



ENVIRONMENTAL DEMOCRACY INDEX

Results for Japan

- Full Launch of EDI on May 20, 2015 in Washington DC
- EDI includes 70 countries--15 in Asia (Japan, China, Thailand, Vietnam, Cambodia, Malaysia, Philippines, Indonesia etc)
- BEFORE May 20, results are being shared with civil society partners and government stakeholders for feedback and comment

EDI in JAPAN

- National Researchers
 - Kenji Fukuda

(Attorney at law / Research Associate, Faculty of Law, Waseda University)

- Masami Kittaka

(Attorney at law/ Aarhus Net Japan)



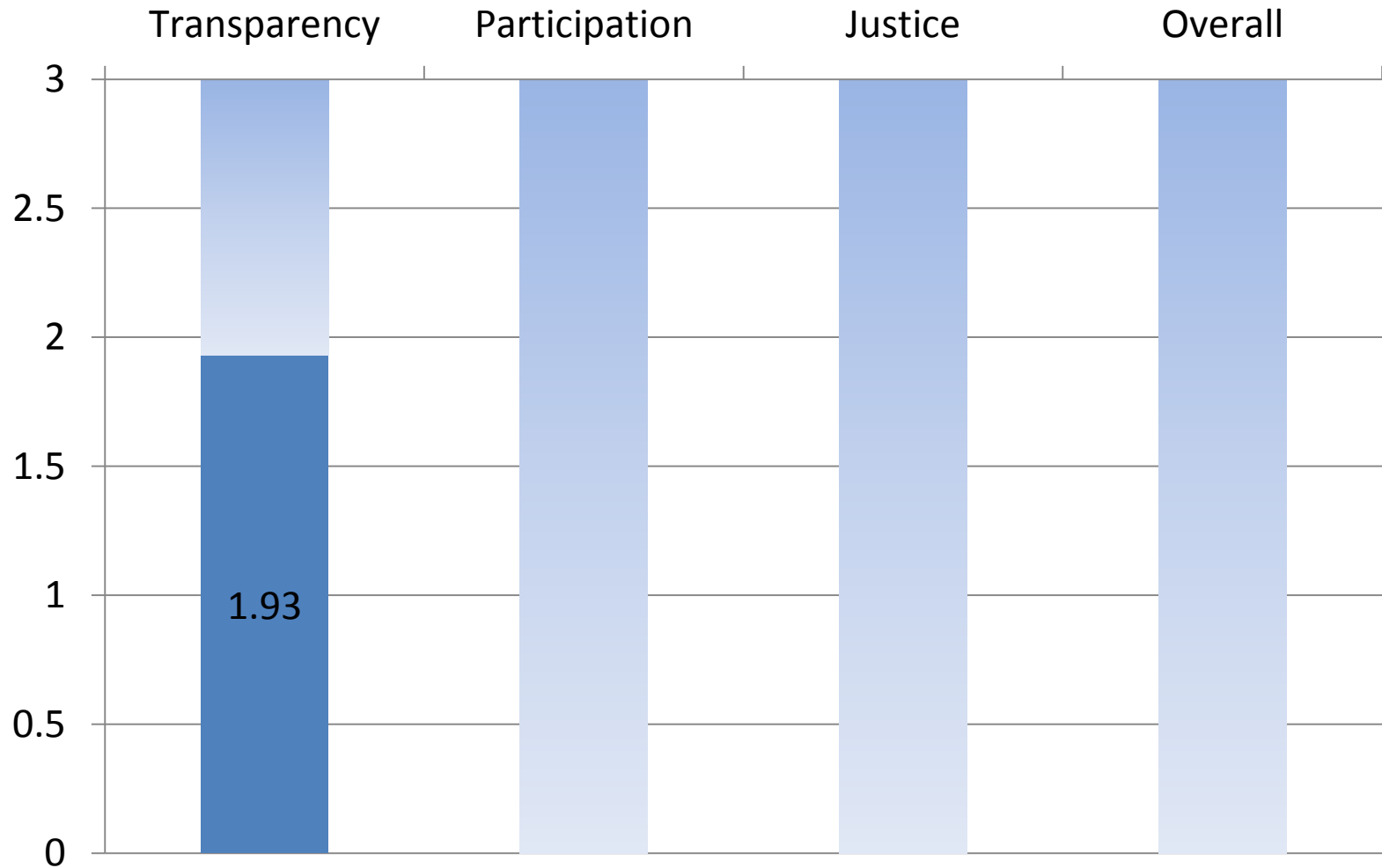
- National Reviewer
 - Prof. Noriko Okubo



