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Contents

Introduction		ii
The Attitudes of Japanese People Towards Law and Court	Manako Kinoshita	1
Legal Problems and Their Resolution – Disputing Behaviour in Japan—		
	Masayuki Murayama, Satoshi. Minamikata, Ryo Hamano, Keiichi Ageishi, Ichiro Ozaki, and Isamu Sugino	14
Disputing Behaviour in a Comparative Perspective		
— Japanese Disputing Behaviour Reconsidered —		
	Masayuki Murayama & Yoshiyuki Matsumura	32
Advice Seeking Behaviour of Civil Disputants in Japan	Ryo Hamano	58
The Design and Methodology of the Research of The 2006 National Survey on Legal Advice Seeking	Shiro Kashimura	79
Who is the “Party” in Disputes? —Some Observations from the 2006 National Survey—		
	Hiroshi Takahashi	96
Citizens' Experience of Utilizing Third-Party Advice Providers for Resolving Everyday Disputes in Contemporary Japan	Masaki Abe	101
Mobilization of Legal Professionals by the Ordinary Citizens in Contemporary Japan		
	Atsushi Bushimata	120
Views of Litigation, Lawyers, and Judges in Japan		
—Contrasting the Views of Litigants, Lawyers, and the General Public—	Daniel H. Foote	134

はじめに

このワーキングペーパー第2集は、特定領域研究「法化社会における紛争処理と民事司法」参加者がこれまで海外の学会において報告した論文、あるいはそれに手を加えたものの一部を収録したものである。紛争行動調査グループ（A班）の論文が4編、法使用行動調査グループ（B班）の論文が4編、訴訟行動調査グループ（C班）の論文が1編、この順序で収録されている。訴訟行動調査グループ（C班）の研究成果は、さらに、ワーキングペーパー第3集に収録される予定である。

INTRODUCTION

This is the second volume of Working Papers, the first in English, which present findings of the three national surveys conducted in the research project, Grant-in-Aid Scientific Research for Priority Areas “Dispute Resolution and Civil Justice in the Legalizing Society.” All the papers were presented at academic conferences outside Japan. Some papers are included in their original forms, while others were revised afterward. The first four papers resulted from the Disputing Behaviour Survey, while the following four papers come from the Advice-Seeking Behaviour Survey. The last one includes findings of the Litigation Behaviour Survey. Other papers based on the Litigation Behaviour Survey will appear in the third volume of Working Papers.

The Attitudes of Japanese People Towards Law and Court.

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[Summary]

The attitudes of Japanese people towards the courts are discussed based on the survey conducted in Japan, 2005. The factors that determine Japanese people's attitudes towards the courts are analyzed by multi variate analysis.

[Key Words]

People's attitudes towards law, Changes of attitudes, Survey

1. Introduction
2. The survey in 2005
3. The results
4. Conclusion

References

1. Introduction

It is said that Japanese people tend not to bring so many lawsuits, when compared to other people in westernized countries (Wollschlager 1997). According to the research by Wollschlager, the number of lawsuits in civil cases, out of 1,000 residents, is 99 in Germany, 64 in Arizona State in the United States, 54 in England, and 40 in France, while Japan indicates only 6. It seems that Japanese people are more reluctant when using civil courts.

One of the most influential explanations to resolve the lower percentage of Japanese court usage is based on the people's legal consciousness. The definition of the concept on legal consciousness, however, has been very vague and is not socially scientific. Therefore, most of the arguments regarding how legal consciousness influences people's behaviors have been unclear. In this paper, the attitude towards

law is used to measure people's psychological dynamism instead of legal consciousness, which is defined according to social psychological research. In chapter three of this paper, the people's attitude towards law and legal system is focused upon first. Then, the types of people, who are classified based on their understanding of social value, law and legal system, are analyzed. Finally, people's attitudes toward using the court are discussed.

2. The survey in 2005

The survey conducted in 2005, is one of the projects of the grant-in-aid for scientific research of the priority areas of the Ministry of Education and Science, titled "Dispute resolution and civil justice in legalizing society". One of the purposes of this research is the analysis of Japanese people's attitude towards the law and legal system (Matsumura et.al 2006).

The subjects of the survey were adult people of 20 to 70 years old, from in all over Japan. The sampling method was a two stage stratified random sampling. We allocated 2,274 subjects for the follow up survey of the research for the council of Japanese culture. The number of valid response was 1,138 and valid response rate was 50.0%. The survey was carried out from February to March, 2005.

3. The results

(1) Frequency of respondents' attitudes

a The structure of people's attitudes

Mainly, three factors are focused upon in this paper in order to understand people's attitude towards the law and legal system. First is naïve morality, which measures people's level of naivety concerning their opinion of the social justice. Second is the flexibility of norms, which indicate the people's ideas regarding how strict and rigid norms, particularly contracts, should be. The last is regarding their orientation to harsh punishment.

b. The orientation to naïve morality

Let's take a look at the tendency of how Japanese people have naïve morality. First, the question of "Do you think that we will have to suffer for our past evil deeds ? (Q22(1))". About 80% of answered "yes" (Table 1) to this question. Another question is "Do you think that the gods know all when we do good and when we do bad? (Q22) ". More than 60% of people responded that they agree or somewhat agree to this question.

Table 1

Q 22.(1) Do you think that we will have to suffer for our past evil deeds ?		
	2005	
	N	%
1 Yes	944	83.3
2 No	189	16.7
Total	1,133	100.0

Thus, people tend to judge social matters based on the naïve morality and these tendencies have increased, when compare to the result of the survey in 1976 (Nihon bunkakaigi 1982). Table 2 shows how people's attitude towards naïve morality has changed between 1976 and 2005. As the people in their 20's in 1976 turn to be 50's in 2005, people are more naïve in 2005 than in 1976. Furthermore, all generations of people in 2005 have more naïve morality than in 1976, in general.

Table 2: Changes of naïve morality scale between 1976 and 2005

Male

Scale	20's		30's		40's		50's		60's and 70	
	1976	2005	1976	2005	1976	2005	1976	2005	1976	2005
0	15.7	8.8	11.8	3.9	4.7	13.0	2.1	6.2	6.3	4.5
1	34.8	12.3	27.9	15.8	22.4	7.0	35.4	14.9	25.0	14.0
2	26.1	31.6	27.9	21.1	37.6	20.0	22.9	24.8	31.3	35.7
3	14.8	29.8	21.3	38.2	20.0	25.0	27.1	28.0	29.7	28.7
4	8.7	15.8	10.3	21.1	12.9	33.0	10.4	23.6	7.8	16.6
5	0.0	1.8	0.7	0.0	2.4	2.0	2.1	2.5	0.0	0.6
Total (%)	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Female

Scale	20's		30's		40's		50's		60's and 70	
	1976	2005	1976	2005	1976	2005	1976	2005	1976	2005
0	17.9	3.6	7.9	7.1	8.1	7.3	11.7	8.8	8.3	8.5
1	30.5	25.5	27.8	14.3	29.3	26.6	33.3	17.6	41.7	17.5
2	30.5	29.1	37.3	25.5	31.7	27.5	26.7	31.1	26.4	28.2
3	16.8	18.2	23.8	29.6	21.1	20.2	20.0	27.0	15.3	26.6
4	3.2	21.8	3.2	22.4	8.9	18.3	5.0	14.9	8.3	19.2
5	1.1	1.8	0.0	1.0	0.8	0.0	3.3	0.7	0.0	0.0
Total (%)	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

c. The orientation flexibility of norms

Five questions were asked to measure what people think about the flexibility of norms. It seems most people want to strictly adhere to right and have a flexible application of the law.

The questions, which indicate people’s strict attitude to right, are concerning the proprietary on real estate and the making of contracts. For example, more than 80 % of respondents answered that they would follow the instruction of a signpost, when we asked “There are miscellaneous trees which would suit your garden, such as azaleas and wisterias, in a national forest. But, there is a sign saying, "Keep off national property". A and B have different opinions on this. Which opinion is yours closer to? (Q5)” (Table 3).

Table 3: People's attitude towards proprietary

	2005	
	N	%
Q5. There are miscellaneous trees which would suit your garden such as azaleas and wisterias in a national forest. But there is a sign saying, "Keep off national property". A and B have different opinions on this. Which opinion is yours closer to ?		
1 Closer to As opinion "We may take a few of them with us because those will be soon be cut down as miscellaneous trees anyway."	141	12.4
2 Closer to Bs opinion "We should not take any of them with us as long as there is a sign saying "Keep off national property", even if those will be soon cut down as miscellaneous trees.	952	83.7
3 DK	45	4.0
Total	1,138	100.0

Another example is the case of making contracts. Almost 90 % of respondents answered that contracts should be concrete and strict when being drafted.

Regarding the discretion of public officers, most people prefer the officers who apply the law in a flexible manner (Q10) (Table 4). Another example of flexibility at the application of contracts is that more than 60 % of people think that they do not have to adhere to the contract in cases when the situation has changed. These tendencies are the same in the case of applying the law in general.

Table 4: People's attitude towards the discretion of public officers

K10_01_01 'Q10. There are two types of public employees. Which type do you prefer ?'

	2005	
	N	%
1 I prefer A " who always applies the law strictly as it is written for whatever and whenever"	175	15.4
2 I prefer B " who tries to apply the law flexibly considering what the law really means"	842	74.0
3 DK	121	10.6
Total	1,138	100.0

As results, people think property and the making of contracts should be strict, on the other hand, they think it should be flexible in cases of applying law and contracts, as if it is difficult enter and easy to get out. These people's understandings are consistently same as those from the survey in 1976 (Table 5).

Table 5: Changes of flexibility between 1976 and 2005

Percentage of the choice in each question (%)		Male		Female		Total	
		1976	2005	1976	2005	1976	2005
Q5 The national propert	2 Keep off the national propert	83	81	87	86	85	84
Q6 An idle lot	2 We may not use this private land without the permission of the landowner	52	64	60	70	56	67
Q10 Type of public employees	1 Applies the law strictly	18	15	21	16	20	15
Q11 Legal application	1 Punished without exceptions	24	24	28	25	20	25

d. The orientation to harsh punishment

People seem to support the idea of harsh punishment according to our questions. For example, about 70 % of respondents answered that many punishments are either slightly light or too light. People answered in a same manner to another question regarding how people serving in prison are to be treated. Almost half of the respondents agreed to the answer that prisoners should be punished strictly for their crime. There is no need to improve conditions. Furthermore, we asked the purpose of the punishment. Only about 50 % of respondents supported the idea that the purpose

of punishment is to rehabilitate criminals and to help them make a comeback to a normal life.

In short, respondents of the survey in 2005 think punishments to the criminals should be severe. People's attitude towards punishment in 2005 is harsher than those in 1976 (Table 6). We have to be careful to interpret the data, as to whether the support of harsh treatment might be the very recent tendency within the last several years, or a more deeply rooted idea among Japanese.

Table 6: Changes of harsh punishment between 1976 and 2005

Male

Scale	20's		30's		40's		50's		60's and 70	
	1976	2005	1976	2005	1976	2005	1976	2005	1976	2005
0	15.7	8.8	11.8	3.9	4.7	13.0	2.1	6.2	6.3	4.5
1	34.8	12.3	27.9	15.8	22.4	7.0	35.4	14.9	25.0	14.0
2	26.1	31.6	27.9	21.1	37.6	20.0	22.9	24.8	31.3	35.7
3	14.8	29.8	21.3	38.2	20.0	25.0	27.1	28.0	29.7	28.7
4	8.7	15.8	10.3	21.1	12.9	33.0	10.4	23.6	7.8	16.6
5	0.0	1.8	0.7	0.0	2.4	2.0	2.1	2.5	0.0	0.6
Total (%)	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Female

Scale	20's		30's		40's		50's		60's and 70	
	1976	2005	1976	2005	1976	2005	1976	2005	1976	2005
0	17.9	3.6	7.9	7.1	8.1	7.3	11.7	8.8	8.3	8.5
1	30.5	25.5	27.8	14.3	29.3	26.6	33.3	17.6	41.7	17.5
2	30.5	29.1	37.3	25.5	31.7	27.5	26.7	31.1	26.4	28.2
3	16.8	18.2	23.8	29.6	21.1	20.2	20.0	27.0	15.3	26.6
4	3.2	21.8	3.2	22.4	8.9	18.3	5.0	14.9	8.3	19.2
5	1.1	1.8	0.0	1.0	0.8	0.0	3.3	0.7	0.0	0.0
Total (%)	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

(2) The results of cluster analysis

a. Five types of people when concerning attitude towards law

The cluster analysis was conducted in order to classify people's opinions regarding the law and legal system. The questions used for the cluster analysis are eighteen questions in total; six questions on naïve morality, three questions on law-moral scales, four questions on flexibility of norms, and five questions on harsh punishment. The method of analysis are the Ward methods of stratified cluster

analysis.

Five clusters are found. The first cluster is a group of people who are mild punishment oriented and realists. The second cluster is a group of people who are harsh punishment oriented and naïve moralists. The third cluster is a group of people who have naïve morality and answer "Don't know" in many cases. The fourth cluster is a group of people who have naïve morality and are mild punishment oriented. The last is a group of people who are harsh punishment oriented and realists (Table 7).

Table 7: Five clusters

Cluster#	Name	% (N)	
cluster1	Mild Realists	26.0% (283)	All prefer flexible application of law
cluster2	strict naive persons	30.4% (331)	
cluster3	Naive DK persons	10.3% (112)	
cluster4	Naive mild persos	16.7% (182)	
cluster5	Strict realist s	16.5% (180)	

b. The first type: Mild realists

The first type of cluster is called a mild realist, which has a share of 26.0% (283 persons) amongst all types, because they have a realistic attitude when judging the moral matter and show a mild attitude towards punishment. If we take a look at the details of the figure, only 64 % of them said 'yes' that we should have to suffer for our past evil deed (Table 8). About 40 % of this type agrees to the idea that prisoners should be punished strictly for their crime, so there is no need to improve conditions.

Regarding religious attitudes, only 18.9% answered that they have a faith or a religious belief (Table 9). 65% of them do not think repaying an obligation is important, while 46% of them think highly of respecting individual rights. It seems that the first group, who is mild punishment oriented and realist, is also those who are free from traditional values and liberalist.

Table 8: Attitudes of five clusters towards the question " Do you think that we should have to suffer for our past evil deeds?"

	1 Yes	2 No	Total (N) %
Mild realists	64.0	36.0	(283) 100.0
Strict naïve	97.6	2.4	(331) 100.0
DK naïve	95.5	4.5	(112) 100.0
Mild naïve	95.1	4.9	(182) 100.0
Strict realists	68.9	31.1	(180) 100.0

Table 9: Attitudes of five clusters towards the question " Do you have a faith or a religious belief?"

	1 Yes	2 No	Total (N) %
Mild realists	18.9	81.1	(281) 100.0
Strict naïve	43.2	56.8	(331) 100.0
DK naïve	47.7	52.3	(107) 100.0
Mild naïve	40.1	59.9	(177) 100.0
Strict realists	19.0	81.0	(179) 100.0

The mild punishment oriented and realist persons are spread evenly among all generations and both genders. For example, of people in their 20's, 48.5% are male and 51.5% are female, in their 30's, 45.8% are male and 54.2% are female and in their 40's, 46.2 % are male and 53.8 are female and so on. Many of the first group graduated from high school (47.9 %), while more than 20 % of them graduated from university. In this sense the people's liberal attitude is somewhat determined through higher grade education.

In short, the first type can be called mild realist because they are rather liberal and moderate in attitude when judging the socio-legal problems.

c. The second type: Strict naïve persons

The reason we call the second type "strict naïve person" is because they have a naïve morality when judging the moral matter and show a harsh attitude towards punishment. They are from the largest cluster, which shares 30.4%. For instance, 97.6 % of second type said 'yes' that we should have to suffer for our past evil deed (Table 8). 66.5 % of this type agree to the idea that prisoners should be punished strictly for their crime, so there is no need to improve conditions.

Regarding their attitudes, they seem to think much of traditional values, in general. For example, 43.2% answered that they have a faith or a religious belief. Almost half of them (49.8%) answered that there should be a heavier penalty for the homicide of one's parent. 52% of them think that repaying an obligation is important, while only 29.9% of them think highly of respecting individual rights.

This type of people is scattered evenly amongst all generations in general, while the 30% of the respondents to this second cluster, strict naïve, are over sixty years old. Regarding gender, the ratio of male (44.7%) and female (55.3%) is almost even. The highest number of education background is high school (45.7 %) in this group.

As the result above shows, the second cluster can be called as strict naïve people, because they have a rather conservative and simple way of thinking and strong attitude toward punishment.

d. The third type: Naïve DK persons

The third type of cluster is called a mild realist because they have a naïve attitude toward moral matters and often answered 'don't know' to most of the questions regarding social issues.

Regarding their attitudes, they seem to think highly of traditional values, in general. For example, 47.7% answered that they have a faith or a religious belief. 43% of them think repaying an obligation is important, while only 29.5% of them think highly of respecting individual rights.

Regarding generation, this type is scattered from aged 40's to 60 's. Almost 70% of the third cluster, Naïve DK person, are female. According to cross tab table, 72% of them in their 40's are female, and 74 % of the third cluster in their 50's are female (Table 10). It would mean that Japanese females in their 40's and 50's are not interested in socio-legal problems, because they would not involve themselves in the social lives.

The highest number of educational background is high school (48.1 %) in this group, too.

Table 10: Relationship between five types, generation and gender

	20's			30's			40's*		
	Male	Female	Total (N) %	Male	Female	Total (N) %	Male	Female	Total (N) %
Mild realists	48.5	51.5	(33) 100	45.8	54.2	(48) 100	46.2	53.8	(52) 100
Strict naïve	42.9	57.1	(28) 100	34.0	66.0	(50) 100	47.8	52.2	(67) 100
DK naïve	42.9	57.1	(14) 100	35.0	65.0	(20) 100	28.0	72.0	(25) 100
Mild naïve	57.1	42.9	(14) 100	45.8	54.2	(24) 100	43.3	56.7	(30) 100
Strict realists	75.0	25.0	(20) 100	60.7	39.3	(28) 100	70.0	30.0	(30) 100

	50's ⁺			60's and 70*		
	Male	Female	Total (N) %	Male	Female	Total (N) %
Mild realists	54.4	45.6	(79) 100	53.5	46.5	(71) 100
Strict naïve	50.0	50.0	(86) 100	44.0	56.0	(100) 100
DK naïve	26.1	73.9	(23) 100	33.3	66.7	(30) 100
Mild naïve	57.4	42.6	(47) 100	44.8	55.2	(67) 100
Strict realists	62.3	37.7	(53) 100	65.3	34.7	(49) 100

The Naïve DK persons would be the persons who are not accustomed to judging the social problems in their daily lives. As a result they have a naïve understanding towards the social value.

e. The fourth type: Naïve mild person

The fourth type of cluster is called a naïve mild person because they have naïve judgment regarding morality and have a moderate attitude towards punishment.

Regarding their attitudes, they seem to think highly of traditional values, in general. For example, 40.1% answered that they have a faith or a religious belief. 47.3% of them think repaying an obligation is important, while only 30.2% of them think highly of respecting individual rights.

The fourth type of people is spread almost evenly amongst all generations, except that over 60 year-old people represent 37%. The ratio of male and female is almost same in number. The highest number of education background is high school, while junior high school represents the second largest number (22.1%) in this group.

This characteristics means, the fourth cluster can be called as Naïve mild person because they are conservative and have a simple way of thinking, particularly they think more of morality rather than law. Furthermore, they have a moderate attitude toward punishment.

f. The fifth type: Strict realists

The fifth type of cluster is called a strict realist because they have a realistic attitude when judging the moral matter and have a strict attitude towards punishment.

Regarding their attitudes, they seem to think highly of traditional values, in general. For example, only 19.0% answered that they have a faith or a religious belief. 37.2% of them think that repaying an obligation is important while almost half of them think highly of respecting individual rights.

The last type of people is spread almost evenly amongst all generations. The ratio of males is larger than females, at 65.5% versus 34.4 %. According to cross tab table, 75.0 % in their 20's are male, and 60.7 % of in their 30's are female. It would mean that Japanese males in a rather younger generation, represent in the fifth cluster. The highest number of education background is high school, while university and graduate school both represents a little higher than the other clusters.

These clusters can be called strict realist because they are realist and liberal. They have a harsh attitude toward punishment.

(3) The attitude of five types towards court

Although there are five different types of legal attitude, it is very interesting to say that they all have almost the same attitudes towards using the court. All types of people answered, "Do not think of that, unless something very serious comes up" to the

question of "When you feel your rights are infringed, do you think of going to court?" The only exceptional response is that one third of the Naïve DK persons answered "don't know" as they respond to the rest of the questions (Table 11)

Table 11: Attitudes of five types towards using court

	1 Think of that right away	2 Sometimes think of that	3 Do not think of that unless something very serious comes up	4 DK	Total (N) %
Mild realists	4.2	15.9	64.7	15.2	(283) 100.0
Strict naïve	5.8	17.6	70.0	6.7	(330) 100.0
DK naïve	1.8	8.9	62.5	26.8	(112) 100.0
Mild naïve	8.8	22.0	61.5	7.7	(182) 100.0
Strict realists	5.6	19.4	68.3	6.7	(180) 100.0

Furthermore, most of the types answered that they agree to the question of "Trials cost a lot and take time. Even if I win a lawsuit, I often lose more, except that 28.2 % of Naïve DK persons answered "don't know", and 21 % of Naïve mild person answered "do not think so".

