

Governance Assistance of JICA

- Toward indigenous development of democratic institutions, administrative functions and legal institutions in the developing world -

Background and Purpose of Study

- Since the end of the Cold War, donor countries have turned their attention to political, administrative and social factors and the progress of governance improvement in recipient countries. ‘Governance’ is now considered a prerequisite for sustainable development and a factor which affects the impact and efficiency of aid.
- Against this background, there has been a shift in the basis underlying the value of development assistance to the transition to a market economy. Since the 1990s, there has also been increasing debate over the effectiveness of development assistance and reflection on past experience.
- Since the late 1990s, JICA has provided assistance for fair elections, operational reform of the police, judiciary and parliament, improvement of administrative functions, and development of laws and legal systems. However, these programs have been implemented solely in specific areas on an ad hoc basis.
- This study intends to propose a framework for governance-related assistance by systematically clarifying the concept of governance and streamlining JICA's contributions to this issue. A task force comprising JICA staff members and development specialists was established to discuss the definition and scope of 'governance' and identify the strengths and weaknesses of JICA's assistance in this area. This paper summarizes the essence of the final outcome of the task force (study report), which will be utilized as the basis of JICA's guidelines for assistance for better governance of the developing world. This paper also addresses the issues to be considered in planning and implementing aid projects/programs so as not to negatively affect the governance of developing countries.

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1. Definition of governance in JICA projects (See Chapter 1. 1-3)

The definition of governance varies significantly among the major donors due to differences in the interpretation and expression of ‘governance.’ This study proposes that JICA define governance as a concept encompassing not only government institutions, but also the mechanisms and systems which determine the relationship among government, civil society and the private sector.

The following interpretation of governance is recommended as the definition for JICA assistance.

“The development and operation of all the institutions, including government organizations and systems, the synergetic relationship among government, civil society and the private sector, and the processes of decision making, in order to mobilize, allocate and manage the resources of the country efficiently and in a manner that reflects the will of the people, with the aim of realizing the stability and development of the country”

The following three aspects of governance are derived from the above-mentioned definition.

- 1) Governance concerning a nation’s political system (the mechanisms and systems to select, monitor, replace and legitimize the process of the exercise of authority)
- 2) Governance related to a government’s own capacity for policy formulation and implementation (including the capacity to manage economic and social affairs efficiently and properly)
- 3) Mechanisms and systems concerning the mutual relationship among government, civil society

and the private sector (management and coordination mechanisms which affect the relationship, such as collaborative efforts, networking and mutual trust, among central and local governments, private enterprises and civil society, in order to seek solutions to public problems)

