

# Japan

## Country Background

Japan is an island chain between the North Pacific Ocean and the Sea of Japan, east of the Korean Peninsula. It is divided into 47 prefectures overseen by an elected governor, legislature and administrative bureaucracy. The population for 2009 is estimated at 127,078,679. Per capita income increased from US\$ 33,400 (2006) to US\$ 34,000 in 2008, US\$200 less than the 2007 income due to the economic slowdown experienced globally.<sup>21</sup>

<sup>21</sup> <https://www.cia.gov/library/publications/the-world-factbook/geos/mg.html>

The annual population growth rate for 2009 was estimated at -0.191%. The average life expectancy at birth is 82.12 years (85.62 for women and 78.2 for men).

### A Glimpse of the Present: Economic and Political Conditions

Japan's political and economic systems are closely tied to their culture. "Many aspects of Japanese social life deemed traditional – sense of community, vertical hierarchies, group-orientedness, flexible adaptation – continue to be reproduced and in some cases powerfully reinforced by government, schools, and corporate management."<sup>22</sup> This leads to institutionalized networks that provide a "considerable source of coordination, information flow, and patterned choices" in the Japanese economy. They also "interact with market mechanisms," and "lend power to regulative efforts."<sup>23</sup> Ultimately, strong relationships are formed between the government and industry, companies and unions, and firms and their subcontractors.

In 1999, the Omnibus Bill of Decentralization was signed into law, and implemented in 2000. This Law was supposed to clarify the roles of central and local governments, build a new relationship between them, and retain an effective administrative framework for local government.<sup>24</sup> This reform was considered important because Japan had an excessively "centralized" governance structure. However, local governments continued to be dependent on the central government. "Subsidies from the national treasury, such

as local allocation tax and national grants account for 35% of total local government revenues."<sup>25</sup> Given this, the Council of Economic and Fiscal Policy (CEFP) created the "Trinity Reform Package," in 2003 to decentralize local tax, Local Allocation Tax grant, and the national government disbursement. This was done to bolster the country's economy by devolving substantial public services to local governments, while it squeezed local government expenditure resulting to a strengthened central control.

Decentralization is controlled in Japan. Day-to-day operations of the local government continue to be monitored by the central government. On the other hand, procurement of public works is administered by the local governments. Because of this, the Japanese system is described as "completely centralized with insignificant local autonomy."<sup>26</sup> In a nutshell, although "public business is widely implemented by local governments, it is not decentralization of political power or legal authority, but merely delegation of functions."<sup>27</sup>

Despite the major slowdown of Japan's economy that started in the 1990s after three decades of unprecedented growth, the country continues to be a major economic power, both in Asia and globally. Japan is the fourth largest economy in the world in terms of purchasing power parity.<sup>28</sup>

22 Donnelly, M.W. (December 1993). Networking in Japan's political economy. *Asian Journal of Public Administration*. Vol. 15, No. 2: 267-279.

23 The political economy of Japan. (1992). In *Cultural and Social Dynamics*, edited by S. Kumon and H. Rosovsky. Stanford, California: Stanford University Press.

24 <http://coe21-policy.sfc.keio.ac.jp/ja/wp/WP30.pdf>

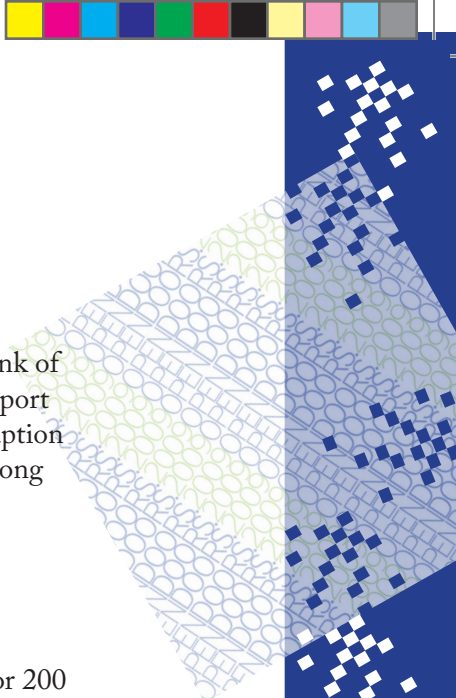

25 <http://www.nli-research.co.jp/english/economics/2004/eco040122.pdf>

26 Akizuki, K. (2001). Controlled decentralization: Local governments and the Ministry of Home Affairs in Japan. World Bank Institute.