Furthermore, about 60% of all respondents answered that litigation is takes time and money. Even if we win, we lose more. 48.2% of Naïve DK persons answered "don't know" to this question. It is interesting to note that 21.0% of Naïve mild person answered 'do not agree' to this question. It seems that Naïve mild persons are slightly more litigious that rest of the four types.

In summary, although we have different attitudes towards law and society in Japan, it seems that we have very unified attitudes towards using the court. These homogeneous attitudes towards using the court might prevent Japanese people from testing statistically, in that the attitude towards law influences people's behavior of using court because of the ceiling effects.

People's behavior on legal usage does not necessarily accord with people's attitude towards the law and legal system because the situational factors of cases can influence people's attitude whenever they have to decide to use court in a real setting. The attitude towards the law and legal system, however, is one important factor in order to predict people's understanding of the institutions and norms in a society.

4. Conclusion

Although people have five different attitudes towards law and morality, they almost always have the same attitude towards the intention of using the court. One third of people are classified as Naïve and strict and the other one third are mild realist.

Compare to the results of survey in 1976, there seems to be no difference regarding the preference of flexibility in the cases of making contracts. On the other hand, naïve morality and orientation of harsh punishment have both increased. It is very difficult to explain the reason why we have an increased number of people who are Naïve and strict at this moment. Social surveys, within a certain interval, need to be conducted in the future, and all data will hopefully be stored in the archives.

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Legal Problems and Their Resolution

– Disputing Behaviour in Japan -[#]

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[Summary]

Civil Justice Research Project started in 2003, which consists of three national surveys, covering the whole process from problem experience to litigation. This paper reports basic findings of the first national survey, Disputing Behaviour Survey. We found that the basic structure of disputing process is surprisingly similar between Japan and the U.S. and that the shape of a dispute pyramid is similar for the same type of legal problems between two countries, though lawyers and courts are often less used in Japan than in the U.S.

[Key Words]

Legal Problem, Dispute Resolution, Advice Seeking, Lawyers, Court

Japan has been planning and implementing a series of judicial reform, which emphasizes increasing access to justice and expanding the role of law in dispute resolution. In order to provide basic data for the civil justice reform, we have started an empirical research project, which we named Civil Justice Research Project.¹ This project consists of three national surveys on (1) problem experience and disputing behaviours, (2) advice-seeking behaviours and (3) litigating behaviours. We have conducted the first national survey on disputing behaviours last winter and this paper

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is a brief report of the first-stage analysis of our data.

1. Research Method and Data

Using the stratified multistage sampling method, we randomly chose 1,137 election districts and, from each of the districts, 22 residents,² which made a national sample of 25,014 persons. The universe is the Japanese people who are over 19 years old and under 71 years old. The survey covers a representative sample of the Japanese population in this age group. The unit of analysis is individual, but not household, because we want to see whether and how subjective variables, such as legal consciousness, legal knowledge, personality, would affect problem experiences and disputing behaviours. The survey consists of two parts: At first we asked questions to the respondents in face-to-face interviews and, then, at the end of the interviews, asked the respondents to fill out the questionnaires. We used the combination of face-to-face interview and the self-administered questionnaire, as the latter questionnaire was concerned with subjective variables, making the questions like a psychological test.³ The survey was carried out in March 2005. 12,408 individuals answered the questions in interview and completed the written questionnaires.⁴ Thus, the response rate is 49.6%. The group of the respondents slightly differs from the population in two aspects; Urban residents and young people tended to decline to answer more often than rural residents or older people.⁵

2. Problem Experiences

In the interview, we asked individual respondents whether they experienced some problem in their private lives during the previous five years. Even though a problem occurred more than five years ago, it was included when the problem still existed during the period. Problems experienced on the job or in business were excluded.

In the interview, we asked whether a respondent had experienced certain type of problems, by showing cards, which presented examples of problems, for instance, concerning the purchase of goods/services, such as food, drug, cosmetics, electric

² We assigned 22 persons to each election district, because we used 11 versions of questionnaire for the latter half of our survey.

³ Concerning the method of asking questions on problem experiences and disputing behaviors, we carefully considered merits and demerits of face-to-face interview, telephone interview and self-administered questionnaire. We at first ruled out telephone interview because (1) we cannot identify the universe of the telephone users and (2) in Japan telephone interview has not been taken seriously by people, who would not be willing to answer the questions about private matters over the phone. After having conducted two pre-tests, the first with self-administered questionnaire and the second with face-to-face interview, we decided to use the latter method because it could obtain more reliable answers.

⁴ Among the interviewees, more than 300 individuals did not complete the written questionnaires.

⁵ We will correct the data for the under-representation of urban residents and younger people, but this has not been done yet.

Table 1: List of Types and Examples of Problems

<i>Type</i>	<i>Example</i>	<i>Type</i>	<i>Example</i>
Goods and Services	Food	Accident	Traffic Accident with Bodily Harm
	Drug		Traffic Accident without Bodily Harm
	Cosmetics, Esthetique		Medical Accident
	Household Commodities, Furniture, Electric Machines, Electronic Devices		Industrial Accident
	Automobile, Bicycle		Injury at School
	Laundry		Defamation/Mental Damages
	Travel		Others Resulting in Death/Injury
	School, Supplementary School, Private Teacher		Others Resulting in the Loss of Money/Property
	Stock, Bonds, Other Financial Commodities	Neighbour	Boundary Line
	Telephone, Internet		Noise/Odour/Vibration
	Nursing Care		Pet Animals
	Others		Water Leakage
Land/House	Buying and Selling of Land		Blockage of Sunshine/Air/View
	Buying and Selling of a House/Apartment		Others
	Building a House	Money Account	Acquaintance/Relative
	Rebuilding or Remodelling a House/Apartment		Bank/Post Office
	Others		Credit Card Company
Rent/Lease	Rent		Consumer Financing Company
	Compensation for Moving Out		Others
	Security Deposit	Private Insurance	Life Insurance
	Renewal Money		Casualty Insurance
	Repair		Health Insurance
	Others		Accident Insurance
Employment	Wage Payment		Others
	Discharge	Public Authority	Tax
	Transfer		Pension
	Overtime		Public Insurance
	Severance Pay		Other Social Security Benefits
	Sexual Harassment		Others
	Bulling	Others	
	Others		
Family	Divorce, Property Division, Child Support, Child Custody		
	Inheritance, Way of Dividing Property		
	Nursing		
	Others		

machines, bicycles, laundry service, travel, etc. as in shown in Table 1. In this way, we tried to make respondents recall past problem experiences. We presented respondents

10 types with 55 examples: Goods/Service, Land/House, Rent/Lease, Employment, Family, Neighbours, Money, Private Insurance, Public Authority, and asked whether respondents had experienced any of those during the previous five years.

We did not ask how many times respondents experienced the same problem during the five years period. The reason is that we considered that we would not be able to obtain reliable data on this matter. Firstly, the two pre-tests showed us that the number of problems experienced by the respondents decreased regularly every year, always fewer than in the previous year for the five years period. This clearly shows that the reported experience is a function of memory. We considered that the frequency would be much more difficult to remember exactly than the simple occurrence itself.

Secondly, when a problem continues to exist without being resolved completely, it comes out intermittently and in similar ways. A typical case is a problem with a neighbour, but it is also the case with problems occurring in more or less continuing relationships. After the two pre-tests, we concluded that if we ask respondents to count how many problems of the same kind they have experienced, they could count the number of problems in various ways which we cannot control effectively. Therefore, with our data, we cannot estimate the total volume of the problems, but we can estimate how many people have experienced a problem of some kind.⁶

A survey of legal problems often sets a threshold for problems to exclude trivial problems. In Civil Litigation Research Project, problems in which \$1,000 or more were at stake were picked up. The Path to Justice Survey asked whether respondents had experienced “justiciable” problems. We did not put any qualification on problems which we asked respondents to report. The reason is that there are many problems which respondents are unable to say how much is at stake. Before we visited respondents, we had sent them a letter to explain the purpose of our research. This letter and the examples shown in the interview sent the respondents a message that we would like to know about their legal problems. Estimating from the results of the two pre-tests, respondents in the survey understood this well.⁷

Concerning problem experiences, we first asked a respondent to report all the problems s/he had experienced for the previous five years. Then, we asked about the

⁶ In the first pre-test, we asked the respondents how many times they experienced the same problem. On average, each of the respondents who experienced problems reported 1.67 problems. This is not very different from the average number of problems experienced by the respondents in the main survey.

⁷ By setting a threshold, we try not to pick up trivial problems. There is a serious question of the opposite kind: To what extent we can pick up proper problems effectively. As having a legal problem could have some moral implications, people may not want to disclose information which could put them in uneasy moral positions. Or people simply do not want to talk private matters to “strangers”. This is a problem similar to “double dark figure” in crime victim survey.

most serious problem, on which we further asked her/him to give us a description of the problem and to answer questions about subsequent behaviours.

Among 12,408 respondents we interviewed, 2,414 respondents (19.5%) reported 3,892 problems. On average, 0.3 problem was experienced by a respondent, including all the respondents who did not experience any problem; Also 1.6 problems were experienced by a respondent who experienced at least one problem. As is shown in Table 2, the most frequently experienced problem is that of Accidents (7.2%), then, Neighbours (5.3%), Goods/Services (4.8%), Employment (3.0%), Family (2.4%), Money (2.3%), Rent/Lease (1.8%), Land/House (1.5%), Private Insurance (1.4%), Claims against the Public Authority (1.0%) and Others (0.7%).

Compared with the data in the U.S. and in U.K., the percentage of the Japanese respondents who experienced problems is considerably lower, as in Japan 19.5% of the respondents experienced at least one problem for the previous 5 years, while, in the U.S., 41.6% of the households had some grievances worth at least \$1,000 for the previous three years. In the U.K., too, about 40% of the respondents experienced one or more justiciable problems for the previous five years. The percentage of the respondents who experienced each type of problems is also considerably higher in the U.S. and U.K. than in Japan. However, a real difference in percentage could be smaller than shown above, as the American and British surveys focused on households, while the Japanese survey focused on individuals.⁸

Table 2: Problems Experienced for the Previous five years (Multiple Answers)

Problem	N	%
Accidents	891	7.2%
Neighbours	652	5.3%
Goods/Service	593	4.8%
Employment	375	3.0%
Family	300	2.4%
Money	282	2.3%
Rent/Lease	221	1.8%
Land/House	192	1.5%
Private Insurance	174	1.4%
Tax/Pension/Public Insurance	123	1.0%
Others	89	0.7%
N of the Respondents	12,408	100.0%

Note: The number of respondents is 12,408. The number of the respondents who experienced at least one problem is 2,414, while the number of problems experienced is 3,892, thus 1.6 problems on average for a respondent who experienced at least one problem..

⁸ We will make our data comparable with the American and British counterpart by adjusting the individual data for the households.

3. The Most Serious Problem

We asked the respondents to identify the most serious problem for the previous five years and asked what they did to handle the problems. Among 2,414 respondents who reported one or more problems, 2,366 respondents identified their most serious problems. The distribution of the kinds of problems is shown in Table 3.

As is shown in Table 4, in the half of the most serious problems, the respondents knew how much was at stake, while in a quarter of the most serious problems, they did not know how much was at stake. In the other quarter of the most serious problems, the respondents said that their problems were not over money.

Table 3: The Most Serious Problems Experienced for the Previous Five Years

Problem	N	%
Accidents	671	27.8%
Neighbours	394	16.3%
Goods/Service	319	13.2%
Employment	236	9.8%
Family	184	7.6%
Money	163	6.8%
Rent/Lease	116	4.8%
Land/House	99	4.1%
Private Insurance	64	2.7%
Public Authority	55	2.3%
Others	65	2.7%
N.A.	48	2.0%
Total	2,414	100.0%

Table4: Do You Know How Much Was At Stake with the Problem

	N	%
Yes I Know	1,226	51.8%
No I Do Not Know	528	22.3%
Cannot Count by Money	598	25.3%
N.A.	14	0.6%
Total	2,366	100.0%

Table 5 shows how many problems in each type are countable in terms of money. Problems of most types are generally over money, even if respondents did not know how much amount was at stake. In contrast, a majority of the respondents who reported neighbourhood problems as their most serious said that their problems could not be calculated in terms of money. Employment and family are also the types of the problems which often cannot be calculated in money.

Table 5: Percentage of Each Kind of the Most Serious Problems According to the Amount Known, Unknown or Uncountable

Problem	%			Total	N
	Amount Known	Countable but Unknown	Uncountable		
Accidents	62.2	26.3	11.5	100.0	670
Neighbours	16.8	22.7	60.5	100.0	392
Goods/Service	65.4	14.6	20.0	100.0	315
Employment	41.3	23.8	34.9	100.0	235
Family	38.8	26.8	34.4	100.0	183
Money	88.9	8.6	2.5	100.0	162
Rent/Lease	74.6	15.8	9.6	100.0	114
Land/House	59.2	29.6	11.2	100.0	98
Private Insurance	58.7	25.4	15.9	100.0	63
Public Authority	43.6	43.6	12.7	100.0	55
Others	32.3	16.9	50.8	100.0	65
Total	52.1	22.4	25.4	100.0	2,352

As Table 6 shows, among the problems in which the amount at stake is known, the majority involve \$1,000 or more. The percentage of the problems worth \$1,000 or more is 70.3%, which is significantly higher than that found in the British *Path to Justice* survey (45%). However, the percentage of those worth \$10,000 or more in Japan (27.8%) is not very different from the British counterpart (29%). Problems among Japanese respondents are also rather modest in terms of money, as is the case with the U.K.

Table 6: The Amount at Stake (¥100=US\$1)

Amount	N	%
0	24	2.0%
Less than \$100	57	4.6%
Less than \$1,000	283	23.1%
Less than \$10,000	521	42.5%
Less than \$100,000	272	22.2%
Less than \$1,000,000	63	5.1%
\$1,000,000 or more	6	0.5%
Total	1,226	100.0%

4. What People Do for Handling Their Problems

CLAIMING

As is shown in Table 7, a quarter of the respondents who listed the most serious problems had not made a claim against the other party to deal with their problems. 3.6% of the respondents did not claim because they did not know whom they should claim, while 21.9% simply did not claim, although they knew the other party.

Table 7: Whether Claim Was Made to Deal with the Problem

Claim	N	%
Yes	1,739	73.5%
No	604	25.5%
<i>Simply Did Not Claim</i>	519	21.9%
<i>The Other Unknown</i>	85	3.6%
N.A.	23	1.0%
Total	2,366	100.0%

When they contacted with the other party, the overwhelming majority (91.0%) contacted by themselves, either directly (67.0%) or by phone or letter (24.0%) (See Table 8). Respondents also relied on the third party to make a claim against the other party in one-third of the problems. In 7.7% of the problems, respondents relied on

Table 8: Did You Make a Claim to the Other Party (Multiple Answers)

Action	N	%
Contact by Oneself	1,582	91.0%
Talked Directly	1,165	67.0%
Contact by Phone/Letter	417	24.0%
Contact Through 3rd Party	594	34.2%
Family/Friends/Acquaintances	247	14.2%
Lawyers	134	7.7%
Others	213	12.2%
Court	102	5.9%
Conciliation	58	3.3%
Litigation	25	1.4%
Other Procedure	19	1.1%
Other Way	275	15.8%
Total	1,739	100.0%

lawyers to contact the other side. In 5.9% of the problems, respondents brought their problems to the court, either for conciliation, litigation or some other court procedure.

In the U.S. lawyers were used for 23% of all the grievances. When we exclude problems worth less than US\$1,000 from our data, lawyers were used for 8.2% of all the problems in Japan. Apparently, lawyers are much more frequently used in the U.S. than in Japan. However, in Japan, among the respondent who did not use lawyers, 15% of them considered the use of lawyers.

We wanted to know what variables would explain whether respondents claimed or not for handling their problems. We prepared three groups of independent variables: (1) subjective variables of respondents, (2) demographic variables and (3) situational variables. The last group of variables include 14 variables concerning how respondents considered or felt about various aspects of their handling problems. We ran factor analysis and extracted 4 factors from the 14 variables as is shown in Table 9.

According to results of logistic regression analysis, no demographic/socio-economic variables appeared statistically significant. There are only four variables appeared significant: factors 2, 3, and 4 and the past experience of using a lawyer. The subjective variables are not included in the analysis this time. The more concerned respondents are with the cost for handling the problem, they tend not to make a claim.

The more negative normative concern respondents have, they tend also not to make a

Table 9: List of Factors and Variables

Factor	Variable
Factor 1 Relational Concern	Concern with the relationship with the other party Concern with other people's eyes on the occurrence of the problem Concern with other people's eyes on the handling of the problem
Factor 2 Cost Consciousness	Concern with how much money I have to spend to solve the problem Concern with how much of my time has to be devoted to solve the problem Concern with how long it takes to solve the problem
Factor 3 Normative Concern	Which side is right Conscious about the law Personal seriousness of the problem for me Social seriousness of the problem Psychological burden except money, time and efforts for the resolution
Factor 4 Certainty of The outcome	Who is responsible for the problem is clear or not To whom I should tell my opinion to solve the problem is clear or not Believed that I would obtain the desired outcome if I would claim

claim. The more certain respondents are to obtain the desired outcomes, they tend to make a claim against the other party. Also, respondents who used lawyers in the past tend to make a claim. Finally, it is interesting to see that factor 1, relational orientation, is not significantly related with whether or not making a claim.⁹

We also compared the average income and education between the claiming group and non-claiming group. We found that both the average income and education are significantly higher in the claiming group than the non-claiming group. This indicates that people with less education and less income tend not to make claims when they have

⁹ In relation with the Japanese culture, this is a important point. We will further explore how each variable in Factor 1 correlate with the claiming behaviour and how the nature of a problem could also affect it.

problems.

Among 1,739 who claimed to the other party, 942 persons (65.8%) found disagreements with the other party.

CONSULTATION

Among 2,366 who listed the most serious problem, 1,444 persons (61.0%) consulted with another person or agency, but 906 persons (38.3%) did not consult with anybody or any agency.

Table 10: Person or Agency Consulted with the Problem (Multiple Answers)

Person/Agency	Overall		First		Second	
	N	%	N	%	N	%
Family/Friend	534	37.0%	368	25.5%	117	8.1%
Insurance Company	436	30.2%	307	21.3%	113	7.8%
Police	276	19.1%	213	14.8%	45	3.1%
Lawyer	145	10.0%	62	4.3%	55	3.8%
Non-Legal Consultation Bureau at City Hall	127	8.8%	81	5.6%	32	2.2%
Colleague at Work Place	127	8.8%	127	5.4%	68	4.7%
Legal Consultation Bureau at City Hall	84	5.8%	50	3.5%	24	1.7%
Legal Professional Other Than Lawyers	55	3.8%	23	1.6%	20	1.4%
Consumer Advice Centre	52	3.6%	39	2.7%	11	0.8%
Public Office Other Than Police	51	3.5%	28	1.9%	19	1.3%
Consultation Bureau at the Court	43	3.0%	15	1.0%	13	0.9%
Welfare Commissioner	43	3.0%	24	1.7%	10	0.7%
Consultation Bureau at the Bar Association	41	2.8%	18	1.2%	14	1.0%
Private Consultation Agency	19	1.3%	11	0.8%	6	0.4%
Labour Union	18	1.2%	15	1.0%	2	0.1%
Politician	14	1.0%	14	0.6%	3	0.2%
Consultation Bureau at Legal Aid Association	4	0.3%	0	-	2	0.1%
Total	1,444	100.0%	1,444	100.0%	1,444	100.0%

Table 10 shows with whom or with which agency respondents consulted. Family members and friends are apparently the most frequently consulted group of people (37%). Colleagues at work places also rank in the sixth (8.8%). Personal networks are important for people with problems to get advice and support.

Among agencies, 30.2% of the respondents consulted with insurance companies and 19.1% with the police. Lawyers follow next, 10.0% of the respondents consulted with them. Legal consultation bureaus at city halls, consultation bureaus of the bar associations, and consultation bureaus of the legal aid associations also provide legal advice. However, it is apparent that non-legal agencies are in total more often consulted than lawyers by the respondents.

As is shown in Table 10, we asked the respondents whom or which agency they consulted for the first advice and the second. We expected that the percentage of lawyers might increase from the first advice to the second. But this was not really the case. Even for the second advice, lawyers and legal consultation in general remain less significant than non-legal consultations.

OUTCOMES

Among the most serious problems listed by the respondents, 1,407 problems were solved by the time of the survey, while 865 problems were not solved by that time. Table 11 shows to what extent the respondents were satisfied with the outcomes of the resolutions. Apparently, the majority (59.9%) said completely or almost satisfied with the results, while 32% reported their negative opinion about the outcomes.

Table11: Satisfaction with the Outcome of the Resolved Problems

Outcome	N	%
Completely Satisfied	418	29.7%
Almost Satisfied	425	30.2%
Little Satisfied	214	15.2%
Not at All Satisfied	237	16.8%
Others	65	4.6%
N.A.	48	3.4%
Total	1,407	100.0%

This result seems to show that the outcomes are more or less positive, but we have to see the situations of the unresolved problems. With the majority of the problems (63.6%), respondents reported nothing had been done. For 35.2% of the unresolved

problems, respondents have been doing something, mostly negotiating with the other party by themselves.

Table 12: Present Situation with Unresolved Problems

Present Situation	N	%
Nothing Done	550	63.6%
Still Negotiate by Oneself	164	19.0%
Negotiate Through Non-Lawyer	27	3.1%
Negotiate Through Lawyer	22	2.5%
On Conciliation	10	1.2%
On Litigation	7	0.8%
Other Court Procedure	5	0.6%
Others	86	9.9%
N.A.	10	1.2%
Total	865	100.0%

As Table 13 shows, the degree of dissatisfaction is very high among the respondents who had unresolved problems. Only 7.4% of the respondents were completely or almost satisfied with the present outcomes, while 75.0% of them were little or not at all satisfied.