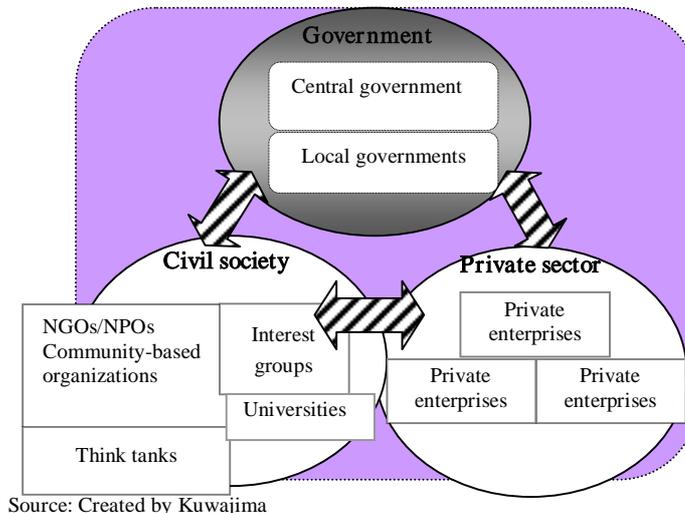
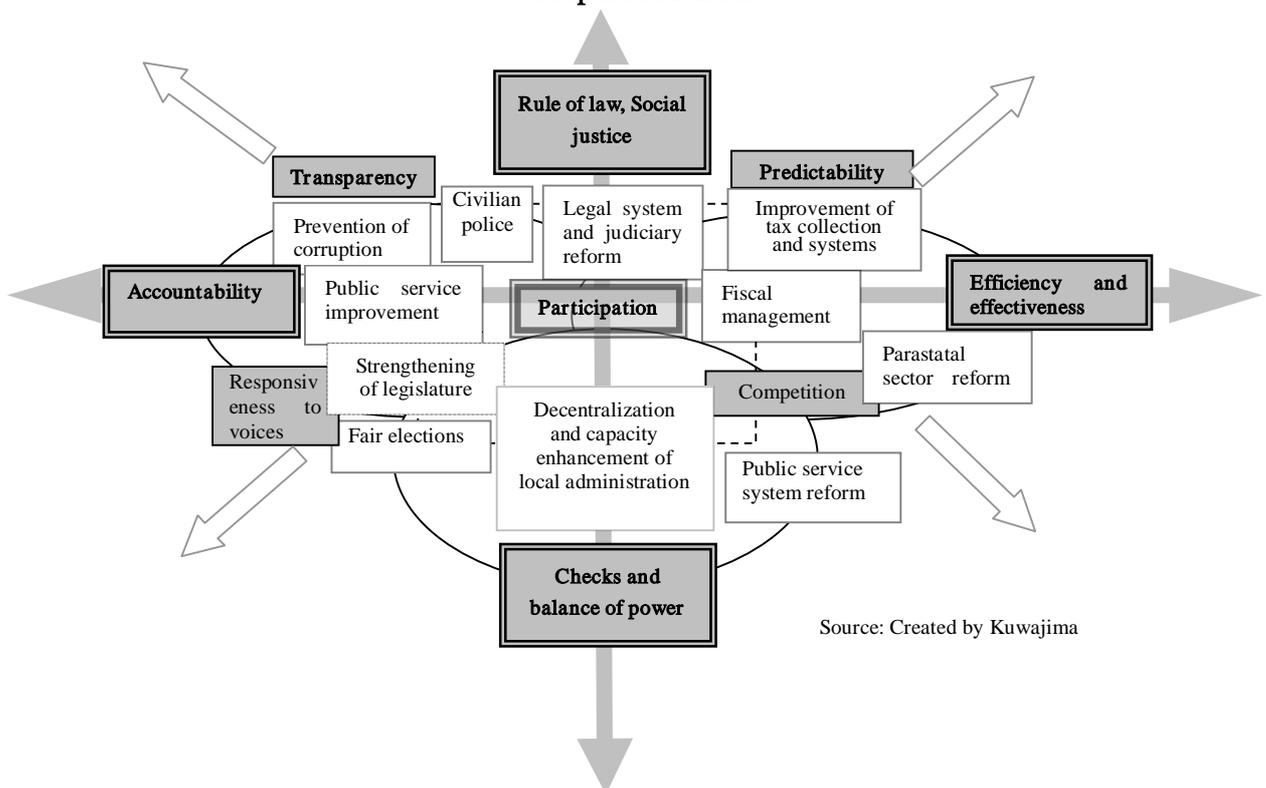


Figure-1 Actors in governance and their mutual relationship

2. Components of good governance (Values to be achieved) (See Chapter 1-2-1 (3))

Comparison of major donors’ aid philosophies and policies reveals certain sets of values which should be realized for good governance. The values in common are: 1) legitimacy of government, policies and systems, 2) accountability, 3) responsiveness to the needs and voices of the people, 4) effectiveness of government (quality, efficiency and accessibility of administrative services), 5) the rule of law and predictability, 6) control of corruption and transparency, and 7) participation. Relations between these values and the major areas of cooperation are shown in Figure-2.