- TAI Reviewers

ACCESS TO INFORMATION

JAPAN's EDI Results



Access to Information

Legal Schemes

- General Law
 - National Level
 - Law Concerning Access to Information Held by Administrative Organs (LAI) (1991)
 - Law Concerning Access to Information Held by incorporated administrative agency (2001)
 - Local Level
 - Ordinances concerning access to information held by local governments
- Special provisions in environmental laws
 - ex. PRTR Act

Access to Information

Strengths

- Available to any person, not just Japanese
- Clearly defined procedures for exemption—public interest test
- Proactive information disclosure
 - PRTR
 - Environmental Impact Assessment

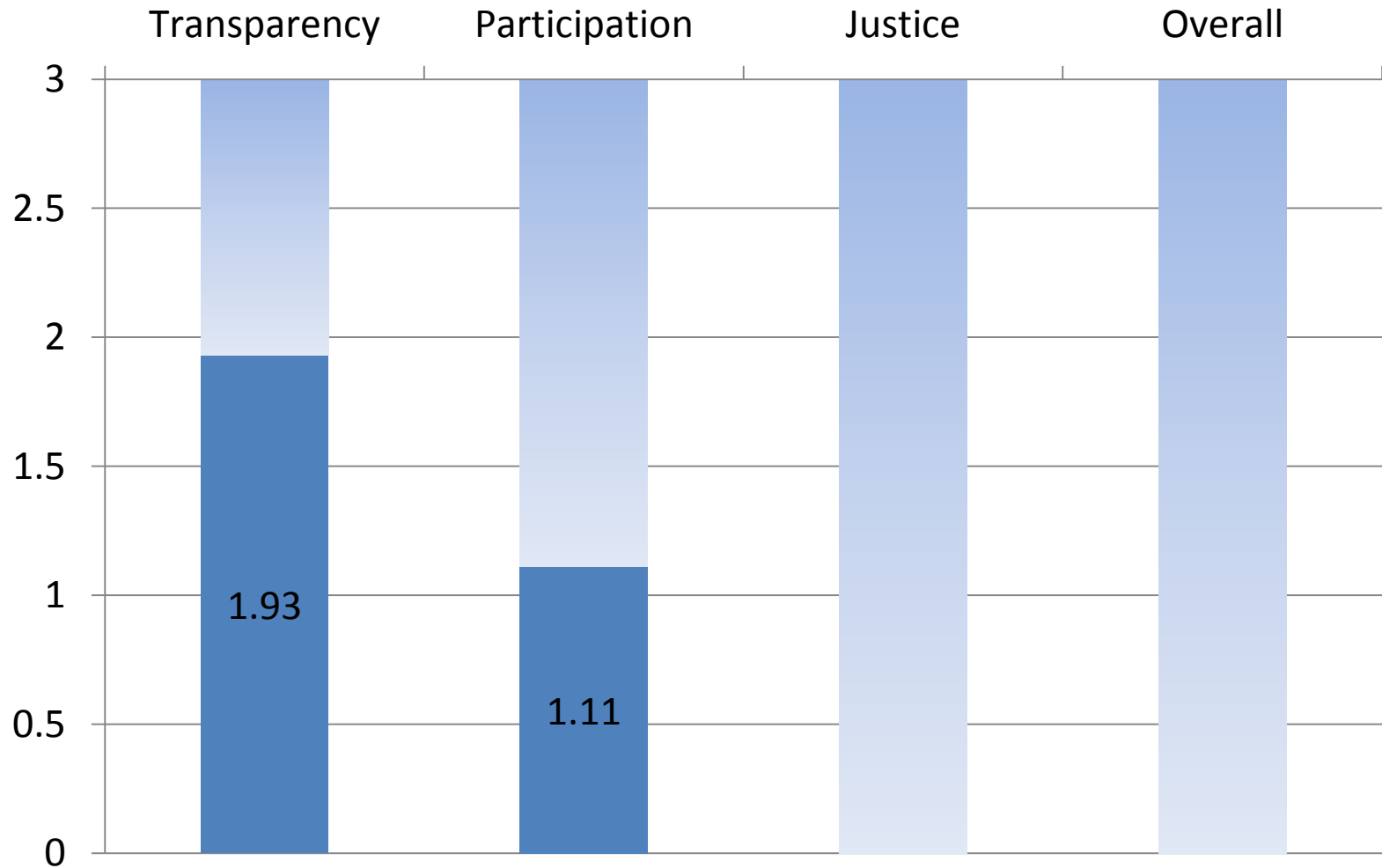
Access to Information

Weakness

- Scope: Only administrative bodies
 - Not applicable to legislative and judicial bodies?
 - Not applicable to Tokyo Electric Power Company
- Poor requirements for operators' disclosure
 - voluntary issuance of environmental reports
 - 7751 reports for ECO ACTION21 certification
 - More than 800 companies' report on METI's website
- Information related to accidents
 - In the event of an imminent threat of harm to human health or the environment
 - Requirement for data collection but not disclosure