Table 13: Satisfaction with the Outcome of the Unresolved Problems

Outcome	N	%
Completely Satisfied	15	1.7%
Almost Satisfied	49	5.7%
Little Satisfied	135	15.6%
Not at All Satisfied	514	59.4%
Others	40	4.6%
N.A.	112	13.0%
Total	865	100.0%

DISPUTE PYRAMIDS

How people try to solve their problems could significantly differ according to the types of their problems. Table 14 shows the percentage of each stage in the disputing process in each type of problems. As we take the pattern of all the problems as the general standard, the patterns of accident, employment and family are significantly different from the general standard. This is more clearly visible in Figure 1.

Table 14: Stages of Disputing Process

	Problem	Contact	Disagree- ment	Consult with Lawyer*	Use of Court Procedure**	Satisfaction ***
Accident	100% 671	83.0% 557	31.1% 209	3.6% 24	2.1% 14	68.2%
Neighbours	100% 394	64.0% 252	39.6% 156	7.4% 29	2.5% 10	32.7%
Goods/Services	100% 319	69.6% 222	40.1% 128	2.5% 8	0.6% 2	50.9%
Employment	100% 236	49.2% 116	35.2% 83	2.1% 5	1.7% 4	18.8%
Family	100% 184	82.6% 152	59.8% 110	32.6% 60	24.5% 45	35.3%
Money	100% 163	82.2% 134	31.3% 51	8.6% 14	5.5% 9	31.7%
Rent/Lease	100% 116	83.6% 97	52.6% 61	9.5% 11	5.2% 6	36.2%
Land/House	100% 99	87.9% 87	57.6% 57	13.1% 13	4.0% 4	49.4%
Private Insurance	100% 64	70.3% 45	51.6% 33	3.1% 2	- 0	25.9%
Public Authority	100% 55	70.9% 39	52.7% 29	1.8% 1	- 0	24.4%
Others	100% 65	58.5% 38	38.5% 25	9.2% 6	3.1% 2	31.6%
Total	100% 2,366	73.5% 1,739	39.8% 942	7.3% 173	4.1% 96	45.3%

* Free of charge legal advice is included.

** All the court procedures are included.

*** The combined percentage of “Completely satisfied” and “Almost satisfied”.

In the case of accidents, 90% of the respondents claimed and only 31% found disagreement with the other party. 68% of the respondents were completely or almost satisfied with the outcomes. However, in the case of employment, claiming itself seems difficult to be made and only 50% of the respondents claimed. The percentage of disagreements in employment cases is just a little higher than that in accident cases. In the case of family problems, almost half of the respondents consulted with lawyers. Court procedures were also used by 45% of the respondents.

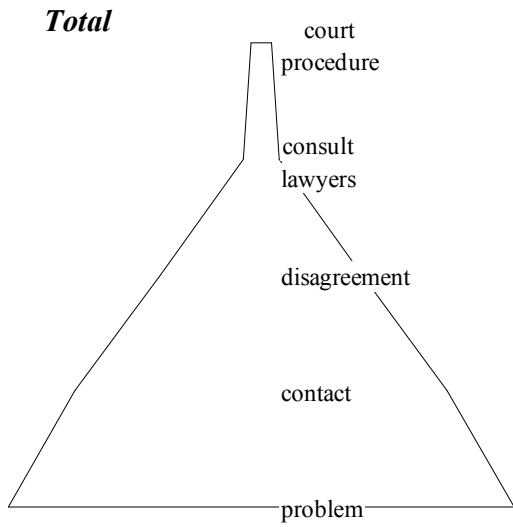
Accidents seem to be best handled among all types of problems, as the majority of the respondents were satisfied with the outcome. However, overall satisfaction is rather low. Even in Goods/Services and Land/House cases, in which the percentage of satisfaction is high, one-third of the respondents were not at all satisfied.

We often talk about “the” Japanese way of dispute resolution. But there are significant differences in the pattern of disputing process among various types of problems. As we saw, “accidents” has a rather exceptional pattern, but traffic accidents were often chosen as a subject, when we talked about “the” Japanese dispute resolution. Probably we have to think about accident cases by putting them in the larger context of the Japanese disputing process.

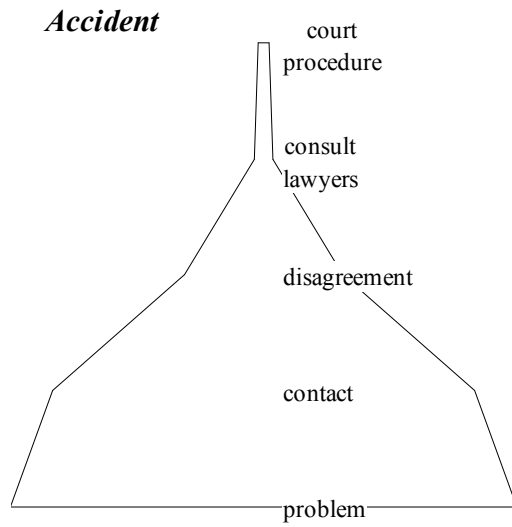
This is a part of our findings from the first stage analysis of our data. We still have to continue our analysis in detail, and, in particular, we would like to find out what independent variables affect problem-experiences, disputing behaviours and outcomes.

We would also like to make more exact comparisons among Japan, the U.S. and the U.K. to find out characteristics of disputing process in each country.

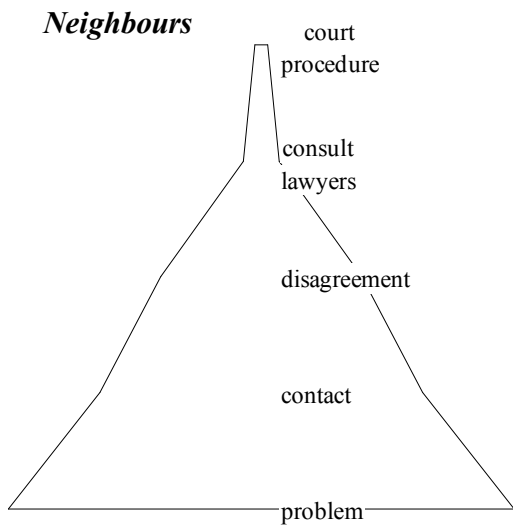
Figure 1: Dispute Pyramids



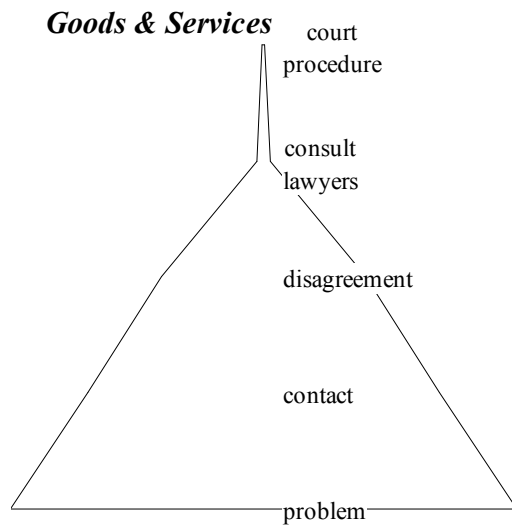
Court	4.1%	96
Lawyer	7.3%	173
Disagreement	39.8%	942
Contact	73.5%	1,739
Problem	100%	2,366



Court	2.1%	14
Lawyer	3.6%	24
Disagreement	31.1%	209
Contact	83.0%	557
Problem	100%	671

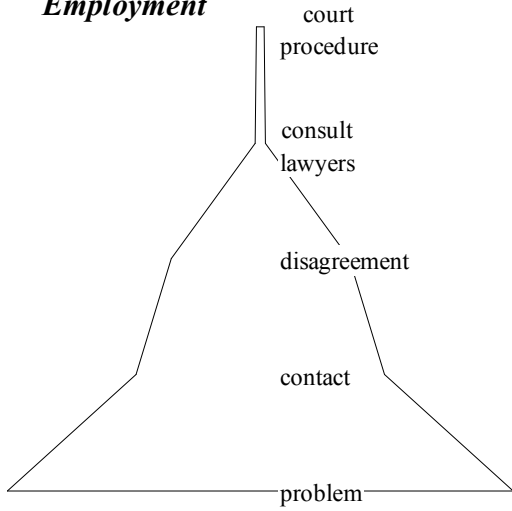


Court	2.5%	10
Lawyer	7.4%	29
Disagreement	39.6%	156
Contact	64.0%	252
Problem	100%	394



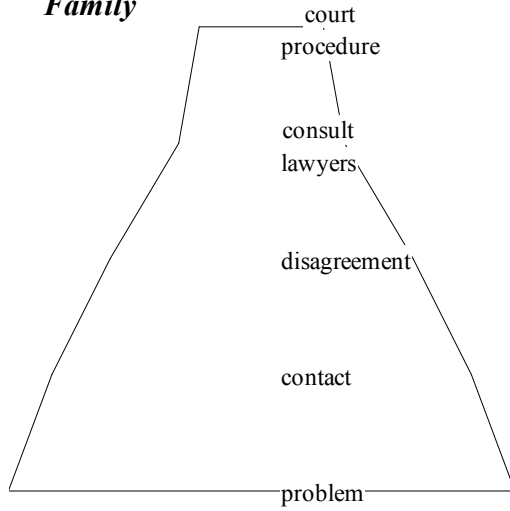
Court	0.6%	2
Lawyer	2.5%	8
Disagreement	40.1%	128
Contact	69.6%	222
Problem	100%	319

Employment



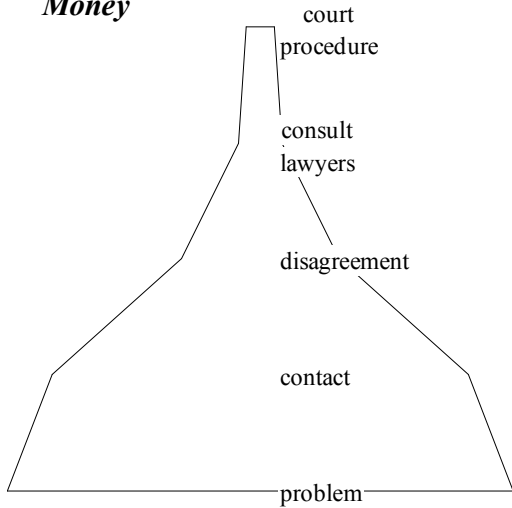
Court	1.7%	4
Lawyer	2.1%	5
Disagreement	35.2%	83
Contact	49.2%	116
Problem	100%	236

Family



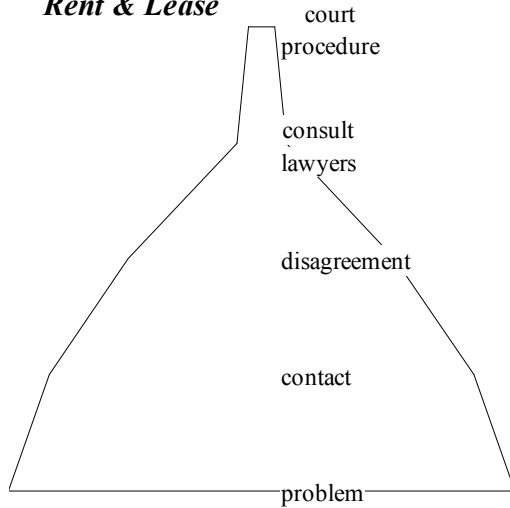
Court	24.5%	45
Lawyer	32.6%	60
Disagreement	59.8%	110
Contact	82.6%	152
Problem	100%	184

Money



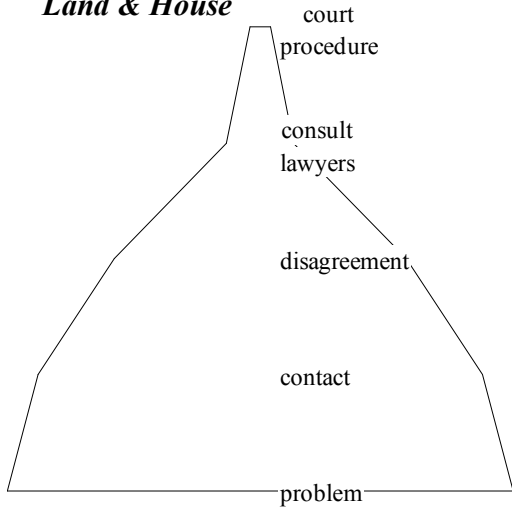
Court	5.5%	9
Lawyer	8.6%	14
Disagreement	31.3%	51
Contact	82.2%	134
Problem	100%	163

Rent & Lease



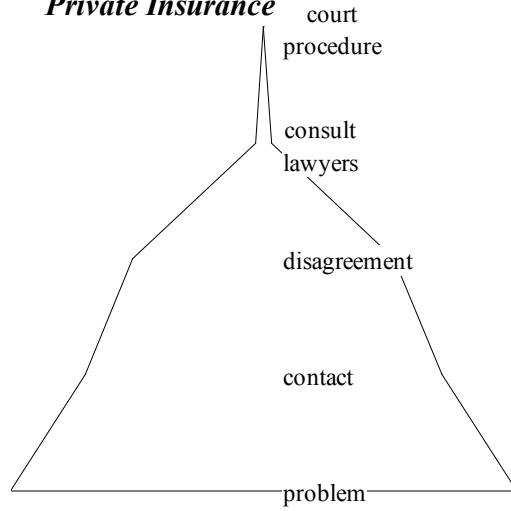
Court	5.2%	6
Lawyer	9.5%	11
Disagreement	52.6%	61
Contact	83.6%	97
Problem	100%	116

Land & House



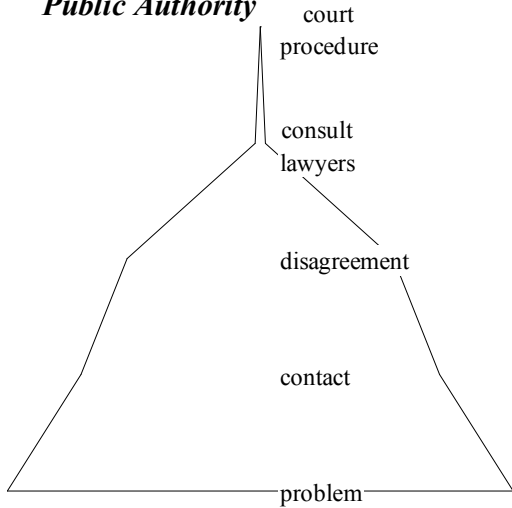
Court	4.0%	4
Lawyer	13.1%	13
Disagreement	57.6%	57
Contact	87.9%	87
Problem	100%	99

Private Insurance



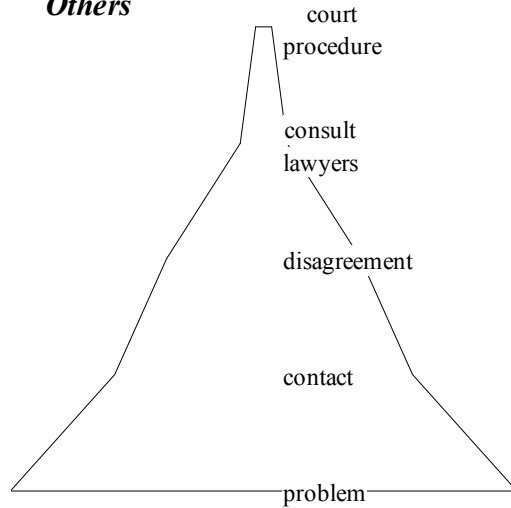
Court	0%	0
Lawyer	3.1%	2
Disagreement	51.6%	33
Contact	70.3%	45
Problem	100%	64

Public Authority



Court	0%	0
Lawyer	1.8%	1
Disagreement	52.7%	29
Contact	70.9%	39
Problem	100%	55

Others



Court	3.1%	2
Lawyer	9.2%	6
Disagreement	38.5%	25
Contact	58.5%	38
Problem	100%	65

Disputing Behavior in a Comparative Perspective

–The Japanese Disputing Behaviour Reconsidered–

Masayuki Murayama*

Yoshiyuki Matsumura**

[Summary]

Japanese people were often characterized as averting conflicts and disputes and to be shy of asserting rights. However, our findings indicate that these stereotypes are largely not supported by empirical data. Based on results of Disputing Behaviour Survey, Japanese people seem to experience legal problems as often as people of England and Wales and face disputes as often as American people. Differences in disputing behaviour are much larger between types of problems than among the countries. However, there seem to be a consistent difference among the three countries, that is, the less use of lawyers and court procedures in Japan than in the U.S. and England and Wales. In Japan the best predictor for the use of a lawyer and that for the use of a court procedure are the previous experiences of them.

[Key Words]

Disputing Behaviour, Dispute Resolution, Lawyers, Court, Comparative Study

Introduction

It is well known that the number of litigation cases is small in Japan in comparison with other economically developed countries. Why the litigation rate is so small in Japan has been a subject of long academic debate and various explanations have been presented.

In this paper, we will not discuss which explanation would be most plausible, but rather present some findings from our recent survey to better understand the structure of dispute resolution system which leads to the small litigation rate.

Our survey was carried out in spring 2005. 25,014 persons were randomly chosen from among the Japanese citizens from 20 years old to 70 years old. 12,408 individuals completed both a face-to-face interview and a self-administered questionnaire, thus the response rate being 49.6%.

In the interview, we asked whether a respondent had experienced a problem for the previous five years and, if so, how s/he had tried to resolve the problem. In the self-administered questionnaire, we asked about legal knowledge, attitudes to disputes, the law and legal institutions, and general social attitudes. As we wanted to measure personal characteristics of a respondent, the

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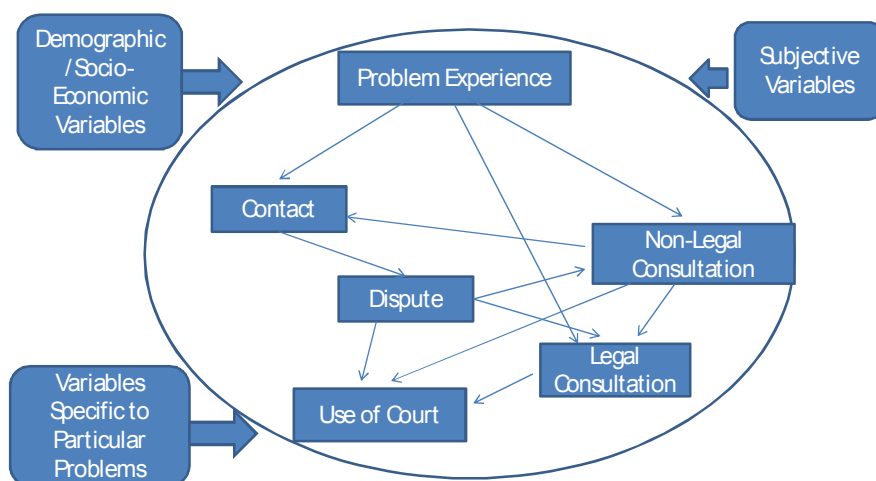
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unit of our research was an individual, rather than a household.¹⁰

Among 12,408 respondents we interviewed, 2,343 persons (18.9%) reported 4,144 problems. Compared to American and British data, the percentage is smaller, but it could be almost equivalent with the British data of problem experiences.¹¹ We do not discuss this further in this paper, but we would like to point out that the Japanese rate of problem experiences is not significantly lower than the British counterpart.¹² It would be difficult to argue that Japan has a smaller litigation rate because people have fewer problems.

Fig. 1 Model of Explanation



We intended to measure both dependent and independent variables concerning problem experience and subsequent behavior and to explain how certain independent variables affect dependent variables, as is illustrated in Fig.1. The dependent variables are problem experience,

¹⁰ For details of the survey and frequency results, see, Masayuki Murayama, *Experiences of Problems and Disputing Behaviour in Japan*, 14 *MEIJI L. J.* 1 (2007)

¹¹ The American data are taken from Civil Litigation Research Project, see Richard E. Miller and Austin Sarat, *Grievance, Claims, and Disputes: Assessing the Adversary Culture*, 15 *LAW & SOC'Y REV.* 525 (1980-81); For the British data, see HAZEL GENN, *PATHS TO JUSTICE: WHAT PEOPLE DO AND THINK ABOUT GOING TO LAW* (1999)

¹² In England and Wales, 34% of the respondents reported non-trivial justiciable problems for the previous five years, but this number includes that of the problems experienced by respondents' partners. We did not set any minimum threshold for problems reported, but the amount of money at stake in Japan was not smaller than the amount of claim in which respondents sought lump sum in England and Wales, as is shown below. For the British data, see, GENN, *supra* note 2, at 66, 187.

	£100 & less	£500 & less	£1,000 & less	£3,000 & less	£5,000 & less	£10,000 & less	£15,000 & less	More than £15,000
Japan	15%	23%	13%	18%	10%	8%	2%	10%
U.K.	25%	30%	16%	16%	3%	5%	1%	4%

£1=200 Yen

contact with the other party, the occurrence of dispute, non-legal consultation, legal consultation, entrusting to a lawyer and the use of a court procedure. The independent variables consist of three groups: (1) demographic/socio-economic, (2) subjective (legal knowledge, legal attitudes, etc.) and (3) problem-specific (problem type, main opponent, seriousness, concern with cost, etc.)