27 Ibid., page 1

28 2009 CIA World Factbook, <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2001rank.html>





It also has a huge industrial capacity and is home to some of the biggest, leading and most technologically advanced producers of motor vehicles, electronic equipment, machine tools, steel and nonferrous metals, ships, chemicals, textiles and processed foods.

In 2008, the country entered into a recession. Although the Japanese financial sector was not heavily exposed to sub-prime mortgages, a sharp downturn in business investment and global demand for Japan's exports pushed the country further into recession.<sup>29</sup> By the end of the second quarter of 2009, Japan came out of recession as its economy grew by 0.9%. Although correspondents say the rise is due to a huge government stimulus package, it remains unclear whether the upsurge will be sustained once the package ends.<sup>30</sup>

In the 2009 index of economic freedom published by the Heritage Foundation and the Wall Street Journal, Japan ranked 5th among the 41 countries within the Asia-Pacific region.<sup>31</sup> It is one of the few countries with the highest Human Development Index (HDI) rank. For 2009, the United Nations Development Program's score for Japan was 0.960, receiving the 10<sup>th</sup> place out of 182 countries examined.<sup>32</sup> Based on 2007 indicators, the country's

29 [http://www.theodora.com/wfbcurent/japan/japan\\_economy.html](http://www.theodora.com/wfbcurent/japan/japan_economy.html)

30 <http://news.bbc.co.uk/2/hi/8204075.stm>

31 <http://www.heritage.org/Index/country/Japan>

32 The HDI provides a composite measure of three dimensions of human development: life expectancy, adult literacy and gross enrolment in education, purchasing power parity, and income.

Human Poverty Index-2 (HPI-2)<sup>33</sup> is at 11.7, giving it a rank of 12 among 19 countries. In the 2009 Global Corruption Report of Transparency International, Japan's ranking in the corruption perception index slid from 17<sup>th</sup> in 2007 to 18<sup>th</sup> in 2008 among 180 countries.<sup>34</sup>

### A Peek into the Past: Historical Backdrop

In 1603, a Tokugawa shogunate (military dictatorship) implemented a policy of isolation from foreign influence for 200 years. Following the Treaty of Kanagawa with the United States in 1854, Japan opened its ports and began to intensively modernize and industrialize. During the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, Japan became a regional power that was able to defeat the forces of both China and Russia. It occupied Korea, Formosa (Taiwan), and southern Sakhalin Island. Japan attacked US forces in 1941 triggering America's entry into World War II, and soon occupied much of East and Southeast Asia. After Japan's defeat in World War II, they recovered to become an economic power and a staunch ally of the US.

The Constitution of Japan has been the founding legal document since 1947. It provides for a parliamentary system of government and guarantees certain fundamental rights.<sup>35</sup> This was drawn up

33 HP-2 is used for selected OECD countries. HP-2 measures "A composite index measuring deprivations in the three basic dimensions captured in the human development index — a long and healthy life, knowledge and a decent standard of living — and also capturing social exclusion."

34 [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2008](http://www.transparency.org/policy_research/surveys_indices/cpi/2008). The Transparency International annual Corruption Perceptions Index (CPI) for 2008 ranks countries as per 'the degree to which corruption is perceived to exist among public officials and politicians'. The 2008 CPI scores 180 countries (same number as in the 2007 CPI) on a scale from zero (highly corrupt) to 10 (highly clean).

35 <http://www.ndl.go.jp/constitution/e/etc/c01.html>

under the Allied occupation that followed World War II, and was intended to replace its previous militaristic absolute monarchy system with a form of liberal democracy. Under its terms the Emperor of Japan is “the symbol of the State and of the unity of the people” and exercises a purely ceremonial role. The Prime Minister of Japan is the head of government. The position is appointed by the Emperor of Japan after being designated by the Diet from among its members and must enjoy the confidence of the House of Representatives to remain in office. The Prime Minister is the head of the Cabinet and appoints and dismisses the Ministers of State, a majority of whom must be Diet members.<sup>36</sup>

#### A Look into Reforms Towards Good Governance

Japan’s administrative reform in 2001 intended to transform a traditional bureaucratic state to a more business-like organization. The reform aimed to improve efficiency in government spending, provide high-quality public services, invigorate the administrative organization, and contain fiscal burdens. Specific measures were designed to:

1. Maximize the use of market mechanisms in providing public services by promoting privatization, private sector consignment, public finance institutions, and formation of incorporated administrative agencies;
2. Enhance public management competence through pre-project cost-effectiveness evaluation, clarification of responsibility for performance and results, and post-project evaluation; and
3. Increase public accountability through greater disclosure and introduction of accrual-based public accounting.