Figure-2 Schematic diagram of relationship between values of good governance and major cooperation areas



3. Proposed basic guidelines of governance assistance in JICA's projects (See Chapter 1-3-2)

In the mid-1990s, in addition to assistance for improvement of administrative functions, JICA started assistance for electoral systems and operation of the police, judiciary and parliament under the issue of development of democratic institutions and also started assistance for development of legal institutions. In accordance with the above-mentioned definition of governance and the previous achievements of Japan and JICA, the basic guidelines of its governance assistance can be summarized as follows:

“JICA considers it important that the government of the partner country promote improvement of governance and enhancement and consolidation of democratic institutions on its own initiative. In order to facilitate the endogenous processes without forcing a certain type of institutional reform from the outside, JICA assists the government of the partner country to select, develop and operate the necessary systems and institutions by providing information and engaging in dialog. In other words, it adopts approaches such as ‘the provision of policy options’ or ‘joint thinking.’

This coincides with the concept of support for ‘capacity development (CD)’, which entails approaches to assisting endogenous development processes in developing countries.

4. Proposed role of JICA's assistance in improving governance

The role of JICA's assistance in improving governance in developing countries can be summarized as the following three items, depending on the condition of the partner countries, such as the level of problem awareness and actions taken.

A) To provide options for developing new systems and mechanisms and to stimulate changes in the awareness of government organizations and the parties concerned

In respect of the ownership of the partner countries, if they are not fully aware of the problems in their own governance, assistance should be initiated by first sending a clear message on the direction of improvement through policy and operational dialog. Once the importance of improvement has been recognized, JICA will help address concrete issues and direction by advising policy options for the necessary mechanisms and will stimulate changes in the awareness of government organizations and the parties concerned. It is important to urge voluntary changes in awareness, by providing reference information for decision-making in order for the partner countries to formulate policies on their own.

B) To assist the development of new institutions and mechanisms

For countries which have a clear intention to improve and strengthen governance as their policy and are aware of the necessity for new institutions and mechanisms, and for post-conflict countries or countries in transition, positive consideration will be given to assistance related to institutional development and the reform of government organizations and systems. When providing such assistance, the ownership and spontaneity of the partner countries should be given priority. However, because of the constraints on its aid resources, Japan's assistance in this area will have limited advantage.

C) To assist the development of detailed measures and methods and the necessary organizational reform and human resource development for putting the systems and mechanisms into operation

In countries which have already introduced new systems and mechanisms and have problems in their operation, JICA will assist in capacity enhancement and management improvement for practical operation and effective functioning of the systems (e.g. capacity building of local administrators for decentralization).

Although the scale of the mechanisms and systems varies, the number of projects in C) is the largest among JICA's projects. Japan has a comparative advantage in this type of assistance. A) is characteristic of Japan's assistance to countries which lack clear policy intentions or problem awareness toward institutional development and change. A large number of JICA's technical cooperation projects assist strengthening of linkage between government organizations and the citizens who are the recipients of the services provided by the government organizations in specific sectors. These projects can be considered as a kind of governance support which contributes to 'accountability improvement' and 'responsiveness and reflection of opinions'.

5. Major issues in JICA's governance assistance

The content and range of 'direct assistance' implemented by JICA aimed at governance improvement in developing countries can be categorized into three major issues (sub-sectors); 1) development of a political system leading to democratization, 2) improvement of administrative functions, and 3) assistance for the development of legal institutions. The following is a summary of the major issues (sub-sectors) and the characteristics of JICA's current cooperation on those issues.

1) Assistance for development of democratic institutions-(See Chapter 2)

(Assistance for elections, legislature, police and criminal justice, etc)

Unlike assistance provided by the United States, Japan's assistance for democratic institutions does not aim at expansion of the democratic system itself. It is based on respect for ownership of the partner countries and focused on assisting democratic advancement toward enhanced basic freedoms and protection and promotion of human rights from long-term perspectives. In other words, Japan's assistance does not necessarily aim to build systems and institutions that would found public authority, which is closely connected to the political values of the country. Rather, it focuses on raising awareness and stimulating the efforts of the partner countries toward policy changes and improvement by presenting policy options and providing information through the introduction of the systems and institutions of Japan and other countries.