In Section 1, we will briefly compare findings of dependent variables to see how problem solving behavior would be different between Japan and the U.S. and between Japan and the U.K. Then, in Section 2, we will show results of logistic regression analyses of the Japanese data, and will make some brief comparison.

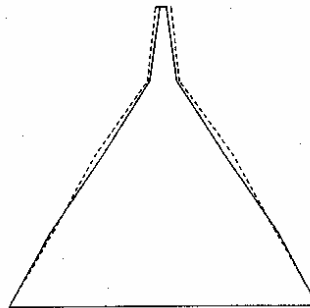
1. Comparison of Disputing Process

(1) Comparison with the U.S.

Fig.2 shows the comparison of the disputing process for all the problems experienced by respondents between Japan and the U.S. The shapes of the pyramids in the two countries are very similar, except that the use of the lawyer and that of the court are less frequent in Japan than in the U.S.¹³

Fig.2: Dispute Pyramids of All the Problems (Japan and the U.S.)

————— Japan
 - - - - - U.S.



Stages	Japan	U.S.
Court	21	50
Lawyer	87	103
Dispute	398	449
Contact/Claiming	733	718
Problem/Grievance	1000	1000

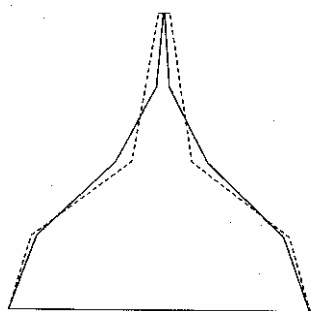
¹³ The use of lawyers in Japan includes all kinds of consultation with lawyers as well as entrusting cases to lawyers, while the use of lawyers in the U.S. might generally mean the latter.

In the Civil Litigation Research Project, there were three deviant types of problems. They are Torts, Discrimination and Post-Divorce. Figures 3, 4 and 5 show direct comparisons of pyramids for more or less corresponding types of problems between the two countries.

It was often argued that Japanese people were reluctant to make claims and tried to avoid disputes.¹⁴ However, the three figures clearly indicate that disputing behavior is significantly affected by a type of problem and that it cannot be always said that Japanese people are more reluctant to contact with the other side or to face disputes than American people. However, also in the deviant problem types, Japanese people do not use lawyers and court procedures as often as American people except for employment/discrimination cases.¹⁵

Fig.3 Dispute Pyramids of Accidents/Torts (Japan and the U.S.)

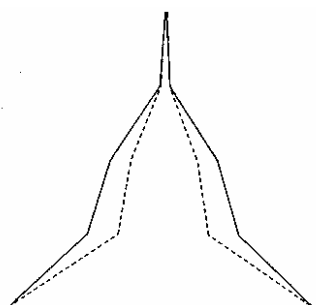
———— Japan
 - - - - - U.S.



Stages	Japan	U.S.
Court	4	38
Lawyer	43	116
Dispute	305	201
Contact/Claiming	822	857
Problem/Grievance	1000	1000

Fig.4 Dispute Pyramids of Employment/Discrimination (Japan and the U.S.)

———— Japan
 - - - - - U.S.



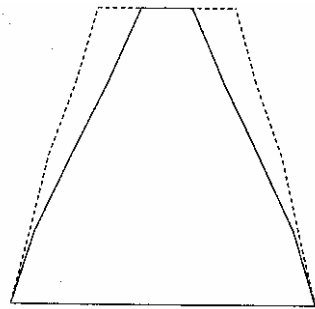
Stages	Japan	U.S.
Court	4	8
Lawyer	34	29
Dispute	349	216
Contact/Claiming	491	294
Problem/Grievance	1000	1000

¹⁴ For instance, see, YOSHIYUKI NODA, INTRODUCTION TO JAPANESE LAW 175, 181-182 (Trans. and Ed. by Anthony H. Angelo ed. & trans., 1976).

¹⁵ Problems concerning employment are overtime without pay, non-payment of wages, etc. and discrimination is not a large part of them in Japan.

Fig.5 Dispute Pyramids of Family/Post-Divorce (Japan and the U.S.)

——— Japan
 - - - - - U.S.



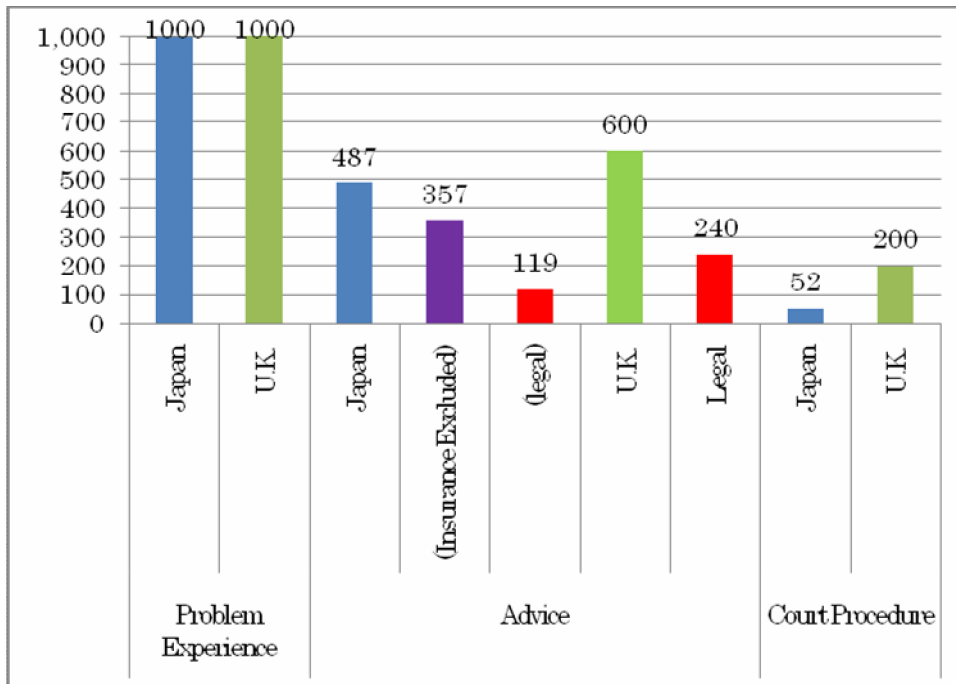
Stages	Japan	U.S.
Court	167	451
Lawyer	377	588
Dispute	617	765
Contact/Claiming	846	879
Problem/Grievance	1000	1000

(2) Comparison with the U.K.

Similar comparisons between Japan and the U.K. reveal that British people obtain advice both from lawyers and non-legal agencies more frequently than the Japanese people, except for accident/injury cases, as is shown in Fig.6 to Fig.9. In Japanese accident cases, people often rely on insurance agencies, often assuming that they are impartial to their interests. This heavy reliance on insurance agencies is the exceptional characteristic of disputing process in Japanese accident cases.

Fig.6 Comparison of the Disputing Process in Japan and the U.K.

(All the Problems)



It is also clearly shown in the Figures that Japanese people use court procedure much less frequently than British people.

Then, although the type of problems is significant in shaping the disputing process, it is also clear that Japanese people tend to rely on lawyers or to use court procedures much less than British people.

Fig.7 Comparison of the Disputing Process in Japan and the U.K. (Accidents/Injuries)

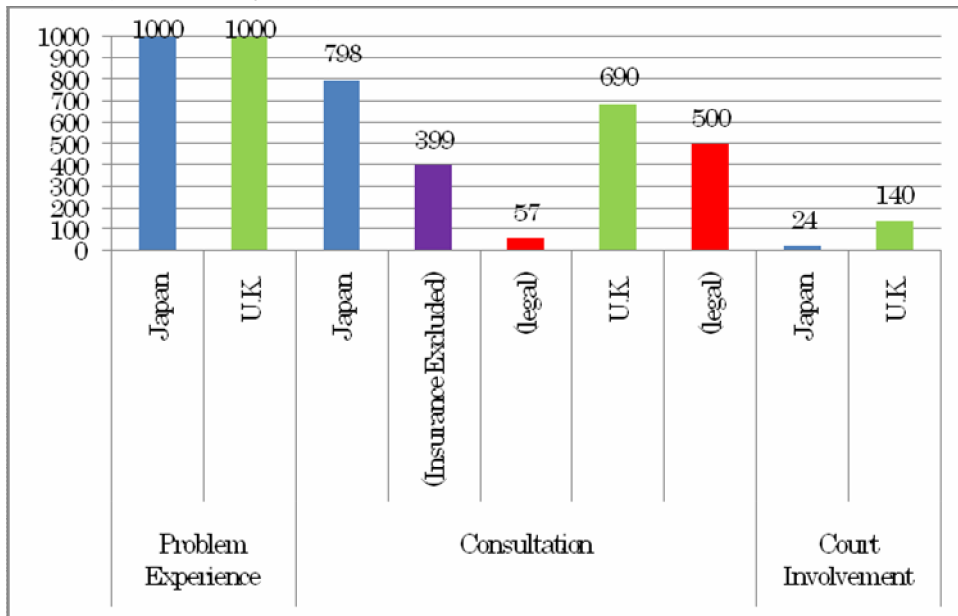


Fig.8 Comparison of the Disputing Process in Japan and the U.K. (Employment)

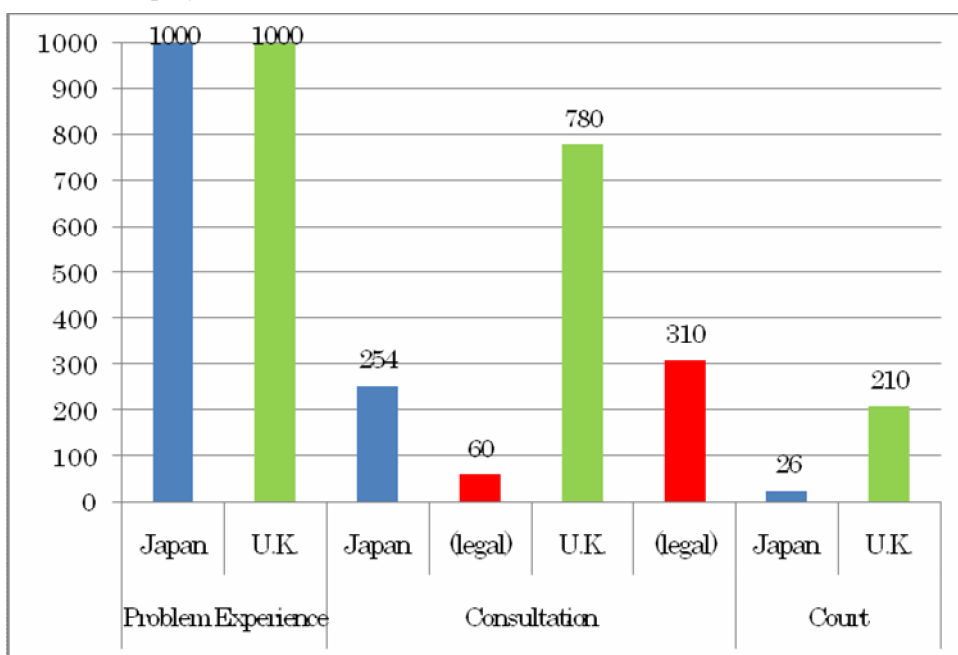
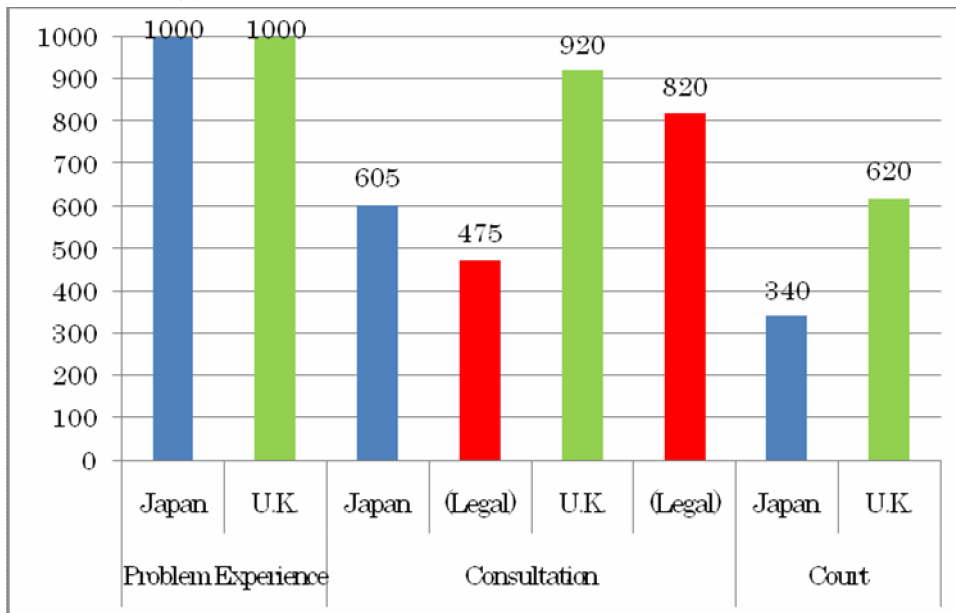


Fig.9 Comparison of the Disputing Process in Japan and the U.K. (Family)



2. What Variables Relate with Problem Experience and Subsequent Behavior

(1) Experiences of Problems

We would like to know what factors would affect the development of disputing behavior. However, if the reporting behavior of problem experience is strongly biased in some way, subsequent behavior could be also biased. In order to know to what extent this would be the case, we ran logistic regression to see how independent variables relate with problem experience. The result is shown in Table 1.

Three groups of independent variables significantly relate with problem experience: socio-demographic variables, social capital including the past legal contact, and subjective variables.

Concerning socio-demographic variables, age, job, income and education appear significant. Respondents being in their 60's or 70 years old tend to report problem experience less frequently than those in their 40's. Full time permanent employees, family workers, students and housewives/househusbands also tend to report problem experience less frequently than those in management or executive positions. Respondents whose annual income is \$90,000 or more tend to report problem experience less frequently than those with less than \$10,000 annual income. As for education, respondents who went to 2 years colleges or training schools after senior high school

Table 1: Results of Logistic Regression for Problem Experience
(Civil Justice Research Project: Disputing Behavior Survey, 2005)

Group	Variable	Categories	B	p-value	Odds Ratio	R Square Increase	
Socio-Demographic/ Socio-Economic	Age	(40's)		0.006		0.004	
		20's	-0.089	0.450	0.915		
		30's	0.071	0.435	1.073		
		50's	-0.145	0.089	0.865		
		60's & 70	-0.306	0.003	0.736		
	Education	(Senior High School)			0.001		0.013
		Junior High School	-0.195	0.069	0.823		
		College and Training School	0.266	0.001	1.305		
		University(Under-/Graduate)	0.126	0.126	1.134		
	Individual Income	(o-less than \$10,000*)			0.019		0.001
		\$10,000-less than \$40,000	-0.015	0.863	0.985		
		\$40,000-less than \$90,000	-0.153	0.174	0.858		
		\$90,000 and over	-0.512	0.005	0.6		
	Job	(management, executive)			0.000		0.006
		permanent general employee	-0.380	0.012	0.684		
		part-time worker	-0.177	0.300	0.838		
		dispatched worker	0.248	0.400	1.282		
		self-employed	-0.153	0.361	0.858		
		family worker	-0.660	0.004	0.517		
		side job at home	-0.511	0.338	0.600		
Student		-1.050	0.002	0.350			
housewife/househusband		-0.434	0.015	0.648			
no job		-0.230	0.193	0.794			
Social Capital	Connection with (3 ranks)	a legal professional	0.110	0.011	1.116	0.002	
		an insurance agency	0.112	0.001	1.118	0.003	
		a welfare commissioner	-0.122	0.002	0.885	0.001	
Legal Experience	Learned the law	Yes	0.322	0.000	1.380	0.004	
	Used a lawyer	Yes	0.885	0.000	2.423	0.026	
	Used a court procedure	Yes	0.558	0.000	1.747	0.003	
Legal Knowledge	Consumer Contract Law	5 ranks(never heard-remember well)	0.051	0.038	1.053	0.001	
Legal Attitudes	Contract is useful or not	6 ranks(useful - not useful)	-0.103	0.004	0.902	0.002	
	Complain about defective products	6 ranks(not agree at all - strongly agree)	0.068	0.027	1.071	0.001	
	Let a judge decide in litigation	6 ranks(not agree at all - strongly agree)	-0.115	0.000	0.891	0.007	
Attitude to Disputes	let a family member negotiate	6 ranks(not desirable at all-very desirable)	-0.054	0.034	0.947	0.001	

* US\$1=100Yen
N=7,771

Stepwise Forward with 23 variables
Nagelkerke R square .075
Hosmer & Lemeshow .689

Reduction of Errors: 79.5%(100.0%, 0%) to 79.6%(98.9%, 4.9%)

graduation tend to report problem experience more frequently than senior high school graduates.

Concerning variables related with social capital, connection with a legal professional or insurance company employee increases the possibility of experiencing a problem. In contrast, connection with a welfare commissioner decreases the possibility.

Past experience of law also appears significant. Respondents who learned the law, used a court procedure, or used a lawyer all tend to report problem experience more frequently than those

without the legal experience.

Among subjective variables, five variables significantly relate with problem experience. Respondents who have more knowledge about Consumer Contract Law or agree with the assertion of consumer rights tend to report problem experience more frequently, while those who do not think it useful to make a legal contract, are willing to let the judge decide everything in litigation, or want to leave negotiation to their family members or friends, tend to report problem experience less frequently.

These findings indicate that socio-economic status, social network, legal experience and personal characteristics all matter in terms of problem experience and its reporting. However, though these independent variables relate with problem experience, they can predict only a very small part of it (Nagelkerke R square is .075 and only 5% of the problem experiences are correctly predicted). Moreover, R square increase for each significant variable is not large, as the largest is 0.026 for the past experience of using a lawyer.

(2) Contact with the Other Side

Although a variety of independent variables significantly relate with problem experience, we have found that most of those variables lose significant relation with subsequent problem solving behavior, as is shown below. Instead, problem-specific variables are statistically significant in the prediction of subsequent behavior.

Concerning whether respondents who had problems contacted with the other side or not,¹⁶ only one subjective variable is significant: the more desirable respondents consider it to negotiate by themselves in case of seeking damages from traffic accidents, the more they tend to contact with the other side. However, the effect is not large.

All the other significant variables are specific to experienced problems. Type of problem is significant in that, in cases of purchase of land/house, the probability of contact with the other side is almost 5 times higher than in cases of consumer problems, while in cases of employment the probability of contact is much lower than in consumer cases.

Seeking legal and non-legal advice both strongly relate with contact with the other side. However, seeking advice and contact with the other side could be both independent and dependent variables to each other.

The character of the main opponent also relate with the contact: More contacts tend to be made when main opponents are organization rather than individual. However, the effect is very small with R square increase being only 0.004.

¹⁶ We asked respondents whether they had had contact with the other side. Therefore, "contact" includes those cases in which respondents were contacted by the other side.

Table 2: Results of Logistic Regression for Contact with the Other Side
(Civil Justice Research Project: Disputing Behavior Survey, 2005)

Group	Variable	Categories	B	p-value	Odds Ratio	R Square Increase
Nature of Problem	Type of Problem	(Consumer Problem)		0.000		0.063
		Purchase of Land/House	1.594	0.042	4.923	
		Rent or Lease of Land/House	-0.023	0.959	0.978	
		Employment	-1.222	0.000	0.295	
		Family/Relatives	0.652	0.206	1.919	
		Accidents	0.452	0.212	1.572	
		Neighbors	-0.228	0.506	0.796	
		Money Finance	0.611	0.160	1.842	
		Private Insurance	0.275	0.590	1.316	
		Pension, Tax, Insurance	0.428	0.553	1.534	
		Others	-0.646	0.402	0.524	
Main Opponent	Individual v Organization	0.565	0.037	1.760	0.004	
Situational	Personally Serious	4 ranks (not at all - very much)	0.378	0.003	1.460	0.012
	Socially Serious	4 ranks (not at all - very much)	-0.220	0.026	0.803	0.004
	Against Whom to Claim Clear	4 ranks (not at all - very much)	0.423	0.000	1.527	0.026
	Desired Outcome Possible	4 ranks (not at all - very much)	0.569	0.000	1.766	0.138
	Time Length Concerned	4 ranks (not at all - very much)	0.233	0.012	1.263	0.005
Advice Seeking	Consultation with a Legal Professional	Yes	1.832	0.000	6.247	0.027
	Consultation with a Non-Legal Agency	Yes	1.349	0.000	3.853	0.074
Attitude to Disputes	Negotiate by myself	6 ranks(not desirable at all-very desirable)	0.131	0.035	1.140	0.005

N=1,306 Stepwise Forward with 26 variables

Nagelkerke R square .358

Change of Prediction%: 81.7%(0%, 100%) to 85.6%(39.3%, 96.0%)

Hosmer & Lemeshow .126

Five situational variables also significantly relate with contact, though it is not always clear whether they are independent or dependent variables. (1) The more personally serious respondents consider their problems are, (2) the clearer they consider against whom to make claims, (3) the more possible they consider it to obtain desired outcome by making claims, (4) the more concerned they were with the length of time before the resolution, the more they tend to have contact with the other side. In contrast, (5) the more socially serious respondents consider their problems are, the less they tend to have contact with the other side. Among the five variables, R square increase is largest for “(3) Desired Outcome Possible”, 0.138. This is even larger than that for “Problem Type”, being 0.063.