36 <http://www.kantei.go.jp/foreign/index-e.html>

This reform effort resulted to improved transparency of administration through the public disclosure of government information that covered operation manuals, workplans, financial materials, reports on operations, results of evaluations by the Evaluation Committees, and salary standards, among others. Disclosure is done through electronic media, publication in gazettes and other printed materials.<sup>37</sup>

Additional measures were subsequently taken to further consolidate the results of reforms. Japan joined the Asian Development Bank/Organization for Economic Cooperation and Development (ADB/OECD) Anti-Corruption Initiative for Asia-Pacific in November 2001 and is represented in the Steering Group through its Permanent Delegation to the OECD. In 2006, the laws relating to administrative reform were established. The Administrative Reform Promotion Law of 2006 prescribes the basic principles for administrative reform for the purpose of realizing simple, efficient government. The Law Relating to Reform of Public Corporations promotes the healthy development of the non-profit private sector. The Public Service Reform Law aims to improve the quality of public services while reducing their cost through, for example, the introduction of public and private sector competitive bidding.

The World Bank defines corruption as the abuse of public office for private gain. In Japan, efforts to curb corruption remain strong. The country participated in several international treaties on anti-corruption. Aside from their membership in the ADB/

37 [http://www.kantei.go.jp/foreign/central\\_government/frame\\_03.html](http://www.kantei.go.jp/foreign/central_government/frame_03.html)



OECD Anti-Corruption Initiative, Japan also signed (but not ratified) the UN Convention Against Corruption in 2003.

### *Anticorruption*

In line with Japan's commitment to implement its Anti-Corruption Plan under the ADB/OECD Anti-Corruption Initiative, the country addressed issues of transparency and accountability. To develop systems for effective and transparent public service, salaries of government employees under the National Public Service Law are determined by law and revised to be more competitive based on market prices. Likewise, it states that promotions or appointments of civil servants should be based on merit. The Ethics Law for Public Officials requires them to report gifts they have received with a monetary value exceeding 5,000 yen. However, this can only be made public (upon request) if the gift exceeds 20,000 yen.

To enhance public accountability, Article 28 of the Public Finance Law stipulates that required documents should be attached to the budget submitted to the Diet. The Board of Audit of Japan audits from the viewpoints of accuracy, regularity, economy, efficiency, effectiveness and others as prescribed in Article 20 of Board of Audit Law. Among the above-mentioned viewpoints, "regularity" is a very crucial factor in terms of anti-corruption measures because it focuses on whether or not the projects or programs are administered in conformity with the budget, laws and regulations.

To support active public involvement, the Information Disclosure bill was enacted into law. This empowers the public to request the disclosure of documents held by ministries and public corporations

### *Procurement Initiatives*

Japan has a number of ordinances and laws that provide safeguards on public procurement, but has no specialized procurement body. The basic framework for Japan's government procurement is provided by its membership in the World Trade Organization (WTO) Government Procurement Agreement (GPA), which places emphasis on the principle of non-discrimination between domestic and foreign suppliers, and the 2001 Act for Promoting Proper Tendering and Contracting for Public Works that promotes the principles of transparency, fair competition, proper implementation of works, and abolishing improper actions. The Proper Tendering Act provides measures that can be taken to prevent bid-rigging related to public works contracts, including notification of improper actions to the Japan Fair Trade Commission (JFTC), which may demand that heads of ministries take necessary actions to eliminate bid-rigging.<sup>38</sup> The Accounts Law stipulates that procurement must be based on open tendering to ensure fair competition. According to Act Concerning Elimination and Prevention of Involvement in Bid Rigging, heads of ministries and agencies must implement improvement measures on the administration of

38 <http://www.kantei.go.jp/foreign/procurement/2006/ch/ FY2006ch1-3.pdf>

bidding and contracts that are necessary for eliminating tender fixing. Any action that is proven to be otherwise shall mean dismissal, suspension from duty, reduction in pay or reprimand, and other sanctions in the case of specified corporations.

GPA provisions cover government procurement contracts above a specified value threshold. In line with GPA requirements government procurement is conducted without restrictions on supplier nationality or origins of products and services. An agreement was reached in 2002 among all government ministries on measures to ensure non-discriminatory, transparent and fair procurement of computer information systems. The law now includes several features aimed at enhancing these characteristics. A practical guidebook regarding Japan's overall government procurement system and tendering procedures is published annually and is available on the internet in both Japanese and English.

Information on tenders is published in the official gazette ("kanpo") at least 40 days prior to bid closing dates, and tenderers are promptly notified of the outcomes of bids, including name and address of the winning tenderer, coverage of the contract, date of award, and successful tender price.