PUBLIC PARTICIPATION

JAPAN's EDI Results



Public Participation

Regulations

- Participation in three aspects
 - Decisions on specific permits
 - No general/comprehensive laws
 - Plans and Policies
 - No general/comprehensive laws
 - Preparation of Executive regulations
 - General provisions for public comments of the administrative procedure act

Public Participation

Strength in specific laws

- The Environmental Impact Assessment Law
- Some laws initiated by members of the Diet
 - Law Concerning Promotion of Activities Coordinated Among Local Organizations for the Conservation of Biodiversity
 - Act on Enhancing Motivation on Environmental Conservation and Promoting of Environmental Education
 - 2014 : Cabinet bill 100/112, MoD bill 29/107
- Requirement to set up Kyogikai (stakeholder meetings or consultation committee) by law or by agreement

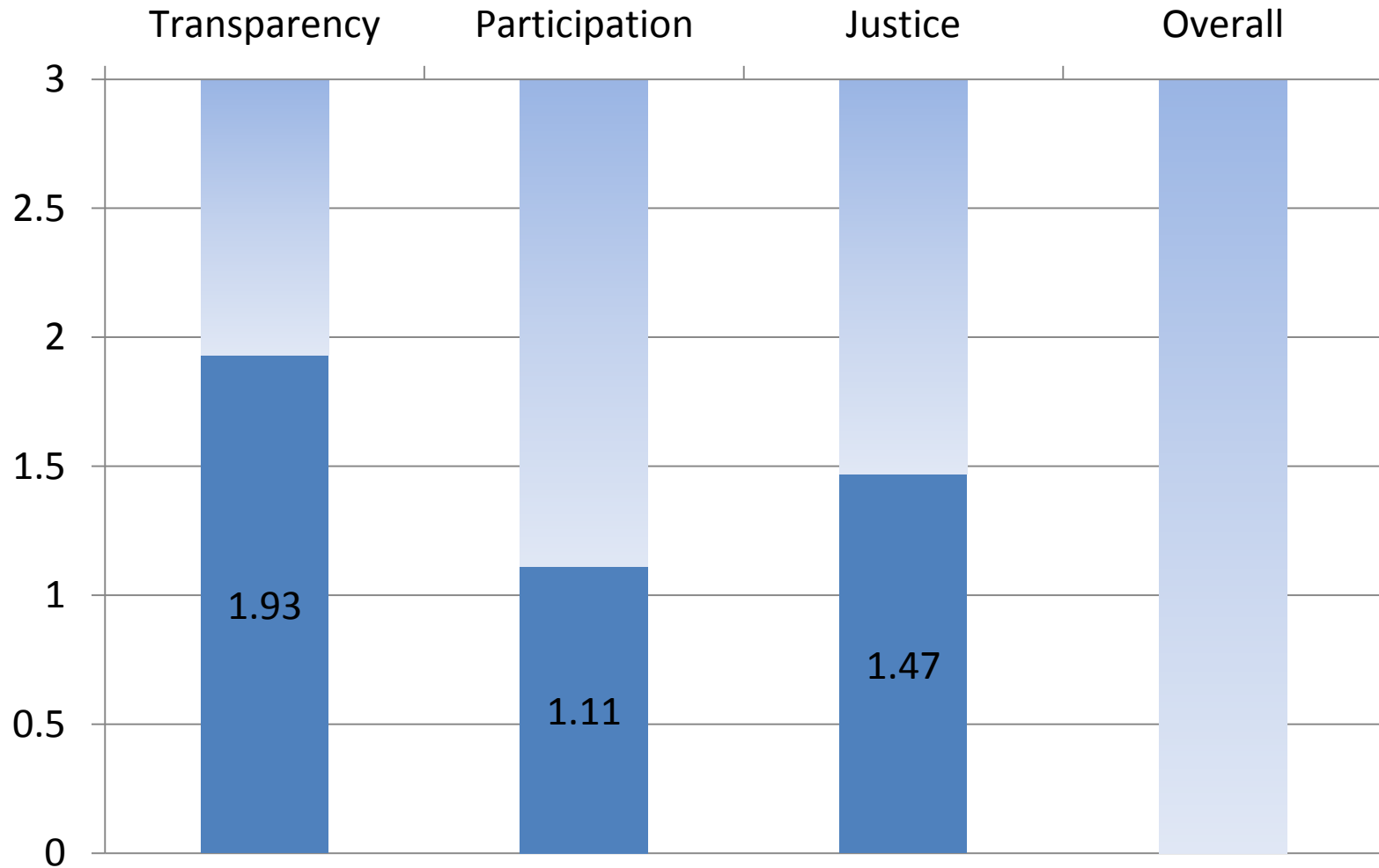
Public Participation

Weakness

- No comprehensive law regarding participation
- No participation at early stage
 - except Environmental Assessment
 - no sufficient time for “public comments”
- Participation through Shingikai (advisory council)
- Voluntary projects without legal basis
 - Dialogue regarding Chemical Policies

ACCESS TO JUSTICE

JAPAN's EDI Results



Access to Justice

Regulations

- Administrative Review
 - Administrative Appeal Act
 - Review by Information Disclosure Review Board (Act on Access to Info. Art.18)
- Judicial Review
 - Administrative Case Litigation Act
- ADR
 - Act for the Settlement of Environmental Pollution Disputes

Access to Justice

Strength

- Environmental decisions can be legally challenged.
- Affordable
 - If Amount of controversy is “not computable,” the court stamp fee is 13,000 yen
 - Legal Aid for lawyer’s fee and court fees