(3) The Occurrence of Dispute

Two variables which are not problem-specific significantly relate with the occurrence of dispute: The area where respondents live and legal knowledge. Respondents who live towns or villages tend to face disputes two times more than those living in 14 ordinance-designated cities;¹⁷ the respondent who know more about Consumer Contract Law tend to face disputes more than those who know less about the law, though the relation is not very strong.

Table 3: Results of Logistic Regression for the Occurrence of Dispute
(Civil Justice Research Project: Disputing Behavior Survey, 2005)

Group	Variable	Categories	B	p-value	Odds Ratio	R Square Increase
Nature of Problem	Type of Problem	(Consumer Problem)		0.000		0.188
		Purchase of Land/House	0.025	0.947	1.026	
		Rent or Lease of Land/House	1.570	0.015	4.807	
		Employment	0.775	0.035	2.171	
		Family/Relatives	-0.104	0.791	0.901	
		Accidents	-0.940	0.000	0.391	
		Neighbors	-0.049	0.859	0.952	
		Money Finance	-1.667	0.000	0.189	
		Private Insurance	0.600	0.233	1.821	
		Pension, Tax, Insurance	1.394	0.050	4.030	
	Others	1.161	0.297	3.192		
Situational	Which Side is Right	5 ranks (the other side – this side)	0.227	0.001	1.255	0.008
	Who is Responsible Clear	4 ranks (not at all - very much)	-0.420	0.000	0.657	0.011
	Desired Outcome Possible	4 ranks (not at all - very much)	-0.397	0.000	0.672	0.029
	Financial Cost Concerned	4 ranks (not at all - very much)	0.203	0.007	1.225	0.007
	Psychological Burden	4 ranks (not at all - very much)	0.538	0.000	1.712	0.074
Social	Residential Area	(14 Designated Cities)		0.012		0.011
		Cities with 200,000 Population or More	0.165	0.453	1.179	
		Other Cities	0.028	0.891	1.028	
		Towns and Villages	0.699	0.004	2.012	
Advice Seeking	Consultation with a Legal Professional	Yes	0.976	0.000	2.655	0.020
Legal Knowledge	Consumer Contract Law	5 ranks(never heard-remember well)	0.126	0.043	1.134	0.004

N=1,033

Stepwise Forward with 34 variables
Nagelkerke R square .352
Hosmer & Lemeshow .138

Change of Prediction %: 68.2% (60.6%, 73.3%) to 73.9%(63.5%, 80.9%)

¹⁷ The relation between living in towns or villages and the occurrence of disputes might be contrary to the general expectation that more disputes would occur in big cities. However, if only more serious problems tend to be experienced as problems in towns and villages compared to big cities (this is indicated by the fact that connection with a welfare commissioner tend to reduce the possibility of experiencing problems), a higher percentage of disputes could develop from problems experienced in towns and villages.

Among problem-specific variables, type of problem has the most significant relation with the occurrence of disputes. Compared to consumer problem, rent or lease of land/house increases the possibility of dispute almost five times and employment two times more, while accident and money both significantly reduce the possibility.

Legal consultation also relates with the occurrence of dispute, but again, both could be independent and dependent variables to each other.

This could be also the case with five situational variables: (1) The more respondents consider themselves on the right side, (2) the more concerned they are with financial cost, and (3) the more they felt psychological burden, the more they tend to face disputes, while (4) the clearer they consider who is responsible and (5) the more possible they consider it to obtain desired outcome by making claims, the less they tend to experience disputes. Apparently these situational variables could be both dependent and independent variable in relation with the occurrence of dispute.

(4) Non-Legal Consultation

Unlike all the other stages from problem experience to the use of a court procedure, consultation with non-legal agencies is only related with problem-specific variables. Among them, problem type is most significant: “accident” increases the probability of obtaining advice from non-legal agencies 9.7 times more than “consumer problem”, “private insurance” 2.4 times, and “employment” 1.8 times. As we saw, half of the non-legal consultation is given by insurance agencies to those who experienced problems of accident, but even though insurance agencies are excluded, those who experienced accident problems tend to consult with non-legal agencies than those who experienced other problem types.

Respondents who have contact with the other side also tend to obtain advice from non-legal agencies almost 4 times more than those without contact.

Those whose main opponents are organizations tend to consult with non-legal agencies much less (odds ratio 0.578) than those with individuals as their main opponents. However, R square increase for this variable is very small, 0.005.

Four situational variables also relate with whether or not obtaining advice from non-legal agencies. (1) The more respondents tend to believe that they are on the right side, the more they tend to consult with non-legal agencies. (2) The more aware they are that their problems are related with the law, (3) the more personally serious they consider their problems are, and (4) the more concerned they are with the length of time before the resolution, the less they tend to consult with non-legal agencies. Again, these variables could be both independent and dependent variables in relation with non-legal consultation. R square increase is also very small, less than 0.01, for the situational variables, except “Aware of the Law”, being 0.017.

Table 4: Results of Logistic Regression for Non-Legal Consultation
(Civil Justice Research Project: Disputing Behavior Survey, 2005)

Group	Variable	Categories	B	p-value	Odds Ratio	R Square Increase
Nature of Problem	Type of Problem	(Consumer Problem)		0.000		0.326
		Purchase of Land/House	0.077	0.832	1.080	
		Rent or Lease of Land/House	-0.238	0.579	0.788	
		Employment	0.593	0.044	1.809	
		Family/Relatives	-0.741	0.050	0.477	
		Accidents	2.272	0.000	9.698	
		Neighbors	0.469	0.103	1.599	
		Money Finance	-0.688	0.069	0.503	
		Private Insurance	0.887	0.033	2.428	
		Pension, Tax, Insurance	0.811	0.083	2.251	
		Others	0.129	0.834	1.138	
	Main Opponent	Individual v Organization	-0.548	0.007	0.578	0.005
Situational	Which Side is Right	5 ranks (the other side - this side)	0.165	0.013	1.180	0.004
	Aware of the Law	4 ranks (not at all - very much)	-0.270	0.000	0.763	0.017
	Personally Serious	4 ranks (not at all - very much)	-0.236	0.028	0.790	0.003
	Time Length Concerned	4 ranks (not at all - very much)	-0.172	0.028	0.842	0.006
Disputing Behavior	Contact with the Other Side	Yes	1.370	0.000	3.934	0.047

N=1,320 Stepwise Forward with 22 variables

Nagelkerke R square .408

Change of Prediction %: 75.5%(88.4%, 58.5%) to 75.5%(85.4%, 62.5%)

Hosmer & Lemeshow .852

(5) Legal Consultation

Eight variables significantly relate with consultation with lawyers: Among them, five are problem-specific variables, while the others are two variables of legal connection and the years for which respondents lived in the same area.¹⁸

The most significant independent variable is type of problem: Compared to Consumer Problem, Family/Relatives, Money, Neighbors, Purchase of Land/House and Other Problems all increase the possibility of consulting with lawyers.

The past experience of using a lawyer and connection with a lawyer also increase the possibility of consulting lawyers, though the effect of the latter is small.

¹⁸ Respondents who live in the same area for more than 40 years tend to consult with lawyers about two times more than those who live in the same area for less than 10 years. Why this variable is significant is not very clear. As age and this variable correlate, we ran the same logistic regression twice, one with age and the other with the time length. Age did not appear as a significant variable. Living in the same are for long time seems to have something that facilitate consultation with lawyers in itself. It could be combined effects of social network, property and age.

The contact with the other side and the existence of disagreement both relate with consultation with lawyers, but it is not clear to what extent these are independent variables for consultation with lawyers.

Table 5: Results of Logistic Regression for Legal Consultation
(Civil Justice Research Project: Disputing Behavior Survey, 2005)

Group	Variable	Categories	B	p-value	Odds Ratio	R Square Increase
Nature of Problem	Type of Problem	(Consumer Problem)		0.000		0.229
		Purchase of Land/House	1.248	0.035	3.484	
		Rent or Lease of Land/House	0.734	0.251	2.082	
		Employment	0.627	0.306	1.871	
		Family/Relatives	3.059	0.000	21.310	
		Accidents	0.177	0.721	1.194	
		Neighbors	1.666	0.001	5.290	
		Money Finance	1.959	0.000	7.096	
		Private Insurance	0.370	0.678	1.448	
		Pension, Tax, Insurance	0.343	0.708	1.409	
		Others	2.689	0.001	14.715	
Situational	Aware of the Law	4 ranks (not at all - very much)	0.489	0.000	1.630	0.033
	Financial Cost Concerned	4 ranks (not at all - very much)	0.536	0.000	1.709	0.054
Disputing Behavior	Disagreement	Yes	0.770	0.006	2.160	0.012
	Contact with the Other Side	Yes	1.223	0.014	3.399	0.010
Legal Experience	Used a Lawyer in the Past	Yes	1.358	0.000	3.887	0.089
Social Capital	Connection with a Legal Professional	3 ranks	0.422	0.002	1.525	0.012
		(Less than 10 years)		0.026		0.014
	How Long Living in the Area	From 10 years to less than 20 years	0.057	0.857	1.058	
		From 20 years to less than 30 Years	-0.279	0.388	0.756	
		From 30 years to less than 40 years	-0.411	0.311	0.663	
		From 40 years	0.802	0.016	2.229	

N=1,103

Stepwise Forward with 36 variables
Nagelkerke R square .453
Hosmer & Lemeshow .518

Change of Prediction %: 87.6%(96.0%, 34.0%) to 89.8%(97.5%, 41.3%)

Two situational variables relate with consultation with lawyers: The more aware respondents are of the law and the more concerned with financial cost, more respondents tend to consult with lawyers. Here again, it could be that those who consulted with lawyers tend to be more aware of the law and more concerned with financial cost.

Table 6: Non-Legal Consultation v. Legal Consultation
(Civil Justice Research Project: Disputing Behavior Survey, 2005)

Variable	Non-Legal Consultation	Legal Consultation
Connection with a Lawyer		**
Living in the Same Area (less than 10 v. more than 40 years)		*
Used a Lawyer in the Past		**
Type of Problem (Consumer Problem)	**	**
Purchase of Land/House		*
Employment	*	
Family/Relatives		**
Accidents	**	
Neighbors		**
Money/Finance		**
Private Insurance	*	
Others		**
Main Opponent (Individual v. Organization)	**(-)	
Which Side is Right (The other side – This Side)	*	
Aware of the Law	**(-)	**
Personally Serious	*(-)	
Time Length Concerned	*(-)	
Financial Cost Concerned		**
Disagreement		**
Contact with the Other Side	**	*

When we compare the significant variables for non-legal consultation and those for legal consultation, few variables relate with both types of consultation, as is shown in Table 6. Although Problem Type relate with both consultation with non-legal agencies and with legal agencies, there is no problem category that relate with both types of consultation significantly. This indicates that the type of consultation is differentiated by the type of problem.

It is also interesting that “aware of the law” relate both types of consultation significantly, but the direction is reverse: The more aware respondents are of the law, the less they tend to consult with non-legal agencies, but the more they tend to consult with lawyers. As mentioned, though it is not clear whether the variable of legal awareness is an independent or dependent variable, this indicates the non-legal nature of consultation given by non-legal agencies.

Other variables of legal and social network, “the past experience of using a lawyer”, “connection with a lawyer” and “the years of living in the same area” which significantly relate with legal consultation do not have any significant relation with non-legal consultation.

(6) Entrusting to Lawyers

The past experience of using a lawyer most significantly relate with entrusting to a lawyer. Respondents who used a lawyer in the past tend to entrust the resolution of their problems to lawyers 17 times more than those who did not use a lawyer in the past.

Connection with a legal professional is also significant to facilitate entrusting to lawyers, but the effect is not large.

Table 7: Results of Logistic Regression for Entrusting to Lawyers
(Civil Justice Research Project: Disputing Behavior Survey, 2005)

Group	Variable	Categories	B	p-value	Odds Ratio	R Square Increase
Nature of Problem	Type of Problem	(Consumer Problem)		0.000		0.112
		Purchase of Land/House	1.940	0.051	6.962	
		Rent or Lease of Land/House	1.023	0.362	2.783	
		Employment	2.198	0.031	9.011	
		Family/Relatives	3.641	0.000	38.113	
		Accidents	1.489	0.081	4.432	
		Neighbors	1.428	0.129	4.169	
		Money Finance	3.344	0.000	28.344	
		Private Insurance	-16.058	0.998	0.000	
		Pension, Tax, Insurance	-16.851	0.998	0.000	
	Others	3.286	0.004	26.732		
Situational	Aware of the Law	4 ranks (not at all - very much)	0.565	0.005	1.760	0.030
	Desired Outcome Possible	4 ranks (not at all - very much)	0.550	0.002	1.734	0.012
	Financial Cost Concerned	4 ranks (not at all - very much)	0.448	0.007	1.565	0.016
	Psychological Burden	4 ranks (not at all - very much)	0.571	0.012	1.771	0.010
	Impact of Resolution on My Relationship	4 ranks (not at all - very much)	-0.663	0.000	0.515	0.017
Legal Experience	Used a Lawyer in the Past	Yes	2.821	0.000	16.801	0.306
Social Capital	Connection with a Legal Profesional	3 ranks	0.900	0.000	2.460	0.037
Legal Knowledge	Consumer Contract Law	5 ranks(never heard-remember well)	0.321	0.018	1.378	0.010
Legal Attitudes	Complain about Defective Products	6 ranks(not agree at all - strongly agree)	-0.511	0.002	0.600	0.012

N=962 Stepwise Forward with 35 variables Change of Prediction %: 91.4%(100.0%, 0%) to
 Nagelkerke R square .569 94.5%(98.4%, 53.0%)
 Hosmer & Lemeshow .672

Type of problem is again significant: Compared to Consumer Problem, Family/Relatives increase the possibility of entrusting to a lawyer 38 times more, Money/Finance 28 times more,

Other Problems 27 times more, and Employment 9 times more.

Two subjective factors are also significant, but the direction is opposite: knowledge about Consumer Contract Law tends to increase the possibility of entrusting to lawyers, while legal attitudes which affirm claiming consumer rights tend to decrease the possibility.

There are five situational variables which relate with entrusting to lawyers significantly. Aware of the Law, Desired Outcome Possible, Concern with Financial Cost, and Psychological Burden all increase the possibility of the entrust to lawyers, while Concern with Impact on the Relationship with the Other Side decreases the possibility. Here again, it is not clear to what extent these variables are dependent upon entrusting to lawyers.

In contrast with the comparison between legal and non-legal consultation, there seem to be similarities between variables relating with legal consultation and those with entrusting to lawyers, as is shown in Table 8. Entrusting to a lawyer costs much more financially than consulting with a lawyer. Therefore, people do so when stakes are very high, or when problems are very difficult for them to solve. This is why the effect of Problem Type is smaller for entrusting to lawyers than legal consultation. But for both legal consultation and entrusting to a lawyer, Past Experience of Using a Lawyer and Problem Type are the most significant variables.

Table 8: Legal Consultation v. Entrusting to a Lawyer
(Civil Justice Research Project: Disputing Behavior Survey, 2005)

Variable	Legal Consultation	Entrusting to a Lawyer
Connection with a Lawyer	**	**
Years Living in the Same Area(less than 10 years) More Than 40 Years	*	
Used a Lawyer in the Past	**	**
Legal Knowledge about Consumer Contract Law		*
Complain about Defective Products		**(-)
Type of Problem (Consumer Problem)	**	**
Purchase of Land/House	*	
Employment		*
Family/Relatives	**	**
Neighbors	**	
Money/Finance	**	**
Others	**	**
Aware of the Law	**	**
Desired Outcome Possible		**
Financial Cost Concerned	**	**
Psychological Burden		*
Impact on the Relationship		**(-)
Disagreement	**	—
Contact with the Other Side	*	—

(7) The Use of a Court Procedure

For the use of a court procedure, consultation with a lawyer is the most powerful predictor, as is shown in Table 9. Legal consultation increases the possibility of using a court procedure almost 14 times more and the R square increase is 0.328.

The past experience of using a court procedure also significantly relate with using a court procedure this time.

Problem type is also significant, but just for Family/Relatives: It increases the possibility of using a court procedure 26 times more than Consumer Problems.

Connection with a lawyer also significantly relates with using a court procedure, but the effect is small.

There are two significant subjective variables, Aware of the Law and Attitudes toward Contract. Their effects are not large and it is difficult to say to what extent these are independent variables.

Table 9: Results of Logistic Regression for the Use of a Court Procedure
(Civil Justice Research Project: Disputing Behavior Survey, 2005)

Group	Variable	Categories	B	p-value	Odds Ratio	R Square Increase
Social Capital	Connection with an Insurance Agency	3 ranks (none, can be introduced, can consult)	-0.422	0.041	0.655	0.008
Legal Experience	Used a Court Procedure in the Past	Yes	2.87	0.000	17.634	0.137
Nature of Problem	Type of Problem	(Consumer Problem)		0.000		0.079
		Purchase of Land/House	0.369	0.811	1.446	
		Rent or Lease of Land/House	0.683	0.630	1.980	
		Employment	1.320	0.299	3.745	
		Family/Relatives	3.252	0.004	25.847	
		Accidents	0.738	0.533	2.091	
		Neighbors	1.670	0.157	5.314	
		Money Finance	2.026	0.090	7.585	
		Private Insurance	-14.878	0.998	0.000	
		Pension, Tax, Insurance	-16.449	0.998	0.000	
Others	1.979	0.175	7.235			
Situational	Aware of the Law	4 ranks (not at all - very much)	0.638	0.005	1.893	0.012
Legal Attitudes	Contract is Not Useful	No	0.398	0.039	1.490	0.009
Advice Seeking	Legal Consultation	Yes	2.616	0.000	13.688	0.328

N=1,634 Stepwise Forward with 18 variables

Change of Prediction %: 96.3%(100.0%, 0%) to 97.2%(99.5%, 39.3%)

Nagelkerke R square .573

Hosmer & Lemeshow .894

When we compare significant variables for entrusting to a lawyer with those for the use of a court procedure, we find only two common significant variables, Problem Type and Aware of the Law. It is notable that the past experience of using a lawyer and connection with a lawyer both do not relate significantly with the use of a court procedure.

Legal consultation as the most powerful predictor indicates that many people come to use court procedures through legal consultation.

Table 10: Entrusting to a Lawyer v. Use of a Court Procedure
(Civil Justice Research Project: Disputing Behavior Survey, 2005)

Variable	Entrusting to a Lawyer	Use of a Court Procedure
Connection with a Lawyer	**	
Connection with an Insurance Agency		*(-)
Used a Lawyer in the Past	**	
Used a Court Procedure in the Past		**
Legal Knowledge about Consumer Contract Law	*	
Complain about Defective Products	**(-)	
Contract is Not Useful		*
Type of Problem (Consumer Problem)	**	**
Purchase of Land/House		
Employment	*	
Family/Relatives	**	**
Neighbors		
Money/Finance	**	
Others	**	**
Aware of the Law	**	
Desired Outcome Possible	**	
Financial Cost Concerned	**	
Psychological Burden	*	
Impact on the Relationship	**(-)	
Legal Consultation	—	**

(10) Compartmentalization of Dispute Resolution Institutions

In Section 1, we saw that lawyers are less used in Japan than in the U.S. and the U.K. and that the courts are even much less used in Japan. Drawing upon the logistic regression results and some other data, we will be able to illustrate an aspect of the structure of the Japanese dispute resolution system.

Table 11 shows the lack of the correlation between legal consultation and non-legal consultation. Among those who consulted with non-legal agencies, 11% of them went to legal

agencies. However, also about 12% of those who did not consult with any agencies went to legal agencies. This indicates that consultation with non-legal agencies has little effects to facilitate consultation with legal agencies. As we saw above, Problem Type is the most powerful predictor both for non-legal and legal consultation, but Categories of Problems are clearly differentiated between non-legal and legal consultation. These findings indicate that there is a division of labor or compartmentalization of problem solving services between non-legal agencies and legal agencies.

Table 11: The Relation between Non-Legal Consultation and Legal Consultation

		Consultation with Non-Legal Agencies		
		No	Yes	Total
Consultation with Legal Agencies	No	1,177	810	1,987
		88.2%	89.0%	88.5%
	Yes	157	100	257
		11.8%	11.0%	11.5%
	Total	1,334	910	2,244
		100.0%	100.0%	100.0%

Table 12 shows significant variables with p-value less than 5% and R^2 larger than 0.1 for four institutional ways of solving problems. This table also illustrates that non-legal consultation is insulated not only from lawyers but also by the courts.¹⁹

Table 12 also illustrates that both legal consultation and entrusting to a lawyer share significantly related variables, Problem Type and Past Use of a Lawyer. However, their effects are different. Problem Type is more significant than Past Use of a Lawyer for legal consultation, while Past Use of a Lawyer is more significant for entrusting to a lawyer. This indicates that Problem Type prompts people to go to lawyers, but people needs more, a strong connection with a lawyer, to entrust to a lawyer. Legal consultation and entrusting to a lawyer seem to belong to one dispute resolution institution, but somehow differentiated by connection and money. Since many of those who come to legal consultation do not have connection with lawyers, they are more concerned with the cost of lawyers.

¹⁹ Consultation with non-legal agencies seems to decrease the possibility of using court procedures. The percentage of the court users among those who consulted non-legal agencies is lower than that among those who did not consult non-legal agencies (3.2% and 3.5% for plaintiffs and 2.2% and 3.4% for defendants).

