



## Case Story

### Japan Citizen Ombudsman Association

#### 1. Background

In Japan, a number of citizen groups (known locally as “Non-Profit Organizations” or NPOs) focus on corruption. Among them is the Japan Citizens' Ombudsman Association or JCOA, a watchdog group that has taken advantage of Japan's decentralization. JCOA is a network whose members include a large number of lawyers and longtime activists who have organized and coordinated disclosure request campaigns about falsified business trips, bureaucrats wining and dining bureaucrats, and unaccountable granting of subsidies to auxiliary organizations, among others. JCOA's work has had a nationwide effect in terms of bringing about change and improvement in local government through litigation.<sup>1</sup>

JCOA grew out of several citizen initiatives in various parts of the country. The first such citizen's ombudsman came about in the 1980s, as a result of numerous bribery cases in Osaka, Japan's third largest city and its commercial and economic powerhouse. A similar initiative followed in the 1990s in Nagoya. In 1993, the Governor and Mayor of Sendai were arrested on account of unfair bidding practices. *Sendai* is the capital city of Miyagi Prefecture; it is the largest city in Japan's northeast region. Thus, a “Citizen's Ombudsman” was formed in Sendai City as well. After that other Citizens' Ombudsman came about in other prefectures and big cities, including Tokyo. In 1994, these Citizens' Ombudsman convened and formed the Japan Citizen's Ombudsman Association.

“If only one group says that the local government has to change, it is not easy to succeed,” says Mr. Takashi Uchida, a member of the JCOA head office. “But when many groups in Japan say that the local governments have to change, we'll have great power to make them change.”

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<sup>1</sup> Jonathan Marshall, “Here comes the judge: Freedom of Information and Litigation for Government Accountability,” in *Social Science Japan*, April 2002.



## 2. Gains and Achievements

Among the first gains of the Association was to learn from each other's experiences on how to investigate local governments, especially demanding the disclosure of information. This enabled Association members to retrieve a lot of information that was not previously open to the public. In 1995, the Association discovered numerous entertainment expenses and fake official travels of government officers paid for by taxpayer money. This prompted the Association to demand the disclosure of information in all of Japan's 47 prefectures. The Association tapped NPO friends in the prefectures to help gather information. In doing so, many Citizens' Ombudsman came about all over Japan.

Although audit committees are present in the local government, half of its composition are chosen and appointed by local government official, while the rest are former government employees who may not represent the interest of the public. In 1996 the Japan Citizens' Ombudsman Association exposed the supervisory auditor's business trip in 1996. In response, the government amended the law in 1999 to add an external audit system in local governments that included a lawyer, accountant, and tax accountant who were required to draft audit reports.

To add value, the Japan Citizens' Ombudsman Association decided to compile and examine all the audit reports to make a Report Card of External Audit. Since 2000, copies of the report cards were disseminated to the external auditors and the media. The news media is an important partner, says Mr. Uchida.

There are many citizen groups in Japan. But we are the first to investigate local and central governments and report the results to the public. The news media wants to know our activities. The media has a great influence on the public. Our activities wouldn't succeed without the support of the public. So every time we get good information from government, we hold a press conference. We always have a good relationship with the media. We also have a website. There, everyone can read our reports.



### 3. Tools, Techniques, and Approaches

- Monitoring the external auditing process:

In Japan, there are audit committees in local government. However, assemblymen must choose half of the auditors, and almost all others are government retirees. It is a dysfunctional system. In 1996, JCOA exposed the supervisory auditor's business trips that were reported on paper but never really happened. The rules on auditing were changed in 1999 to include an external audit system. Incorporated into the system was an outside lawyer, accountant, and tax accountant.

The external audit mechanism applies to all local governments in Japan, consisting of 47 prefectures, 17 big cities, and 39 medium cities). The external auditors prepare the audit reports, which, since 2000, JCOA has been making available to the public and the news media in a Report Card of External Audit. In general, JCOA finds that external auditors tend to do a better, stricter auditing job.

JCOA keeps a close watch on these external auditors to prevent them from becoming a "second audit community" that did not function. When the external audit mechanism began, for instance, external auditors – who are paid for by the local government – did not produce comprehensive audit reports. One audit report consisted of only six pages for which, the external auditors received payment of 11.55 million yen. JCOA protested and sued the external auditors to return the money. Nowadays, external audit reports have become very thorough, sometimes running to over 300 pages.

- Establishing bid ratio for public construction projects:

Bid rigging (*dango* in Japanese) is prevalent in Japan's construction industry. Budget ceilings are supposed to be confidential but some politicians leak the information, which result in wasting a considerable amount of taxpayers' money. In 2001, the law was amended to disclose the ceiling price.

JCOA takes advantage of this amendment to write yearly reports that rank local governments



based on successful bid ratios. JCOA does this by calculating the bid ratio based on the amount of tender and ceiling bid price (Bid Ratio = Amount of tender / Ceiling bid price).

Aside from this, JCOA also calculates the successful bid ratio for 47 prefectures, 17 big cities, and 33 medium cities. JCOA calculates that local governments might have overpaid up to 1.16 trillion yen in public work budgets in fiscal 2005 alone due to big rigging.

- Maintaining independence from government:

JCOA maintains its independence by not entering into any financial relationship of any kind with local and central government agencies. It has never received any subsidy from government. It also does not receive money from private companies.

JCOA depends exclusively on membership fees, donations, and by selling books. Every time JCOA wins a court case against a local government involving over-charging in a government contract, the settlement includes the local government paying the fees of JCOA's lawyers. Sometimes, JCOA's lawyers donate part of their fees to the Association.

#### 4. Challenges

- In terms of the external audit mechanism, there is a weakness in that local governments are obliged to follow the recommendations of the external audit report. This means even if the external auditors make a good report, many local governments ignore the external audit report, no matter how good the report might be.
- Japan enacted an NPO Law in 2000. Mr. Uchida's opinion is that the law does not work well. He believes it prevents NPOs from expanding and scaling up their work. By law, citizen groups have to register with the government to be recognized as NPOs.
- Some NPOs receive subsidies from governments and companies, and become de facto employees. However, governments always treat NPOs as subordinates and use them as a means of cutting down on costs. Should an NPO work against a government agency, that



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agency pulls out the subsidy and will not work with that NPO in the future. “Generally speaking,” says Mr. Uchida, “governments hate the groups that check on their performance or that work against them.”

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