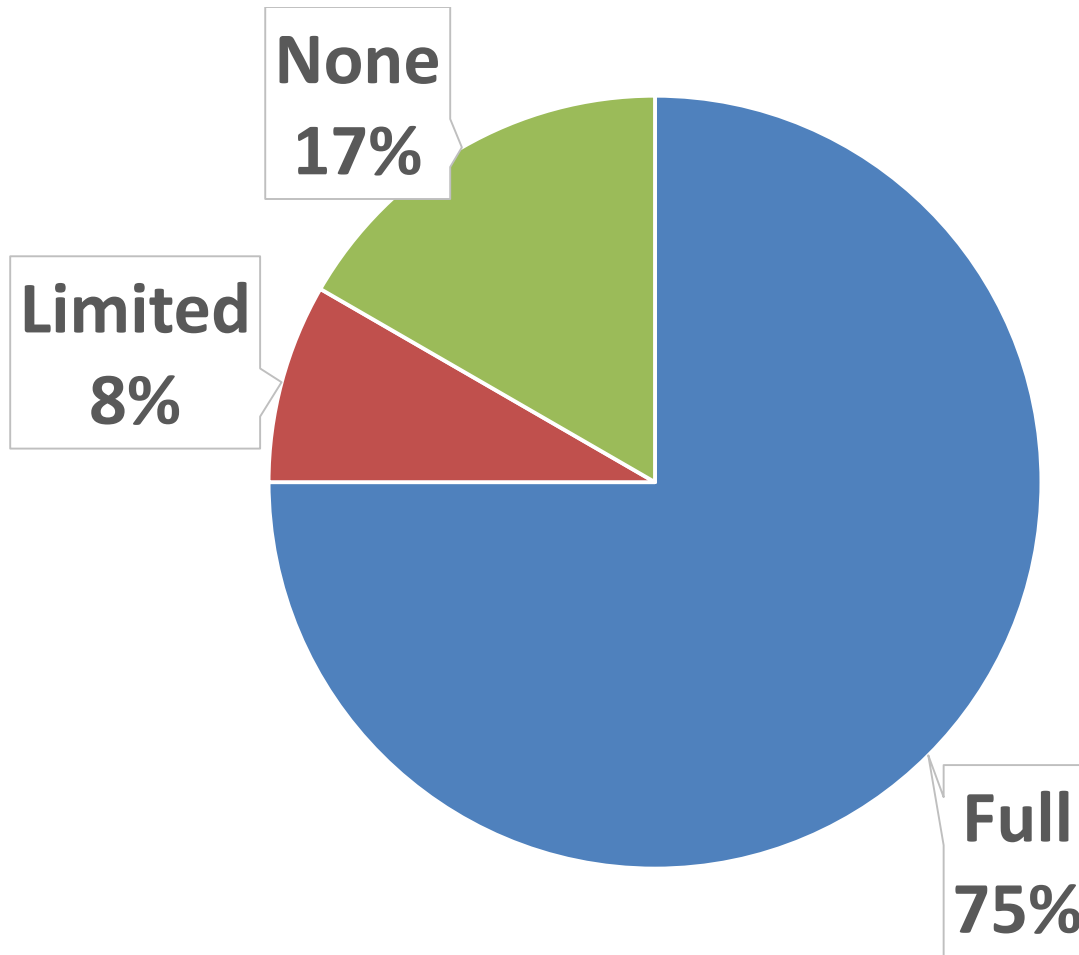
Access to Justice

Weakness

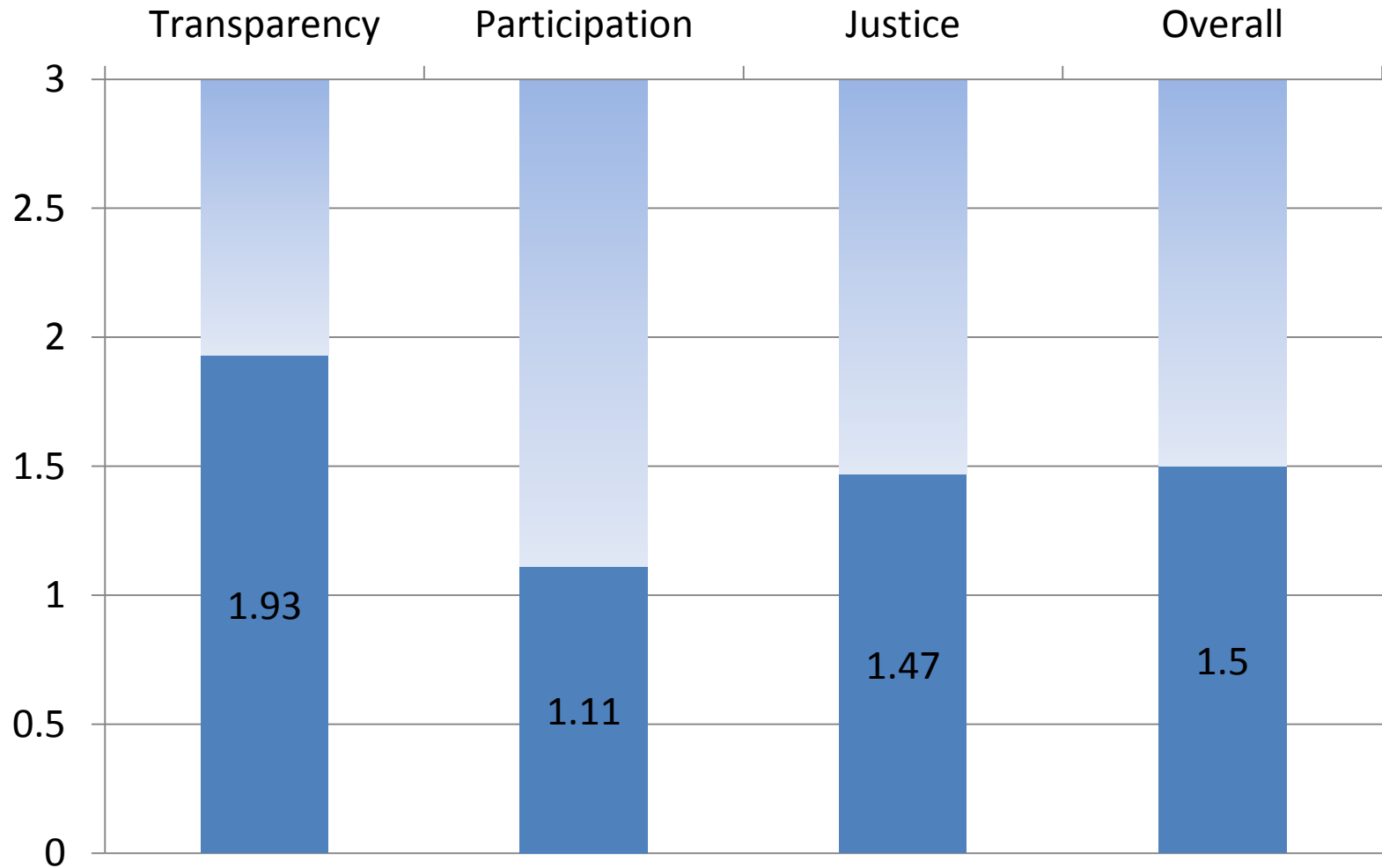
- Narrow standing
 - only by those who have “legal interests”
 - Material harm by the government action
 - Environmental NGOs plaintiff ?
- Administrative Disposition
 - Plans ?
 - Environmental Standards ?
- No requirement for timely enforcement

OVERALL SCORE

Practice indicators



JAPAN's EDI Results



RECOMENDATION

- Access to Information
 - Expanding operators' obligation
 - Accident/health information
- Public Participation
 - Right based approach
- Access to Justice
 - Broader standing
 - Standing for Environmental NGOs