Table 12: Four Ways of Dispute Resolution in Comparison
(Civil Justice Research Project: Disputing Behavior Survey, 2005)

Variable	Non-Legal Consultation	Legal Consultation	Entrusting to a Lawyer	Use of a Court Procedure
Past Use of a Lawyer		0.09	0.31	
Past Use of a Court Procedure				0.14
Problem Type	0.33	0.23	0.11	
Concern with Financial Cost		0.05		
Legal Consultation				0.33

It is conspicuous that Use of a Court Procedure and Entrusting to a Lawyer do not share any strong predictors. Legal Consultation is the most effective predictor for the use of a court procedure, because ordinary people need to obtain legal information before bringing their cases to the court. However, Past Use of a Lawyer is not a significant predictor, while Past Use of a Court Procedure is. We speculate that the use of a lawyer and that of a court procedure are somehow differentiated, as the population of lawyers is not as large as allowing most court cases represented by lawyers,²⁰ but not as small as the use of a lawyer necessarily means the use of a court procedure.

(11) An Overview of the Logistic Regression Results

Table 13A shows which variables among demographic/socio-economic variables significantly relate with problem experience and subsequent problem solving behavior, while Table 12B shows which problem-specific variables significantly relate with problem solving behavior.

As illustrated in Table 13A, demographic/socio-economic variables are significant only for problem experience. Age, Education, Income and Job, none of them significantly related with problem solving behavior. Few subjective variables also relate significantly with problem solving behavior. In contrast, legal connection, particularly Past Experience of Using a Lawyer or a Court Procedure strongly relate with the use of a lawyer or a court procedure. It is conspicuous that no variable other than problem-specific ones significantly relate with non-legal consultation.

Table 13B clearly shows that Problem Type is significant for every stage of the disputing process. It is the most powerful predictor for the occurrence of dispute, consultation with non-legal agencies and consultation with lawyers. Most situational variables significantly relate with some stage of the disputing process and a few of them have rather strong relation. However, it is to be noted that two situational variables which one might ascribe to the Japanese culture, namely,

²⁰ According to our data, 53% of the plaintiffs and 57% of defendants in court procedures entrusted their cases to lawyers, which means, represented by lawyers. Here, court procedures include all kinds of court procedures, not only litigation but also conciliation.

Table 13A: Significant Demographic/Socio-Economic & Subjective Variables for Each Stage from Problem Experience to Court Procedure (Civil Justice Research Project: Disputing Behavior Survey)

Group	Variable	Categories	Problem Experience	Contact	Dispute	Non-Legal Advice	Legal Advice	Entrust to a Lawyer	Court Procedure
Demographic	Age	(40's)	**0.004						
		20's							
		30's							
		50's							
		60's	**(-)						
Socio-Economic	Education	(Senior High)	**0.013						
		Junior High							
		College & Training	**						
		Under-/Graduate							
	Individual Income	(o-less than \$10,000*)	*0.001						
		\$10,000-less than \$40,000							
		\$40,000-less than \$90,000							
		\$90,000 and over	**(-)						
	Job	(management, executive)	**0.006						
		permanent general employee	*(-)						
		part-time worker							
		dispatched worker							
		self-employed							
		family worker	**(-)						
side job at home									
student		**(-)							
housewife/househusband	*(-)								
no job									
Social Capital	Connection with (3 ranks)	legal professional	*0.002				**0.012	**0.037	
		insurance agency	**0.003						*(-)0.008
		welfare commissioner	**(-)0.001						
	How Long Living in the Same Area	(Less than 10 years)					*0.014		
		From 10 to less than 20 years							
		From 20 to less than 30 years							
		From 30 to less than 40 years							
		From 40 and longer					*		
	Residential Area	(14 Designated Cities)			*0.011				
		Cities with 200,000 or More							
Other Cities									
Towns and Villages				**					
Past Legal Experience	Learned the law	Yes	**0.004						
	Used a lawyer	Yes	**0.026				**0.089	**0.306	
	Used a court procedure	Yes	**0.003					**0.137	
Legal Knowledge	Consumer Contract Law	5 ranks(never heard-remember well)	*0.001		*0.004		*0.010		
Attitudes to Legal Norm and Contract	Contract is Not Useful	6 ranks(not agree at all - strongly agree)	**(-)0.002					*0.009	
	Complain about defective products	6 ranks(not agree at all - strongly agree)	*0.001				**(-)0.012		
	Let a judge decide in litigation	6 ranks(not agree at all - strongly agree)	**(-)0.007						
Attitudes to Disputes	Negotiate by Myself	6 ranks(not agree at all - strongly agree)		*0.005					
	Let a family member negotiate	6 ranks(not agree at all - strongly agree)	*(-)0.001						

(Continue to Table 12B)

R² increase ■ >0.01 ■ >0.05 ■ >0.1
 P-Value * <0.05 ** <0.01

Nagelkerke R² 0.075 0.358 0.352 0.408 0.453 0.569 0.573

Table 13B: Significant Problem-Specific Variables for Each Stage from Problem Experience to Court Procedure
(Civil Justice Research Project: Disputing Behavior Survey)

Group	Variable	Categories	Problem Experience	Contact	Dispute	Non-Legal Advice	Legal Advice	Entrust to a Lawyer	Court Procedure
Nature of Problem	Type of Problem	(Consumer Problem)		** 0.063	** 0.188	** 0.326	** 0.229	** 0.112	** 0.079
		Purchase of Land/House		*			*		
		Rent or Lease of Land/House			*				
		Employment		** (-)	*	*		*	
		Family/Relatives					**	**	**
		Accidents			** (-)	**			
		Neighbors					**		
		Money Finance			** (-)		**	**	
		Private Insurance					*		
		Pension, Tax, Insurance						**	**
Main Opponent	Individual v Organization			* 0.004		**(-) 0.005			
Situational	Which Side is Right	5 ranks (the other side - This Side)			** 0.008	* 0.004			
	Aware of the Law	4 ranks (not at all - very much)				**(-) 0.017	** 0.033	** 0.030	** 0.012
	Personally Serious	4 ranks (not at all - very much)		** 0.012		*(-) 0.003			
	Socially Serious	4 ranks (not at all - very much)		*(-) 0.004					
	Who is Responsible Clear	4 ranks (not at all - very much)			**(-) 0.011				
	Against Whom to Claim Clear	4 ranks (not at all - very much)		** 0.026					
	Desired Outcome Possible	4 ranks (not at all - very much)		** 0.138	**(-) 0.029			** 0.012	
	Time Length Concerned	4 ranks (not at all - very much)		* 0.005		*(-) 0.006			
	Financial Cost Concerned	4 ranks (not at all - very much)			** 0.007		** 0.054	** 0.016	
	Psychological Burden	4 ranks (not at all - very much)			** 0.074			* 0.010	
Impac on My Relationship	4 ranks (not at all - very much)						**(-) 0.017		
Disputing Behavior	Disagreement	Yes					** 0.012		
	Contact with the Other Side	Yes				** 0.047	* 0.010		
Advice Seeking	Legal Consultation	Yes		** 0.027	** 0.020				** 0.328
	Non-Legal Consultation	Yes		** 0.074					

Negelkerke R² 0.075 0.358 0.352 0.408 0.453 0.569

0.573

R² increase > 0.01 > 0.05 > 0.1

P-Value * < 0.05 ** < 0.01

Concern with Others' Views on the Occurrence of the Problem and Concern with Others' Views on the Resolution of the Problems, none of these ever appear to significantly relate with any stage of the disputing behavior.

3. Brief Comparison with British Logistic Regression Results

The British Paths to Justice Survey ran logistic regression for obtaining advice. They do not separate legal advice from non-legal advice. Therefore, we combine Non-Legal Consultation and Legal Consultation into one variable. With this variable as the dependent variable, we ran similar logistic regression. The results are shown in Table 14.

Table 14: Comparison of Significant Variables upon Consultation between Japan and U.K.

	JAPAN		U.K.	
	p-value	R ² increase	p-value	R (Partial Corr.)
Age			0.000	0.10
Remedy Sought	0.032	0.004	0.000	0.06
Income			0.024	0.03
Defendant/not			0.015	0.03
Problem Type	0.000	0.289	0.000	0.29
Main Opposing Party	0.010	0.004		
Attitude to Courts			0.004	0.04
Aware of the Law	0.000	0.059	—	—
Personally Serious	0.027	0.003	—	—
Against Whom to Claim Clear	0.018	0.005	—	—
Financial Cost Concerned	0.001	0.017	—	—
Time Length Concerned	0.018	0.007	—	—
Used a Lawyer in the Past	0.000	0.010	—	—
Education			0.000	0.11
Sex			0.022	0.03

Table 14 shows that there are only two variables which relate significantly with obtaining advice both in Japan and in the U.K: Problem Type and Remedy Sought. There is no other common significant variable. It is curious that no demographic or socio-economic variables, such as Age, Income, Education and Sex, appear significant in Japan. It is to be reminded that no such variable is significant for both Legal and Non-Legal Consultation in Japan, as was shown in Tables 4 and 5. It is also noted that legal connections are significant in consulting lawyers and entrusting to lawyers in Japan.

It seems that, when Problem Type prompts the use of consultation, those with higher income and higher education tend to obtain consultation rather than those with lower income and lower education in the U.K. These variables, Age, Income, Education and Sex, are attributes of individuals. Higher income gives individuals economic power. Higher education gives intellectual advantage. The exercise of these powers does not necessarily depend upon social network. In contrast, in Japan, when prompted by Problem Type, people with legal connection tend to obtain legal consultation more often than those without.

Why do we have these differences? We speculate that these differences indicate different structures of dispute resolution service markets. In Japan, non-legal consultation is given for free of charge. No resource other than knowledge and will is required to obtain non-legal advice. Therefore, when Problem Type prompts people to consult non-legal agencies, they do. Legal consultation is given either for free of charge or for certain amount of consultation fee. Free consultation is open to anybody. However, it is common that people who go to law offices for consultation usually do so with introduction. This is why Problem Type and Past Experience are significant for legal consultation. Entrusting to lawyers more heavily depends upon personal networks, because lawyers do not accept clients without introduction, while clients also want to get some information about the cost and the reliability of lawyers beforehand. In other words, the Japanese legal service market is based on social network between lawyers and clients. People with higher income or higher education do not always have personal connections with lawyers. This is probably why individual attributes do not relate with the use of lawyers in Japan.

The low rate of litigation can be at least partially explained in the same way. The legal service market based on personal connections cannot provide enough access for a wide range of people to legal representation for litigation. Moreover, a legal service market based on personal connection cannot provide affluent service to a wide range of people. In other words, lawyers do not provide a broad bridge to the courts.

Conclusion

We have compared frequency results of problem experience and subsequent behavior between Japan and the U.S. and between Japan and the U.K. Then, after looking at logistic regression results of Japanese data, we made a brief comparison between Japan and the U.K.

Our findings are as follows:

- (1) Given problem experience as constant, the structure of the problem solving process is similar between Japan and the U.S. This similarity can be found even for deviant types of problems.
- (2) However, lawyers and the courts are not as much used in Japan as in the U.S.
- (3) Comparisons of Japan with the U.K. shows that advice is not as often obtained in Japan as in the U.K. (It was indicated that heavy reliance on non-legal advice reduced the use of lawyers and

the courts in Japan, but this is not the case).

- (4) Legal advice is obtained in the U.K. twice as much as in Japan.
- (5) In Japan 41% of those who have problems consult with non-legal agencies, while only 11% of them consult with lawyers.
- (6) 89% of those who consult with non-legal agencies do not go to lawyers for advice, while 88% of those who do not consult with non-legal agencies do not go to lawyers for advice. This indicates that non-legal consultation does not increase the possibility of obtaining legal advice.
- (7) According to logistic regression results, Problem Type is the most effective predictor for non-legal and legal consultation. However, Problem Categories going to non-legal consultation and those to legal consultation are clearly differentiated. These findings indicate that non-legal consultation service and legal consultation service are insulated to each other.
- (8) Past Use of a Lawyer is the most powerful predictor for entrusting to a lawyer, which indicates that legal service market depends upon personal connections.
- (9) For the use of a court procedure, Legal Consultation is the most powerful predictor. However, Past Use of a Lawyer is not a significant variable.
- (10) Socio-demographic variables significantly relate with obtaining advice in the U.K., while none of these variables are significant in Japan. In the U.K. individual resources facilitate obtaining advice, while in Japan social connections are more significant.
- (11) In the U.K., there is a flow of cases from non-legal to legal consultation and to the court, while, in Japan, most cases of non-legal consultation do not go to legal consultation and legal consultation does not always lead to the court.
- (12) We speculate that these differences between the two countries would come from the different size of the lawyer population.

Advice Seeking Behaviour of Civil Disputants in Japan

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(Please do not quote without author's permission. Paper presented at the International Conference on Law and Society in the 21st Century: Joint Annual Meetings of LSA and RCSL, July 25-28, Humboldt University, Berlin, Germany; IRC Comparative Disputing Behavior □ - - Varieties of Disputing Behavior and their Determinants 3106, at Building HU, Room 06, Friday, July, 27, 2007)

[Summary]

The author did a national questionnaire survey with Japanese colleagues on civil disputing to a random sample of 25,014 adults in 2005. 2,343 respondents experienced legal problems within the past 5 years. With respect to strategies for resolving legal problems, respondents can be categorized into three types. Considerable people (18.9%) are “lumpers” who took no action what so ever to resolve their problems. About one in three respondents adopted a self-help strategy, who attempted to resolve their problem without taking outside advice. A little less than half of all respondents obtained advice about resolving their problem. The author identifies the relationship between advice seeking behavior of civil disputants and the outcomes of the disputes, how the advice seekers estimated the advice service, and what the barriers to advice are. The author also tries to analyze significant factors which differentiate lumpers, self-helpers and advice seekers.

[Key Words]

civil dispute, advice, lumper, self-helper

1. Three Strategies of Civil Disputants
 - 1.1 Disputing Behaviour Survey, the Civil Justice Research Project²¹
 - 1.2 Strategies for Resolving Problems
 - 1.3 No Action Taken to Resolve the Problem
 - 1.4 Self-helpers
 - 1.5 The Advised
 - 1.6 Summary
2. Strategies and Outcomes
 - 2.1 Conclusions
 - 2.2 Acceptance of claims
 - 2.3 Present Situations of Unconcluded Problems
 - 2.4 Summary
3. Source of Advice
 - 3.1 Overview
 - 3.2 Sequence of Advisers
 - 3.2.1 Overall Pattern

²¹ Masayuki Murayama, Experiences of Problems and Disputing Behaviour in Japan, *Meiji Law Journal*, Vol.14 (2007), pp.1-59.

- 3.2.2 Very Different Patterns of Advisers Associated with Problem Type.
- 3.2.3 Use of the Advisers
- 4. Conclusion

1. Three Strategies of Civil Disputants

1.1 Disputing Behaviour Survey, the Civil Justice Research Project

The author participated in a national questionnaire survey project with Japanese colleagues on civil disputing carried out to a random sample of 25,014 adults using the stratified multistage sampling method. The universe is the Japanese people, over 19 years old and under 71 years old. The survey was carried out in March 2005, asking questions to the respondents in face-to-face interviews. The response rate was 49.6% (12,408 individuals answered).

We presented respondents 10 types of legal problems with 55 examples and asked whether respondents had experienced any of those during the past five years. Among the 12,408 respondents, 2,343 (18.9%) reported 4,144 problems. Among 2,343 respondents who reported one or more problems, 2,244 respondents identified their most serious problems. The distribution of the types of problems is presented in Table 1.

Table 1 Most Serious Problems Experienced for the Previous Five Years

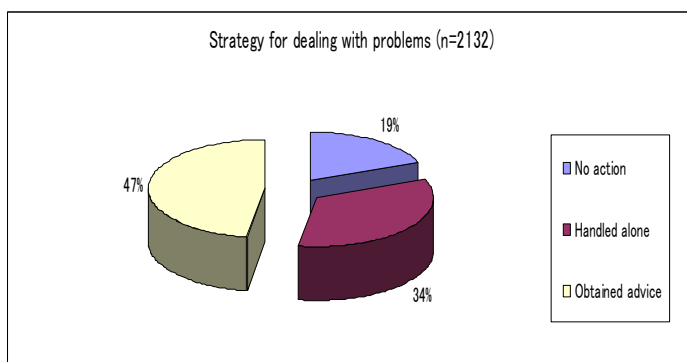
Problem Type	N	%
Accident	679	29.0%
Neighbour	405	17.3%
Goods/ Services	322	13.7%
Employment	232	9.9%
Family/Relative	162	6.9%
Money/Credit	155	6.6%
Rent/Lease	62	2.6%
Land/House	90	3.8%
Private Insurance	58	2.5%
Tax, Pension	55	2.3%
Others	24	1.0%
N.A.	99	4.2%
Total	2,343	100.0%

1.2 Strategies for Resolving Problems

Using information obtained from the 2,244 respondents who identified their most serious problems, the following shows the ways in which people deal with their problems.

Three basic strategies are identified with respect to the ways people respond to their problems.

Figure 1



Not everyone who experiences a problem will take action to resolve it. 19% of respondents did nothing, which means they did not contact the opposite party by any means or did not contact advice agencies or other people or organizations which can be a help to them, except for their family, relatives, friends or colleagues. These people may be called “lumpers” with no advice, no contact, and no action.

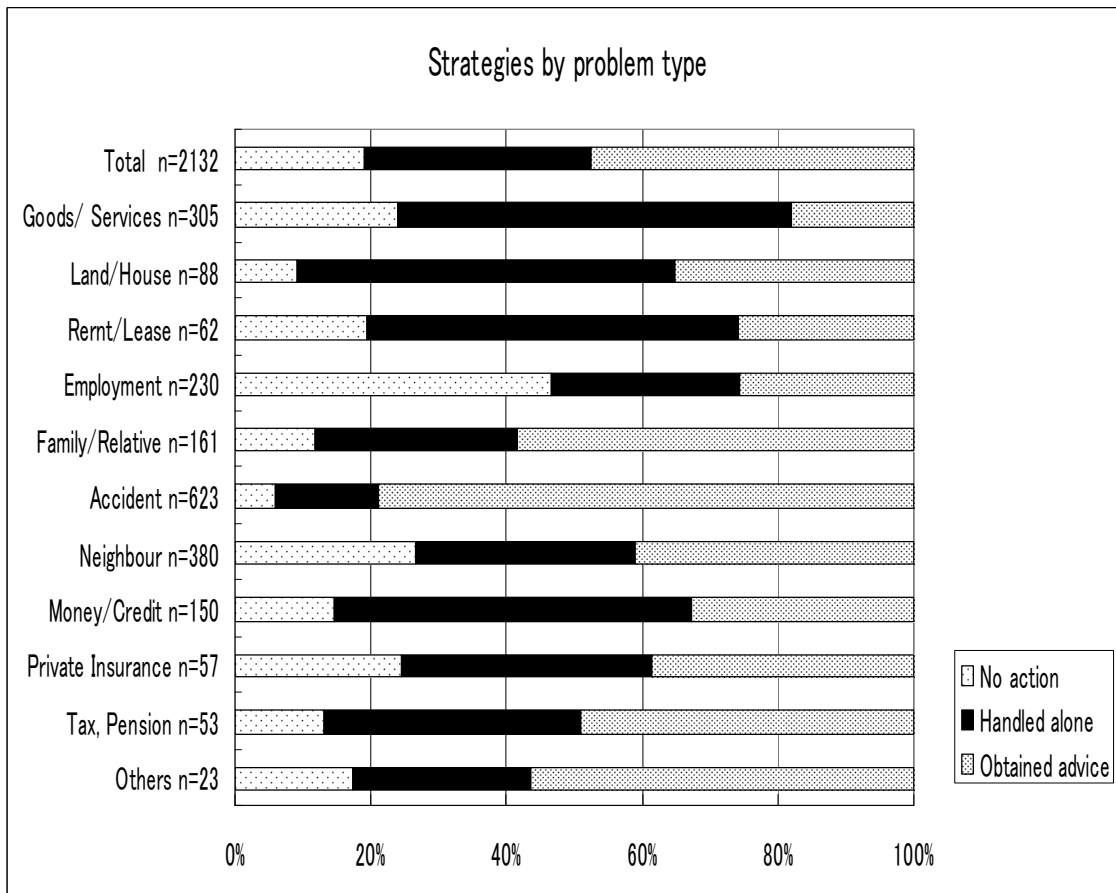
Another 34% tried to resolve their problems without help. They may be called “self-helpers.” They contacted the opposite party in various ways, including meeting or talking directly, contacting by phone or letter, contacting through family, friends or other acquaintances, but they did not consult with any advice agency or person to obtain information and/or support at all. We showed respondents a list of advice agencies or persons, which contained typical 15 specific agencies or persons, including legal consultation bureau at city hall, consumer advice agency, police or police officer, consultation bureau at a bar association, lawyer, quasi-legal professionals, insurance company or its employee. The “self-helpers” identified none of these agencies or persons from which they obtained advice or help.

47% of respondents tried to resolve the problem with advice or help from at least one of these agencies or persons²². Some of them contacted more than one agency or person.

The type of problem experienced influences public strategies for resolving problems (Figure 2).

²² One should be very cautious about comparing with other surveys of this kind. But if one may compare these figures with the results of Paths to Justice Survey by Hazel Genn, it appears that while self-helpers are roughly the same percentage, “lumpers” are more in Japan than in England and Wales and the advised are less in Japan. Hazel Genn, *Paths to Justice: What People Do and Think About Going to Law* (Hart Publishing, 1999), p.68.

Figure 2



1.3 No Action Taken to Resolve the Problem

Fairly large number (19%) failed to take any kind of action to deal with their problems. This group of “lumpers” were most likely to have experienced problems relating to employment, goods and services, neighbour disputes.