In many cases, JICA goes a step further to assist human resource development and facilitate institutional development in areas in which Japan excels (or in which Japan is able to provide assistance).

In practice, assistance for elections in countries which initiate efforts toward democratization or in newly independent countries and assistance for the improvement of police skills and the creation of a civilian police force for fair law enforcement have been implemented mainly in Asian countries, as well as in Africa, Latin America and the Middle East.

Although the number of seminars held is small, seminars for promoting democracy and governance have been implemented as part of assistance for the legislature in African countries which are committed to democratization policies, as well as in Central Asia and Latin America.

The major cooperation issues in this sub-sector are as follows:

- **Assistance for elections**

Facilitation to promote the development of a democratic political system through the implementation of fair and free elections

- (a) Developing a democratic electoral system (including information provision and awareness raising, through seminars which introduce the concept of democratic elections and how elections are held in other countries)
- (b) Strengthening of election management and election boards
- (c) Voter education to promote participation, election monitoring and post-election follow-up

- **Assistance to the legislature**

Assistance that contributes to improvement of the legislative capacity of parliament and the capacity to deliberate bills and draft budgets

- (a) Assistance to the members and administrative staff of parliament through training in the organizations and systems of the legislature, and dispatch of experts on legislative functions and roles
- (b) Assistance to reinforce the inter-government capacity to monitor executives (assistance to the General Accounting Office, etc.), to improve the relationship between members of parliament and voters and the activities of political parties, and to increase the opportunities for citizens to participate in politics under the representative system, through assistance to the media, etc.

- **Assistance to the police and criminal justice sectors**

Assistance aimed at the guarantee of human rights and safe and stable civil society and local communities, through the realization of fair law enforcement

Police sector

- (a) Assistance aimed at the establishment of a democratic and highly transparent police system
- (b) Assistance for improving specific police skills and police organizations, including criminal identification, criminal investigation and drug control and improvement of the police communication system

Criminal justice sector

- (a) Improvement of the system for treatment of criminals, through the dispatch of experts and training
- (b) Assistance for improving the capacity of prison guards, and assistance that contributes to crime prevention through effective coordination among the police, prosecution and courts

2) Assistance for improving administrative functions (See Chapter 3)

(Assistance that contributes to the improvement of efficiency and effectiveness of administrative functions, harmonized decentralization, and improvement of participation and transparency)

Assistance aimed at improvement of administrative functions should not be uniform institutional reform or improvement. Instead, its focus will be to facilitate institutional development which is harmonized with the ownership and self-reliant efforts of the partner countries and existing socio-economic conditions, with emphasis on their conducting the processes on their own. 'Improvement of the efficiency and effectiveness of administrative functions,' 'assistance for harmonizing decentralization,' and 'promotion of participation and improvement in transparency' will be the three important cooperation issues.

While Japan has directed its efforts toward human resource development mainly among government officials in various sectors, it has provided a small volume of assistance directly connected to administrative reform, such as reorganization of the government sector and public service reform. Most of the assistance related to inter-governmental overall coordination functions, such as policy coordination and administrative supervision, and assistance for the management of public service personnel are mostly in the form of dispatch of policy advisors and training courses.

In recent years more advanced types of activities have emerged in Africa, such as assistance in monitoring the Poverty Reduction Strategy Paper (PRSP) and capacity development in public expenditure management, based on aid coordination.

In the area of decentralization, Japan has implemented distinctive assistance projects. One example is a project in Indonesia which focuses on improving capacity in local administration combined with assistance for the capacity to formulate regional development policy. Another example is a program implemented in Thailand in which joint studies on relevant law-making and inter-local authority cooperation led to further assistance to institutional development.