An on-line system for submission and opening of bids via the Internet has also been established since the government plans to move to an electronic contracting system in the near future. There are different

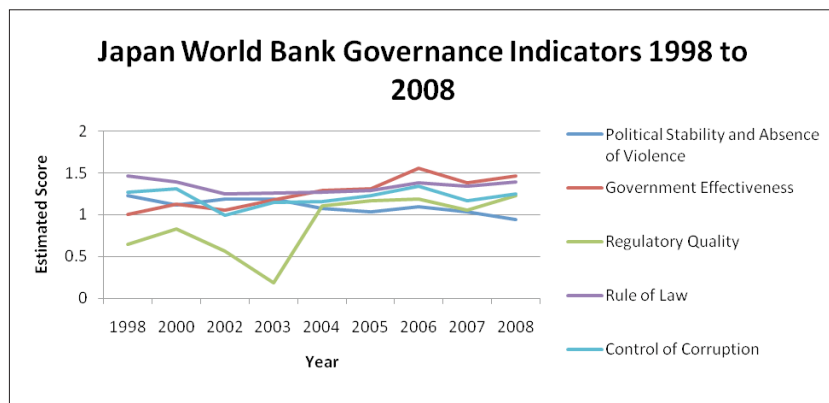
modes of procurement -- open tendering, selective tendering or single tendering. Bids are opened in the presence of the tender representatives at time and place stipulated in notice of tender, however, awarding of the contract varies and may not always be given to the lowest bidder. The choice of the winning bidder is not generally explained.

The Government Procurement and Review Board<sup>39</sup> is Japan's system for reviewing complaints on public procurement. The Office for Government Procurement Challenge System receives and processes specific complaints to ensure greater transparency, fairness, and competitiveness in the government procurement system. Complaints may be filed by persons or organizations participating in the procurement or those concerned or qualified to do so.

Table 1 shows findings from the 2008 World Bank Governance Index Report. Despite criticisms hurled by civil society against the government for not seriously enforcing laws against foreign bribery, as one of Japan's commitment to the OECD Anti-Bribery Convention of 1997, the Regulatory Quality indicator has increased. In a similar trend, although foreign investors complain of corruption due to close relationships among companies, politicians, government organizations, and universities, the indicator for the Control of Corruption has also moved upward. With the exception of Political Stability and Absence of Violence/Terrorism, all the indicators showed an upward trend.

39 [http://www5.cao.go.jp/access/english/chans\\_main\\_e.html](http://www5.cao.go.jp/access/english/chans_main_e.html)

**Table 1 World Bank Governance Indicators for Japan (1998-2008)<sup>40</sup>**



### Overview of Civil Society Organizations (CSOs)

In Japan, civil society organizations and/or non-government organizations are locally known as Non-Profit Organizations (NPOs). The NPO bill enacted in 1998 defined 12 groups of non-profit activity. Some of which are: health and social welfare, social education, community development, environmental protection, disaster-relief activities, community safety, human rights international peace, and international cooperation. To date, there are more than 6,000 NPOs incorporated in Japan as Specified Nonprofit Corporations since 1998.

40 <http://info.worldbank.org/governance/wgi/pdf/c113.pdf>

### A Picture of Years Gone by: A Brief History of CSO Involvement

Excessive government intervention in NPO affairs has been consistent with the country's system of state-centric governance. The extent of the government subsidies and commissioned work given to registered NPOs is an indicator of their degree of dependence on their competent authorities. Of the 26,089 incorporated NPOs in fiscal year 1995, 5,000 received subsidies while 3,781 organizations received commissioned contracts. The limited availability of tax incentives for financial contributions to NPOs makes it extremely difficult for these organizations to maintain their autonomy from government agencies. Due to the complex process of incorporation, many NPOs run without a legal entity.<sup>41</sup>

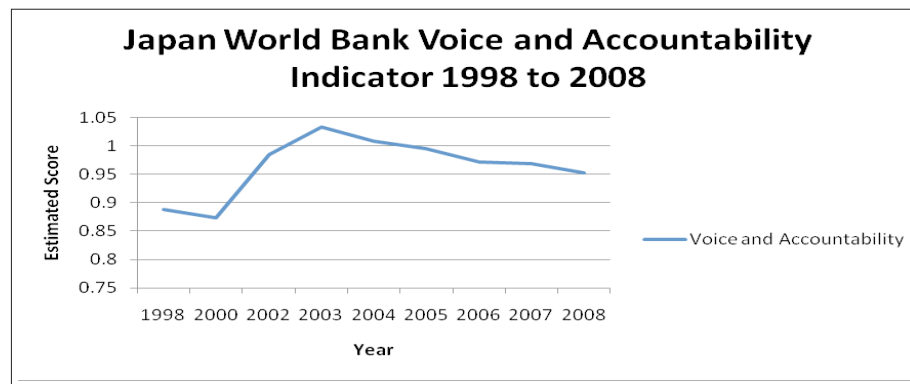
However, some NPOs have been able to exploit certain provisions in the law that gave rise to citizen activities in Japan. According to the Local Government Law, local referendums can be activated by the direct demand of 2% of citizens who live within the community. Issues taken up by the NPOs vary, but are more in tune with the grassroots due to the people-centered nature of their activity. Given this, they enjoy a wide latitude and influence within local government units. Likewise, their small size and flexible administration allows them to avoid the complex procedures and politics that slow government decisions.