The ratio of “lumpers” were remarkably high among those who experienced employment problems (47%). 28 percent experienced unpaid overtime work or unpaid work on holidays and 22 per cent experienced no payment of wages.

Table 2

Number of Employment Problems Experienced as most serious for the Previous Five Years		
Problem Type	N	%
No payment of wages	51	22.0%
Unfair dismissal	22	9.5%
Unfair transfer	15	6.5%
Unpaid overtime work/ Unpaid work on holidays	64	27.6%
No payment of a retirement allowance	10	4.3%
Sexual harassment	10	4.3%
Other harassment	29	12.5%
Others	31	13.4%
Total	232	100.0%

It is already well known that individual labour disputes have been increasing in number. Since the late 1990s Japanese economy has been suffering a serious depression and workers' condition has been deteriorating while trade unions are generally declining. The above result of our survey suggests a serious situation of Japanese workers with respect to access to justice.

It is difficult to identify the factors that determine the high percentage of “lumpers” among those who experienced employment problem. Basically if one hopes to continue to be employed by the present employer, one may not claim against the employer readily. The high rate of unemployment and difficulties in finding a new job may make it difficult for workers facing problems at work place to claim against their employers, resulting in failing to consult with advice agencies or persons for advice. Only 7% of respondents with employment problem consulted with a trade union and only 3% entrusted their problems to a lawyer, although 10% thought of using a lawyer and 9% thought of using a court procedure. As professors Isamu Sugino and Masayuki Murayama has already pointed out, “in comparison with all the problems, the employment problems are more difficult to voice, more often rejected, handled less frequently by lawyers and in the court.”²³

The “lumpers” in general were significantly less likely to know lawyers to consult with among their friends or acquaintances, or less likely to expect lawyers to be introduced to consult with by their friends or acquaintances. The “lumpers” were significantly less likely to have used lawyers before they experienced the problem. The “lumpers” are significantly less likely to consider the problem was serious to them. There are no significant differences, however, between who took action to resolve their problems and those who took no action at all in relation to age, sex, family income, living area, academic background, job type.

²³ Isamu Sugino and Masayuki Murayama, “Labor Dispute Resolution System: Employment Problems and Disputing Behavior in Japan”, *The Japan Labour Review*, Vol.3, No.1 (2006), p.16.

1.4 Self-helpers

Just over one-third of respondents (34%) experiencing a problem tried to resolve their problem by contacting the other side or by taking some other action, and without obtaining any advice. These self-helpers were most likely to have experienced problems of goods and services, land and house, rent and lease and money and credit.

Women were significantly more likely to handle alone without obtaining advice. Younger people in their 20s and middle aged in their 40s were significantly less likely to handle alone without obtaining advice. The “self-helpers” were significantly less likely to have used lawyers. There were no significant differences, however, in relation to family income, living area, academic background, job type.

1.5 The Advised

About a little less than half of those who experienced a problem (47%) obtained some kind of outside advice, which do not include advice given by a family member, relative, friend or acquaintance, other than in a category of specific advisers listed in our questionnaire or given by a colleague at work place, other than in a category of specific advisers listed in our questionnaire. The respondents who obtained advice are significantly more likely to have experienced problems relating to accidents, less likely to have experienced problems relating to goods /services, rent/lease, employment, money/credit.

The ratio of those who obtained advice were remarkably high (79%) among those who experienced accident problems. 46 percent experienced traffic accident with personal injury or death and 36 per cent experienced traffic accident without personal injury or death.

Table 3

Number of Accident Problems Experienced as most serious for the Previous Five Years	N	%
Problem Type		
Traffic accident with personal injury or death	310	45.7%
Traffic accident without personal injury or death	244	35.9%
Medical accident	14	2.1%
Work-related accident	8	1.2%
Bullying, violence or accident at school	25	3.7%
Defamation/ mental damages	24	3.5%
Other accident or incident resulting in personal injury	7	1.0%
Other accident or incident resulting in property damage or monetary loss	47	6.9%
Total	679	100.0%

60% of respondents with accident problems consulted with an insurance company or its employee and 30% of them consulted with police or a police officer. Insurance company and police are institutionally set to contact with those involved with an accident, especially in a traffic accident. In many cases there should be potential conflict of interest between insurance company or its employee and the party of the accident. In some cases the insurance company is the ‘other side’ to

the dispute. Some respondents may not be aware of the conflict, simply regarding the insurance company as their adviser. Although police officers are in principle not supposed to give advice in civil matters, some officers may suggest or indicate to the victims how to proceed with the case or the merits of the case. Some respondents may have regarded the police officer they contacted as advisers in spite of the fact that the officer only conducted his or her criminal investigation.

Unexpectedly, the ratio of those who obtained advice was very high among the respondents who experienced a family or relative problem (58%). 39 per cent experienced divorce and 35% experienced inheritance or inherited property.

Table 4

Number of Family or Relative Problems Experienced as most serious for the Previous Five Years		
Problem Type	N	%
Divorce	62	38.3%
Inheritance/ division of inherited property	57	35.2%
Nursing care	27	16.7%
Others	16	9.9%
Total	162	100.0%

One of the most interesting findings of our survey is that many people with a family or relative problem did really use or had considered using lawyers or courts. 25 per cent of respondents with a family or relative problem consulted with an attorney in private practice, 19 percent consulted with a legal consultation bureau at city hall, where an attorney is on duty to give advice free of charge and, if necessary, refer the case to another attorney on duty at a consultation bureau at the bar association or handle the case by himself or herself. 13 per cent went to a consultation desk at court and got advice. The family courts in Japan provide advice services on family matters free of charge. While 22 per cent of those with a family or relative problem entrusted the resolution of the problem to an attorney, it is remarkable that another 30 per cent thought of entrusting the matter to an attorney. It is not clear why these people did not really entrust the matter to an attorney. There should be some barriers to attorneys facing them.

The respondents with a family or relative problem are strikingly different from those with an employment problem as to the strategies to deal with their problems.

Younger people in their 20s, 30s and 40s were significantly more likely to contact advice agencies. Respondents with full-time job were significantly less likely to contact advice agencies.

The advised are significantly more likely to know lawyers to consult with among their friends or acquaintances, or less likely to expect lawyers to be introduced to consult with by their friends or acquaintances. The advised are significantly more likely to have used lawyers before they experienced the problem. The advised are significantly more likely to consider the problem was serious to them. There were no significant differences, however, in relation to family income, living

area, academic background.

1.6 Summary

While 19% of the respondents with a serious problem did nothing, 34% tried to resolve their problems without help and 47% tried to resolve the problem with advice or help from at least one of the listed agencies or persons. The type of problem experienced influences public strategies for resolving problems. The ratio of “lumpers” were remarkably high (47%) among those who experienced employment problems. The ratio of those who obtained advice were remarkably high (79%) among those who experienced accident problems. Unexpectedly, the ratio of those who obtained advice was very high (58%) among the respondents who experienced a family or relative problem.

2. Strategies and Outcomes

2.1 Conclusions

We asked the respondents whether the problem was ended or concluded at the time of the interview. Three strategies are statistically relevant with the outcomes (significance level=1%). The lumpers are more likely to have their problems not concluded, while respondents obtained advice are more likely to have their problems ended.

Table 5

Outcomes by the three strategies	the problem ended	the Problem not ended	D.K.	Total	
No- action	138	227	38	403	
	34.2%	56.3%	9.4%	100.0%	
adjusted standardized residuals	-12.4	9.7	7.8		
Handled alone	450	246	18	714	
	63.0%	34.5%	2.5%	100.0%	
adjusted standardized residuals	1.2	-0.7	-1.3		
Obtained advice	717	283	13	1013	
	70.8%	27.9%	1.3%	100.0%	
adjusted standardized residuals	8.6	-6.9	-4.9		
Total	1305	756	69	2130	
	61.3%	35.5%	3.2%	100.0%	

$\chi^2(4)=189.926, p<.01$

2.2 Acceptance of claims

In all the concluded cases, the majority (65.5%) said their claims were completely or mostly accepted, while 32% said their claims were only partially accepted or rejected. Three strategies are significantly relevant with acceptance of the claims. The lumpers are less likely to find their claims accepted, while those who obtained advice are likely to find their claims accepted.

Table 6

Acceptance of claims by the three	Claims accepted	Claims not accepted	Total
No- action	55	57	112
	49.1%	50.9%	100.0%
adjusted standardized residuals	-3.8	3.8	
Handled alone	263	164	427
	61.6%	38.4%	100.0%
adjusted standardized residuals	-2.1	2.1	
Obtained advice	475	196	671
	70.8%	29.2%	100.0%
adjusted standardized residuals	4.3	-4.3	
Total	793	417	1210
	65.5%	34.5%	100.0%

$\chi^2(2)=24.525, p<.01$

2.3 Present Situations of Unconcluded Problems

The majority of the respondents whose problems were not concluded said that nothing had been done at the time of the survey (63%). The lumpers are more likely to say nothing had been done. Those who obtained advice are less likely to say nothing had been done. About half of those who obtained advice whose problems were not concluded said nothing had been done.

Table 7

Present situations of unconcluded problems by strategies				
	nothing done	something done	Total	
No- action	191	36	227	
	84.1%	15.9%	100.0%	
adjusted standardized residuals	7.9	-7.9		
Handled alone	145	101	246	
	58.9%	41.1%	100.0%	
adjusted standardized residuals	-1.5	1.5		
Obtained advice	139	144	283	
	49.1%	50.9%	100.0%	
adjusted standardized residuals	-6	6		
Total	475	281	756	
	62.8%	37.2%	100.0%	

$\chi^2(2)=68.525, p<.01$

2.4 Summary

Those who obtained advice are more likely to have their problems concluded. Among those whose problems are concluded, those who obtained advice are more likely to find their claims accepted. Among those whose problems are not concluded, those who obtained advice are less likely to say that nothing had been done.

3. Source of Advice

3.1 Overview

We asked the respondents to indicate who or what agency or person, including a family member, friend or colleague at work, they contacted for from the first to at most the eighth adviser.

Among the 2,244 respondents who listed the most serious problems, 1,376 persons (61%) consulted with advice agencies or persons. In total, these 1,376 persons listed 2,141 advice agencies or persons, which means on average a respondent consulted with around 1.6 advice agencies or persons per problem.

As can be seen form the Figure, 37 % of respondents who obtained advice from one or more advisers or person obtained advice from family member, relative, friend or acquaintance at some point, 31 % obtained from insurance company or its employee. 21 % obtained advice from police or police officer.

Table 8

Person or Agency Consulted about Problem	Overall (Multiple Answers)	
Family/Friend	512	37.2%
Insurance Company	436	31.7%
Police	270	19.6%
Non-Legal Consultation Bureau at City Hall	128	9.3%
Colleague at Work Place	126	9.2%
Lawyer	122	8.9%
Legal Consultation Bureau at City Hall	77	5.6%
Consumer Advice Centre	56	4.1%
Public Office other than Police	52	3.8%
Legal Professional other than Lawyers	51	3.7%
Welfare Commissioner	42	3.1%
Consultation Bureau at the Bar Association	39	2.8%
Labour Union	38	2.8%
Private Consultation Agency	22	1.6%
Real Estate Agencies	18	1.3%
Consultation Bureau at Court	17	1.2%
School Teachers	16	1.2%
Apartment Managers	14	1.0%
Politician	13	0.9%
Consultation Bureau at Legal Aid Association	4	0.3%
Others	88	6.4%
Total	1376	

Source: Murayama (2007), Table 17, p.16.

Apart from a family member, relative, friend or acquaintance²⁴, it is remarkable that many

²⁴ In the *Paths to Justice* survey. partner, friends or relatives are excluded from advisers. Only if they are one of the

people listed insurance company or its employee and police or police officer. Most of the problems in which insurance company or its employee and police or police officer were contacted were accidents.

Respondents contacted and obtained advice from private attorney's offices considerably less frequently. Only 9% consulted with private attorneys. Though one should be careful to compare the results of the survey done in England and Wales with the results of our survey, it may be safe to say that in Japan attorneys in private practice are not so frequently consulted with as was the case in England and Wales, where the survey of 2004 indicated 30% of respondents obtained advice from a solicitor at some point of the sequences²⁵.

There are various kinds of advice agencies in Japan. Some of them are specifically rights-based, the others are more general types of advisers. Rights-based advisers include legal consultation bureau at city hall, consumer advice centre, consultation desk at court, consultation bureau at a bar association, consultation bureau at a legal aid association. More general types of advisers include non-legal consultation bureau at city hall, national or prefectural agency, private consultation bureau or agency. These altogether accounted for 19% of advisers whom the respondents consulted with.

3.2 Sequence of Advisers

3.2.1 Overall Pattern

61% of respondents obtained advice from only one adviser, 24% from two advisers, 7% from three advisers, 3% from four advisers or more²⁶.

Families and relatives are consulted frequently at earlier stages.

Attorneys in private practice are tended to be used more frequently later in sequences, though they constitute 6% of first source of advice.

types of advisers on the card shown to the respondents, they are included. Genn, *Paths to Justice*, Appendix C, p.322.

²⁵ Pascoe Pleasence, *Causes of Action: Civil Law and Social Justice*, Second Edition (Legal Services Research Centre, 2006), p.105.

²⁶ This pattern is strikingly similar to the pattern of results of a research in 2004 reported by Pascoe Pleasence. Pleasence, *Causes of Action: Civil Law and Social Justice*, Second Edition, p.103.

Figure 3

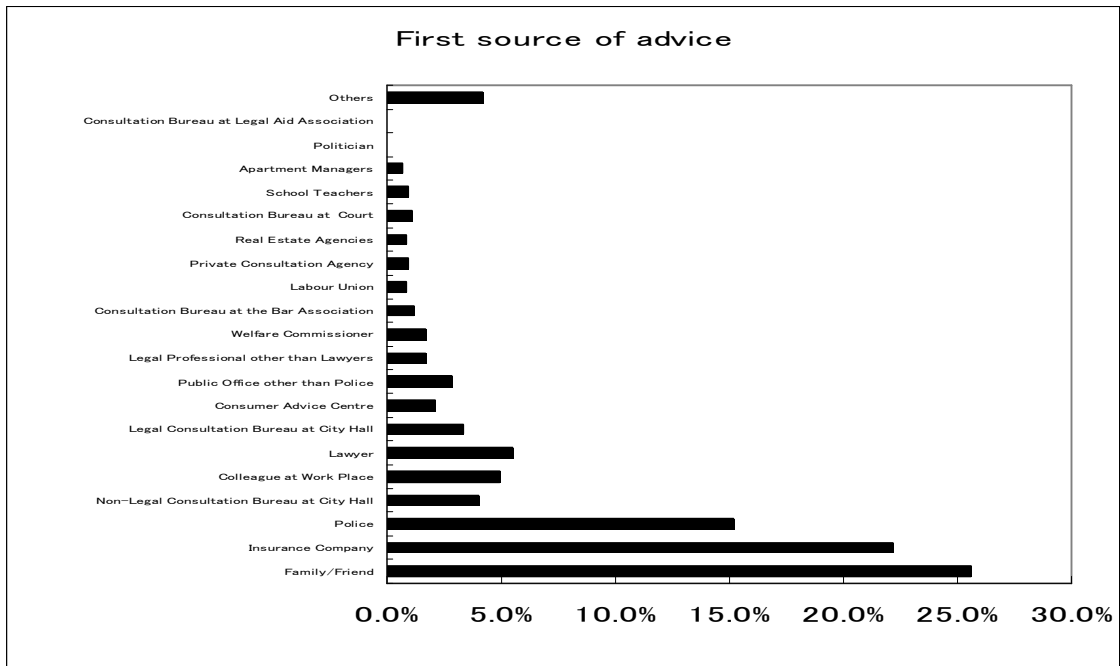


Figure 4

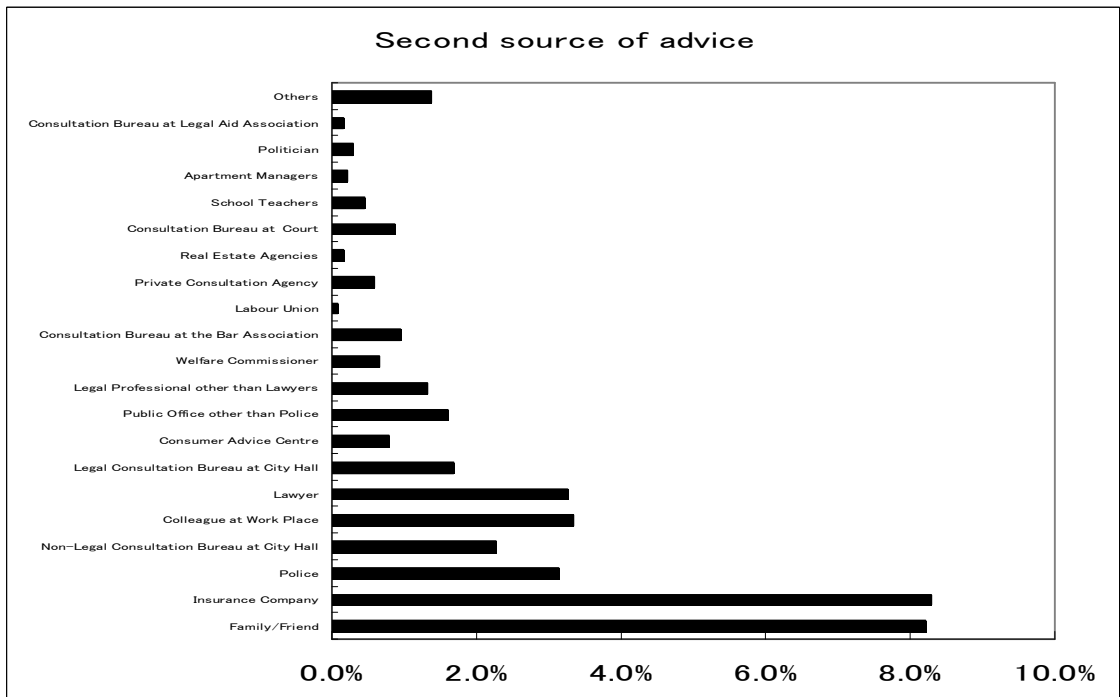


Figure 5

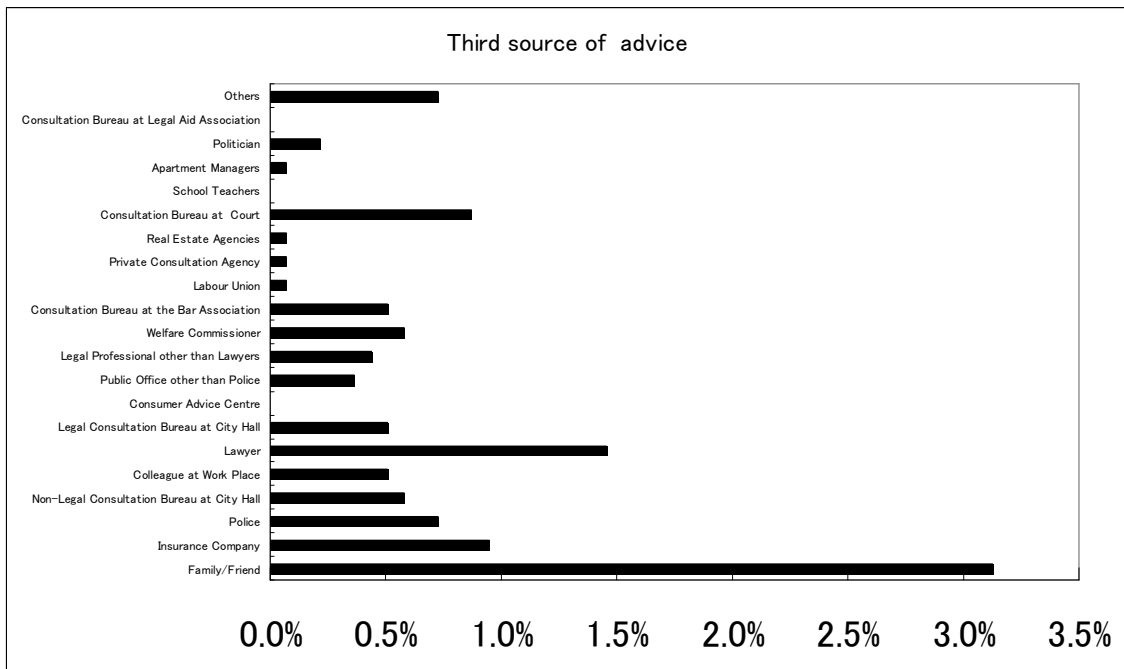
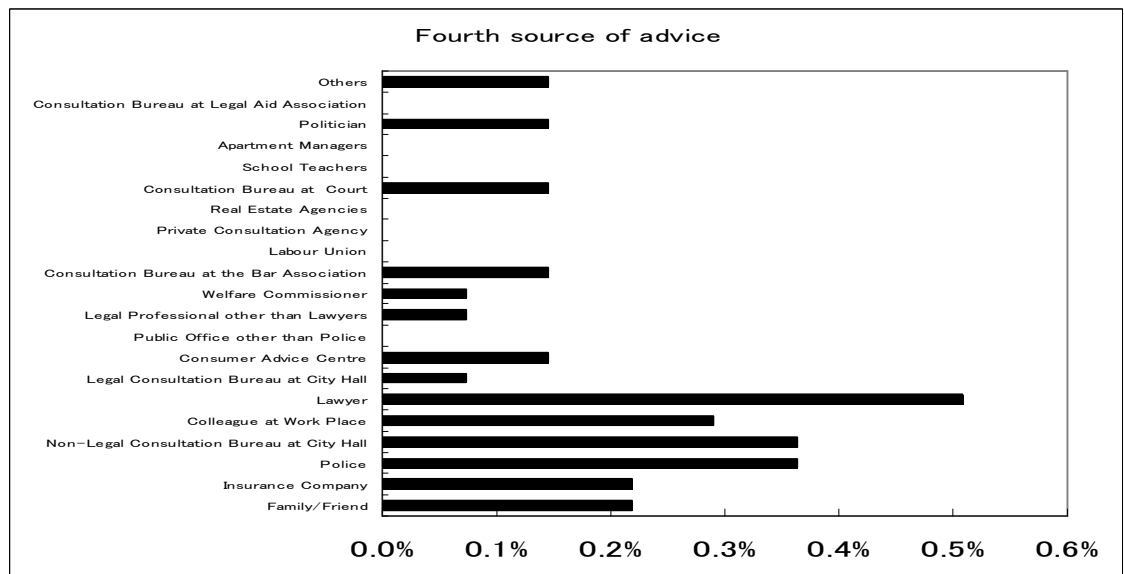


Figure 6



3.2.2 Very Different Patterns of Advisers Associated with Problem Type.

At each stage of sequences, respondents' choices of advisers varied greatly between problem types.