Japan has not achieved a great deal in assistance directly aimed at enhancing the capacity of civil

society or improving accountability. However, as is seen in the Project on Strengthening Sulawesi Rural Community Development to Support Poverty Alleviation in Indonesia, which assisted the creation of networking between the local government and the community, Japan's assistance in this sub-sector is characterized by its contribution to the improvement of the local administration's accountability to the community.

The major cooperation issues in this sub-sector are as follows:

- Assistance for improvement of the efficiency and-effectiveness of administrative functions (See 3-5-3)

The expansion of assistance for the reorganization of the government sector and strengthening of overall coordination functions should be selective. Assistance to improve administrative management in the respective sectors should be in line with the solution of problems in line ministries.

- (a) Assistance that contributes to reorganization of the government sector and strengthening of the overall coordination functions of the Planning Agency or Ministry of Finance
- (b) Assistance that contributes to cross-cutting systems and policies related to the overall national administration, such as the public service system
- (c) Assistance for strengthening the tax and customs administration as well as systems and organizations to increase revenue, including contributions from beneficiaries to the public services, and assistance that contributes to improving the capacity of the administrative organizations and administrators

- Assistance that contributes to promotion of harmonized decentralization (See 3-5-4)

The focus will be on assisting the promotion of decentralization harmonized with the conditions of the partner country, as a means of providing administrative services which respond to people's needs promptly and accurately, utilizing Japan's own experience.

- (a) Assistance for improving the capacity of government organizations and studying the options for necessary measures in order for developing countries to formulate decentralization policies and systems on their own
- (b) Improvement of the administrative capacity of local governments
- (c) Assistance to promote synergy between local governments and citizens

- Assistance that contributes to the promotion of participation and improvement in transparency (See 3-5-5)

The problem of corruption and bribery damages the efficient socio-economic development of developing countries and most negatively affects the socially vulnerable. Therefore, the focus of assistance will be on tackling the problem through the improvement of administrative transparency and the expansion of citizens' participation in every aspect, by disclosing the background, intention, method and outcome of policies/measures/projects in the public sector to the general public.

- (a) Assistance for the capacity development of civil society, through such measures as developing institutions to promote capacity enhancement of community-based organizations and NGOs
- (b) Assistance that contributes to improving the accounting and procurement systems and the audit and administrative inspection systems and to strengthening the capacity of administrative organizations and human resources, aimed at enhanced transparency
- (c) Assistance for the improvement of citizens' access to the administration, including the establishment of systems and procedures for information disclosure and formal objection

3) Assistance for development of legal institutions (See Chapter 4)

(Assistance for the drafting and enactment of bills, improvement of systems for law enforcement, and the nurturing of the legal profession, etc)

The focus of assistance will be to facilitate the efforts of developing countries to develop legislation, aimed at moving toward a market economy or establishing 'the rule of law.' Assistance for development of legal institutions will include not only assistance for the drafting and enactment of bills, but also for the development of various systems of law enforcement and their application (assistance for judiciary reform), and for human resource development in the legal profession. In particular, the need for assistance in the preparation of various specific laws, more precisely, economic laws, is expected to increase in developing countries which intend to join the World Trade Organization (WTO) and improve the investment environment. Therefore, it is necessary for JICA to consider the means of assistance, including coordination with the relevant Japanese ministries and agencies.

Japan's assistance for the development of legal institutions started in Vietnam in the mid 1990s. Later, full-scale implementation of cooperation started in Cambodia and Laos. This type of assistance is also implemented in Mongolia, Indonesia and Uzbekistan and the number of such projects is increasing, especially in Asia.

In Japan's legislation assistance, cooperation is implemented in developing legal and judiciary institutions with the aim of 'advancement of moves toward a market economy,' establishment of 'the rule of law,' or 'integration into the world economy.' Improvement or reinforcement of the political system for the promotion of democracy or protection of human rights is not considered as a direct target of cooperation. Moreover, as is typically seen in assistance for Vietnam to draft a civil code and for Cambodia to draft a civil code and code of civil procedure, Japan's assistance is characterized by the way that experts from Japan and the partner country jointly study, identify problems and draft bills. This methodology of Japan makes a striking contrast with the assistance of other international aid organizations and donor countries which tend to present their own laws and legal and judicial systems as models for partner countries to learn.

