotary Club, Boy Scouts, Girl Scouts, The Wild Bird Society of Japan, and Ashinaga which provides orphans with scholarship support. Of course a brand name and history are a part of what counts in the legitimacy criteria proposed by Brown and Edwards & Zadek, but they stand out as conspicuous characteristics that make Japanese organizations look 'legitimate.'

Conclusion

There is no question that NGOs, regardless of where they are located, need to take the issue of legitimacy seriously as it tries to influence policy and politics, and Japan is no exception. There was a general election on November 9th, 2003 in Japan. One of the debates that could tip the voters' mind between the ruling coalition parties and the opposition parties was concerning the reform of Japan Highway Public Corporation. The trend is to privatize quasi-governmental corporations that have been working as operating arms of ministerial functions. Privatization of some of public corporations had been a contested issue for some time in Japan, including JHPC. Most public corporations also known as 'special corporations' (*tokushu hojin*) are government-led corporations and have a relatively long history of existence. They may have been given 'legitimacy' in the Japanese context described in the previous chapter. However, in recent years it has become apparent that these corporations do not possess many of the characteristics mentioned in the legitimacy criteria. For example, they lack transparency – they do not have simple double-entry bookkeeping system and thus adequate financial statements. To the surprise of many Japanese, most of local governments in Japan were not producing a double-entry bookkeeping until quite recently due to the extraordinary budgeting systems. Perhaps, it would be good for Japanese NGOs to take the lead and give serious thoughts to the issue of legitimacy, as different models of legitimacy need to be explored, replacing the old *okami* legitimacy mode.

A second point relates to the first one. The issue of legitimacy should be addressed to not only international NGOs in Japan but to others. It should expand to include hundreds of thousands of nonprofit corporations as well as others types of organizations in different sectors. NGOs are in an adequate position to create a forum to bring together representatives from NGOs, government offices, public-benefit corporations, universities, and media to discuss the issue, which is important for the future of the society.

Third, NGOs should try harder to raise awareness among the general public of the issue of legitimacy. In order to hold organizations accountable and ask for legitimacy, the general public should play a significant role. It is fair to say that lack of 'noisy' public made hundreds of 'fishy' organizations intact in Japan. Highly-motivated and socially conscious public may ensure a good check and balance for the society. It is a challenge for NGOs to work with the wider public. However, NGOs need to strengthen their links with the public as they try to work 'in the mainstream.' Or conversely, if they want to upgrade themselves to become a mainstream actor, they ought to build greater constituency in their own society. This is indeed a basis for representation, one of the criteria for the legitimacy question.

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PAGE

PAGE 15