41 [http://www.jcie.or.jp/thinknet/pdfs/public\\_yamamoto.pdf](http://www.jcie.or.jp/thinknet/pdfs/public_yamamoto.pdf)



The active participation of CSOs in Japan is reflected in the aggregate indicator on Voice and Accountability published by the World Bank below:

**Table 2: World Bank Voice and Accountability Indicator for Japan (1998-2008)<sup>42</sup>**



### A Glance at CSOs Involvement in Governance Reforms

By taking advantage of local referendums, the Japan Citizens' Ombudsman Association was formed. It is a network of groups whose members include a large number of lawyers and longtime activists who organize and coordinate disclosure request campaigns about falsified business trips, wining and dining bureaucrats, and unaccountable granting of subsidies to auxiliary organizations, among




<sup>42</sup> <http://info.worldbank.org/governance/wgi/pdf/c113.pdf>

others. Their entry has had a nationwide effect in terms of bringing about change and improvement in local government through litigation.<sup>43</sup>

The Japan Citizens' Ombudsman Association exposed the supervisory auditor's claim of a business trip in 1996, which did not take place. In response, the government amended the Audit 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. Prior to this, audit committees were already present in the local government. However, half of its composition were chosen and appointed by the head of the local government unit, while the rest were former government employees who did not represent the interest of the public. To add value to the amended Audit Law, 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 have been disseminated to the external auditors and the media. This has resulted to better audits by the external auditors. Initially, the audit reports were limited to six pages while professional fees amounted to 11.55 million yen were paid to the external auditors. When the Japan Citizens' Ombudsman Association filed a case in court demanding the return of their payment, the external auditors took notice and provided a report that was more comprehensive, eventually reaching 300 pages. Despite these, only a few local governments take action on external audit reports, while most ignore the findings.

<sup>43</sup> Jonathan Marshall, Here comes the judge: Freedom of Information and Litigation for Government





Another area where the Japan Citizen's Ombudsman Association is active is in exposing bid-rigging (dango). Dango was prevalent in Japan's construction industry. Prior to 2001, budget ceilings were supposed to be confidential but some politicians leaked the information, which led to collusion among bidders and a waste of considerable amount of taxpayers' money. In 2001, the law was amended to disclose the ceiling price. This enabled the Japan Citizens' Ombudsman Association to write yearly reports that rank local governments based on successful bid ratios. A bid ratio is calculated based on the amount of tender divided by the ceiling bid price (Bid Ratio = Amount of tender / Ceiling bid price). Aside from this, they also determined the successful bid ratio for 47 prefectures, 17 big cities, and 33 medium cities. The Japan Citizens' Ombudsman Association estimates that local governments might have overpaid up to 1.16 trillion yen in public work budgets in fiscal 2005 alone due to big-rigging.

#### A Snapshot of Civil Society – Government Relations

For Japan, decentralization plays a vital role in increasing government transparency and accountability. NPOs act as a counterweight to the state. This is done by checking, monitoring, and publicizing the state's abuses of power and mobilizing the public to protest against cases of

corruption. Since local governments are closer to the people, empowered residents would have incentives to monitor and hold their local government accountable. This is probably the reason why, despite the limiting provisions in the NPO law, NPOs continue to enjoy a high civil society participation rating in Japan.

#### A Preview of Issues Past, Present and Future

In spite of the positive strides gained by the Japan Citizen's Ombudsman Association towards citizen participation, NPOs in the country still face numerous challenges, one of which is the continuing tendency of the government to turn the non-profit sector into mere subsidiaries of government agencies.

Another issue faced by NPOs in Japan is the formidable complexities of the incorporation process. Many NPOs prefer to operate without incorporated status. An NPO without legal status will remain weak and will, in simple terms, prevent them from opening a bank account in the organization's name. Individuals in the organizations have to use their own names, which creates obstacles to establishing and maintaining efficient operations.