The major cooperation issues in this sub-sector are:

- Assistance for drafting and enacting bills
 - (a) Bill drafting assistance focused on civil and commercial laws
 - (b) Assistance that contributes to enhancing knowledge and technology relating to the relevant bills, for the preparation of accessory statutes and for enactment of bills, and to strengthening the bill deliberation function
- Implementation of various systems for law enforcement and application

In particular, cooperation will be provided for the establishment and efficient operation of a civil judiciary system

 - (a) Assistance that contributes to improvement of the practical conduct of civil cases (manual on drafting of judgments)
 - (b) Assistance in preparation of basic legal documents (judicial precedent records, statute book, various manuals)
- Nurturing of the legal profession
 - (a) Assistance for human resource development in the legal profession (judges, prosecutors, lawyers) who preside over law enforcement and application
 - (b) Assistance for legal training institutes in respect of organizational improvement, capacity enhancement of lecturers, and preparation of the curriculum and teaching materials, in addition to human resource development through the above-mentioned cooperation
- Social awareness improvement

Assistance to promote public awareness of the 'rule of law' and popular access to legal services

 - (a) Trial provision of legal services and legal aid to citizens
 - (b) Assistance for changing public awareness through seminars on legal services

- Improvement of law education
 - (a) Assistance that contributes to improvement of the law faculties of universities and graduate schools in recipient countries
 - (b) Assistance, such as acceptance of foreign students on legal studies

6. Concept of governance consideration (See Chapter 1-3-4)

‘Governance’ is one of the direct targets of assistance. It is also a cross-sectoral issue to be considered in the context of assistance provision. There are two major viewpoints on taking governance into consideration as described below.

First viewpoint

The first viewpoint is that appropriate assistance should be considered after understanding the institutional framework and current status relating to governance in the recipient country. The current status of governance includes the capacity of the implementing agencies in the partner country and the demarcation of jurisdiction between the central and local governments. In particular, attention should be paid to the fact that many countries are required to advance decentralization, sector reform, public service reform or privatization policies under their own PRSP and sector reform programs.

Second viewpoint

The second viewpoint is to consider the possible impact of external intervention in the form of assistance on the governance of the partner country. Regardless of the intention, the implementation of aid may have either a positive or negative influence on the governance of the partner country. Attention should be paid at the planning and implementation stages of all projects to ensure that assistance does not damage the ownership of the partner country or induce moral hazards or corruption.

This governance consideration coincides with the concept of support for capacity development (CD), the discussion of which is progressing in JICA. CD is a process in which individuals, organizations, society and systems of developing countries develop an overall problem-solving capacity as an endogenous development process. The required role of technical cooperation is to act as a facilitator to promote CD in developing countries. A CD facilitator should consider and position assistance, from a comprehensive viewpoint, including the societal, policy and institutional environment in developing countries, and promote the means to encourage or not discourage their own initiatives. The viewpoints of governance consideration should be strengthened through utilization of a ‘Capacity Assessment Checklist,’ aimed at understanding the capacity of the partner country at the time of project formulation and sharing problem awareness with them, or through the accumulation of the good practices of donor countries regarding means and attempts to stimulate the ownership of developing countries and enhance their autonomous and sustainable development¹.

¹ See “Capacity Development Handbook” JICA (2004) and its advanced study, “Towards Capacity Development (CD) of Developing Countries based on their Ownership - Concept of CD, its Definition and its Application in JICA Projects - ” JICA-IFIC (2006), which includes practical case analyses. See Chapter 3 of JICA-IFIC (2006) for more details of the ‘Capacity Assessment Checklist.’