As to the first adviser, while in the majority of problem types, a family member or friend was the most frequently consulted, in accidents and private insurance problems, insurance companies or its employees are most often used (50%) and in tax or pension problems, non-legal consultation bureaux at city hall are most often used (27%). Lawyers in private practice are comparatively frequently consulted (more than 10 per cent of the respondents) as the first adviser, in land or house problems, rent or lease problems and family and relative problems, money or credit problems.

In goods and services problems consumer advice centres are very often contacted as the first adviser (20 per cent of respondents), next to a family member or relative.

In employment problems, the pattern is comparatively different from the other problem types. Colleagues at work place are very often consulted as the first adviser (28 percent), public offices other than police at prefectural or state level (15 %) and labour union (11%) are also often consulted.

It appears that many respondents may have obtained advice from the ‘other side’ to disputes. For example, as mentioned above, some of the respondents who obtained advice on accident problems obtained advice from insurance companies which acted on behalf of the opposite party. In tax or pension problems, non-legal consultation bureaux at city hall and public offices other than police are consulted by many respondents (27 % and 15% respectively), most of which must be the other sides of the disputes.

Table 9 First adviser by problem type

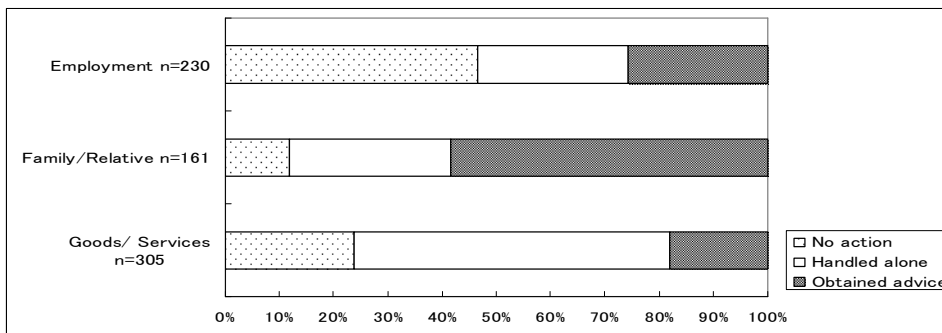
First source of advice by problem type	Family/Friend	Insurance Company	Police	Non-Legal Consultation Bureau at City H	Colleague at Work Place	others	total
Total	352	306	209	76	68	365	1376
	25.6%	22.2%	15.2%	5.5%	4.9%	26.5%	100.0%
Goods/Services	44	21	7	5	26	103	103
	42.7%	20.4%	6.8%	4.9%	25.2%	100.0%	100.0%
Land/House	12	4	4	3	3	17	43
	27.9%	9.3%	9.3%	7.0%	7.0%	39.5%	100.0%
Rent/Lease	12	4	3	3	6	28	28
	42.9%	14.3%	10.7%	10.7%	21.4%	100.0%	100.0%
Employment	43	34	18	14	6	7	122
	35.2%	27.9%	14.8%	11.5%	4.9%	5.7%	100.0%
Family/Relative	54	16	16	8	29	123	123
	43.9%	13.0%	13.0%	6.5%	23.6%	100.0%	100.0%
Accident	285	171	60	13	9	573	573
	49.7%	29.8%	10.5%	2.3%	1.6%	0.0%	100.0%
Neighbour	70	37	20	20	13	60	220
	31.8%	16.8%	9.1%	9.1%	5.9%	27.3%	100.0%
Money/Credit	43	13	5	5	4	16	86
	50.0%	15.1%	5.8%	5.8%	4.7%	18.6%	100.0%
Private Insurance	15	5	2	2	5	27	27
	55.6%	18.5%	7.4%	7.4%	18.5%	100.0%	100.0%
Tax/Pension	9	6	5	3	11	34	34
	26.5%	17.6%	14.7%	8.8%	0.0%	32.4%	100.0%
Others	3	3	2	2	2	5	17
	17.6%	17.6%	11.8%	11.8%	11.8%	29.4%	100.0%

3.3 Use of the Advisers

We asked the respondents whether the consultation was helpful or not in such a manner as “instructed with regard to procedure and law,” “instructed with regard to what to do in practice,” “helped me recognize I was right,” “helped me mentally – consolation, encouragement, etc.,” “negotiated with the other party for me,” “informed me of other agencies,” “made a judgment from an impartial stance,” and “not helpful.”

I would like to take three categories of problem, employment problem, family or relative problem and goods and services problem, here to see how the respondents evaluated the advisers. As Figure 7 shows, the employment problem is characteristic in its high ratio of lumpers, the family or relative problem is characteristic in its high ratio of those respondents who obtained advice and the goods and services problem is characteristic in its high ratio of self-helpers.

Figure 7



Let us take employment problem first. As I showed above, the respondents with this problem were most likely to be “lumpers” and least likely to consult with advice agencies or persons. 53% of the respondents with this problem consulted with advisers, including a family member or friend and colleague at work place. For the first adviser 19% of the respondents with this problem consulted with a family member or friend and 15% consulted with a colleague at work place, while 8% consulted with a national or prefectural agency, 6% consulted with a trade union and 3% consulted with non-legal bureau at city hall. A national or prefectural agency includes specialist agency for labour disputes.

20% of the respondents with this problem consulted with the second adviser. For the second adviser 7% consulted with colleague at work place and 5% consulted with a family member or friend, while 3% consulted with a national or prefectural agency.

Only 3% of the respondents with this problem consulted with the third adviser.

Most of the respondents who consulted with a family member or friend for the first adviser said a family member or friend they consulted was helpful (only 7% said not he or she was not helpful), but his or her help was mostly emotional support (77% said they were helped mentally

[consolation, encouragement, etc.]) On the other hand, 41% of the respondents with an employment problem who consulted with a colleague at work place said he or she was not helpful.

As to the respondents who consulted with a national or prefectural agency for the first adviser, 30% said it was not helpful, but 61% said it had instructed with regard to procedure and the law, 61% said it had instructed with regard to what to do in practice, 56% said it helped the respondent to recognize he or she was right. However, only 17% said it negotiated with the other party for the respondent.

The respondents with an employment problem seldom used an attorney in private practice. Only 3% of the respondents consulted with an attorney in private practice, half of whom entrusted the matter to an attorney. In total only 3% of the respondents with an employment problem entrusted the matter to an attorney in private practice. 10% of the respondent thought of entrusting the resolution of the problem to an attorney.

As Table 10 shows, Self-helpers are significantly moer likely to have their employment problems concluded, while lumpers are significantly less likely to have their employment problemsconcluded. Those respondents who obtained advice other than family member or friend and colleague at work place slightly significantly more likely to have their problems concluded. However, there is no statistical difference as to whether respondents' claims were accepted or not among the three types of strategy to deal with the problem. Among the respondents whose employment problem is not concluded, the advised are apparently more likely to be negotiating with the opposite party.

Table 10

Outcomes by three types: employment problem		Concluded	Not Concluded	Total
No Action	n	28	70	98
	%	28.6	71.4	100
	adjusted residuals	-4.04	4.04	
Self-help	n	39	24	63
	%	61.9	38.1	100
	adjusted residuals	3.50	-3.50	
Advised	n	27	28	55
	%	49.1	50.9	100
	adjusted residuals	0.97	-0.97	
Total	n	94	122	216
	%	43.5	56.5	100

$\chi^2(2)=18.27, p<0.001$

Let us take family or relative problem next. As I showed above, the percentage of the respondents with this problem who obtained advice was the second largest of all the respondents. 76% of the respondents with this problem consulted with advisers, including a family member or friend and colleague at work place. While 33% of the respondents with this problem consulted with a family member or friend for the first adviser, 10% consulted with an attorney in private practice and legal consultation bureau at city hall respectively and 5% consulted with consultation desk at court.

44% of the respondents with this problem consulted with the second adviser. For the second adviser, 7% consulted with an attorney in private practice, a family member or friend, legal consultation bureau and non-legal consultation bureau at city hall respectively.

20% consulted with the third adviser. 6% consulted with an attorney in private practice, 4% consulted with a family member or friend and consultation desk at court respectively.

If one compares the results of the respondents with a family member or relative problem with those with an employment problem, the former consulted more frequently with advisers other than a family member or friend and did not give up contacting different advisers.

Among the respondents who consulted with a family member or friend for the first time, 56% said the family member or friend they consulted with had helped the respondent mentally but 20% thought he or she was not helpful. Among the respondents who consulted with a family member or friend as the first adviser, 54% consulted with the second adviser, which is composed of legal consultation bureau at city hall and non-legal consultation bureau at city hall (21% respectively), attorney in private practice (17%), consultation desk at court, consultation bureau at a bar association and quasi-legal professional (7% respectively). It is remarkable that except for non-legal consultation bureau at city hall, all the agencies that were consulted was law-related advisers.

On the other hand, among the respondents who consulted with attorney in private practice as the first adviser for a family member or relative problem, 63% of them said the attorney instructed them with regard to what to do in practice, 50% said the attorney instructed the respondent with regard to procedures and the law, 44% said the attorney had negotiated with the other party for the respondent, but 31% said the attorney was not helpful, of which 60% were those with divorce problem and 40% were those with inheritance problem.

Among the respondents who consulted with an attorney in private practice as the first adviser, 44% consulted with the second adviser, who is composed of a family member or relative (57%), consultation desk at court, insurance company or its employee and family or relative (14% respectively). It is interesting that among five respondents that said the attorney was not helpful, three consulted with a family member or relative as the second and the last adviser and two

consulted with none further. It looks like attorneys tend to have the final say as the adviser and other advice agencies are seldom contacted further.

Among the respondents who consulted with the legal consultation bureau at city hall, 44% said the bureau was not helpful, 31% said the bureau had informed the respondent of other agencies, 25% said the bureau instructed them with regard to what to do in practice, 19% said the bureau instructed the respondent with regard to procedures and the law, but nobody said the bureau had negotiated with the other party for the respondent. It is characteristic that the bureau or the attorney at the bureau do not negotiate with the other party in person and that may be one of the reasons why considerable number of respondents consulted with the bureau said it was not helpful.

Among the respondents who consulted with a legal consultation bureau at city hall as the first adviser, 81% consulted with the second adviser, which is composed of consultation desk at court and attorney in private practice (23% respectively), non-legal consultation bureau at city hall (15%), and others. Characteristically considerably large number of the respondents in this group went on to the third and fourth advisers. 44% of all respondents went to the third adviser, which is composed of attorneys in private practice, consultation bureau at a bar association and family or relative (29%) respectively. The high ratio of those went on to other agencies further suggests that the legal consultation bureau at city hall plays a role as referring agency.

Lumpers are significantly less likely to have their family or relative problems concluded. Both those respondents who obtained advice other than family member or friend and colleague at work place and self helpers slightly significantly more likely to have their problems concluded. As to whether respondents' claims were accepted or not, one cannot draw statistically meaningful conclusions with respect to the three types of strategy to deal with the problem. Among the respondents whose family or relative problem is not concluded, the advised are apparently more likely to be negotiating with the opposite party.

Let us take another interesting example. The respondents with a goods and services problem are distinctive in high ratio of self helpers (57%). They were the least likely to obtain advice from advice agencies or persons other than a family member or friend or a colleague at work place. Our data shows, however, that people consulted fairly often with a specialist advice agency for consumer problems, which are developed all over Japan.

Table 11

Number of Goods and Services Problems Experienced as most serious for the Previous Five Years		
Prpbem Type	N	%
Food	32	9.9%
Drugs	7	2.2%
Cosmetics, Esthetique	33	10.2%
Household Commodities, Furniture, Electronic Machines, Electronic Devices	59	18.3%
Bicycle, Automobile	15	4.7%
Laundry	19	5.9%
Travel	15	4.7%
School, Supplementary School, Private Teacher	22	6.8%
Stocks, Bonds, Other Financial Commodities	16	5.0%
Telephone, Internet	61	18.9%
Nursing Care/ Health Care	3	0.9%
Newspaper	35	10.9%
Others	5	1.6%
Total	322	100.0%

14% of the respondents with a goods and services problem consulted with a family member or friend for the first adviser and 7% consulted with consumer advice centre.

Among the respondents who consulted with a family member or friend for the first adviser, 55% answered he or she helped them mentally (consolation, encouragement, etc), 27 % said he or she instructed them with regard to what to do in practice, 27 % answered he or she negotiated with the other party for them, 16% thought the consultation was not helpful, but none informed of other agencies. Among the respondents who consulted with a member family or friend as the first adviser, 14 % consulted the second adviser, which is composed of consumer advice centres (67%), legal consultation bureaux at city hall (17%) and police or police officers (17%); 7% consulted the third adviser, which is composed of consultation bureaux at court, colleagues at work place and private consultation bureaux or agencies (33% respectively); 2% consulted the fourth adviser, which is consultation bureau at a bar association.

On the other hand among the respondents who consulted a consumer advice centre as the first adviser for goods and services problem, 62 % said the centre instructed them with regard to what to do in practice, 38 % said the centre had helped the respondent recognize that he or she was right, 33% said the centre instructed the respondent with regard to procedures and the law, 19 % said the centre had helped the respondent mentally, 19% said the centre was not helpful, 10% said the centre had negotiated with the other party for the respondent, and 10% said the centre had informed the respondent of other agencies. Among the respondents who consulted with a consumer advice centre as the first adviser, 24% consulted with the second adviser, which is composed of family or friends (60%), legal consultation bureaux at city hall (33%) and private consultation bureaux or agencies (33%); nobody consulted with the third adviser.

In total, consumer advice centre was used by 29 of 103 respondents (28%) who identified the goods and services problem as their most serious problems. 21 consulted the centre as their first adviser, 7 as their second adviser and 1 as the fourth adviser. Although the consumer advice center is

one of the most well known advice agency specifically for consumer problems, our data show less than 30% of the respondent consulted with the centre. It may be that the centre is not very often referred to by the other agencies or persons. It should also be pointed out that 19% of those consulted with centre said it was not helpful.

Average amount of the goods and services problems was 490,000 yen or \$ 4,083 with 0 yen being the minimum and 30,000,000 yen or \$250,000 being the maximum.

Lumpers are significantly less likely to have their goods and services problems concluded. Both those respondents who obtained advice other than family member or friend and colleague at work place and self helpers slightly significantly more likely to have their problems concluded. However, there is no statistical difference as to whether respondents' claims were accepted or not among the three types of strategy to deal with the problem. Among the respondents whose goods/services problem is not concluded, the self-helpers and advised are apparently more likely to be negotiating with the opposite party.

3.4 Summary

Among the 2,244 respondents who listed the most serious problems, 1,376 persons (61%) consulted with another person or institutions. In total, these 1,376 persons listed 2,141 advisers, which means on average a respondent consulted with around 1.6 advisers per problem.

Sixty one per cent of respondents obtained advice from only one adviser, twenty four per cent from two advisers, seven per cent from three advisers, three per cent from four advisers or more.

For the first adviser 19% of the respondents with an employment problem consulted with a family member or friend and 15% consulted with a colleague at work place, while 8% consulted with a national or prefectural agency, 6% consulted with a trade union and 3% consulted with non-legal bureau at city hall. 20% of the respondents with this problem consulted with the second adviser and only 3% of the respondents with this problem consulted with the third adviser.

While 33% of the respondents with a family or relative problem consulted with a family member or friend for the first adviser, 10% consulted with an attorney in private practice and legal consultation bureau at city hall respectively and 5% consulted with consultation desk at court. 44% of the respondents with this problem consulted with the second adviser and 20% consulted with the third adviser. The respondents with a family or relative problem tend to seek advice from more advisers and consult more frequently with attorneys in private practice and courts.

4. Conclusions

The problem type seems to play a decisive role for people's strategy to deal with problem

they face. As to employment problem, many Japanese people are likely neither to claim against or negotiate with the employer nor to obtain advice from advice agencies or lawyers. More detailed analyses on the causes and results are needed. As to family problem including divorce and inheritance, Japanese people do not hesitate but are very positive to use lawyers and courts. There seems to be a gap between their needs and the supply of legal services. As to goods and services problem, many Japanese people like to solve by themselves and some seek advice from consumer advice centre and other agencies.

This finding should have an implication for policy making and socio-legal studies. Policy makers should pay more attention to the specific conditions of each problem type and needs of the people for dealing with the problem. Specialized services and information should be provided to the specified group of people facing a problem. To compare disputing behavior cross-culturally, one should focus on specific factors and conditions surrounding each group of people facing the same type of problem and on patterns of behaviour of each group. One may obtain a landscape of national legal culture thorough bringing together and synthesizing various aspects of legal processes with patterns of behaviour of ordinary people and lawyers.

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The Design and Methodology of the Research
of
The 2006 National Survey on
Legal Advice Seeking

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[Summary] The design and methodology of the 2006 national survey on legal advice seeking [2006 National Survey] is explained in detail. The first section of the paper provides the general overview of the 2006 National Survey. The second section defines some basic terms used in the research design and its implementation: "The Advice Seeking Behavior", "Troublesome Events", and "The Most Serious Trouble". The third section describes in detail the questionnaire and the underlying model.

[Keywords] Methodology, Model, Advice Seeking, Questionnaire

CONTENTS

- 1 The Overview of The Research
- 2 The Definitions of the Basic Terms
- 3 The Questionnaire and the Underlying Model

1 THE OVERVIEW OF THE RESEARCH

When a member of a society encounters a trouble involving some issues potentially relating to law, he/she may be aware of the availability of legal advice or other kind of help by other individuals or organizations: individuals such as family members or relatives, friends, neighbors, or acquaintances; the organizations such as local governments, business associations, legal professions, or police. For citizens coping with a potentially legal trouble, the selection of helpers, and the order of selected helpers may be consequential to the course and the form that the trouble takes, and the ensuing results. There may be a substantial variation in courses, forms, and results depending both on the decisions the citizens make in their coping efforts and on the constellation of helping agents in the community - at the local, regional and national levels.

The purpose of this paper is to provide the overview of the 2006 National Survey conducted by Group B and to serve as a methodological introduction for the papers which came out of the Survey. Especially, this paper is introduction of the papers written by the members of the Group B, which combine to outline three different aspects of citizens' experience in seeking advice: (1) experiencing potentially legal troubles in their lives and deciding either to act and seek for help from others or to act by themselves, or not to act, (2) obtaining advice from non-legal agents and evaluating the nature of the advice, and (3) obtaining advice from legal agents and evaluating the nature of the advice.

The research on which this paper is based is designed to outline how people facing a potentially legal trouble in contemporary Japan act and seek advice from various individuals and organizations of their community and to ascertain the ways in which the advice so obtained is evaluated and utilized by those people.

The research consists of 3 major parts.

(1) The National Survey A nationwide survey was conducted through March to May 2006. A face-to-face method was employed by the interviewers of a research company, who had experience in research interviewing, but with no special knowledge of law. The sample consists of 11,000 individuals randomly selected from the national population. The method of sampling is 2 stage-random sampling using a census area as the unit of initial sampling, from each of which 20

people were randomly selected. The sampling base was either a Voter's Registry maintained by each local Election Councils or a Resident Registration List maintained by each local government. For each census area initially sampled, we sought first to ask cooperation to an Election Council which has jurisdiction over the area, and if it was not successful, we tried to ask cooperation from a local government which has jurisdiction over the same area. If both refused to cooperate (did not permit us to use the lists for sampling), we changed the census area. For each individual selected in this way, an interviewer visited the residence of the individual and filled in a questionnaire based on the responses that the individual gave. The number of respondents for whom most of the questionnaire was filled out was 5,330. The rate of response was 5,330/11,000 (48.5%). The number of the respondents who experienced at least one problem in the preceding five-year period was 1,851 (34.7% of 5330). Those respondents experienced a sum of 4,656 troublesome events; on average, 2.52 events were experienced per respondent.

(2) The Kamaishi Survey A further survey was undertaken in the city of Kamaishi in September 2006, to complement the National Survey by supplying a city-wide picture of advice seeking behavior, using virtually the same questionnaire as the national survey. The same method of face-to-face interview was employed. The sample consists of 1000 residents out of the total 43,000 residents of the city. The number of respondents for whom most of the questionnaire was filled out was 706. The response rate was 70.6%, which is significantly higher than the National Survey. Among the 706 respondents, 261 answered that they had experienced at least one troublesome event in the preceding five years (37.0% of 706). A total of 513 troubles were experienced by 261 individuals; on average, 1.97 events were experienced per respondent.

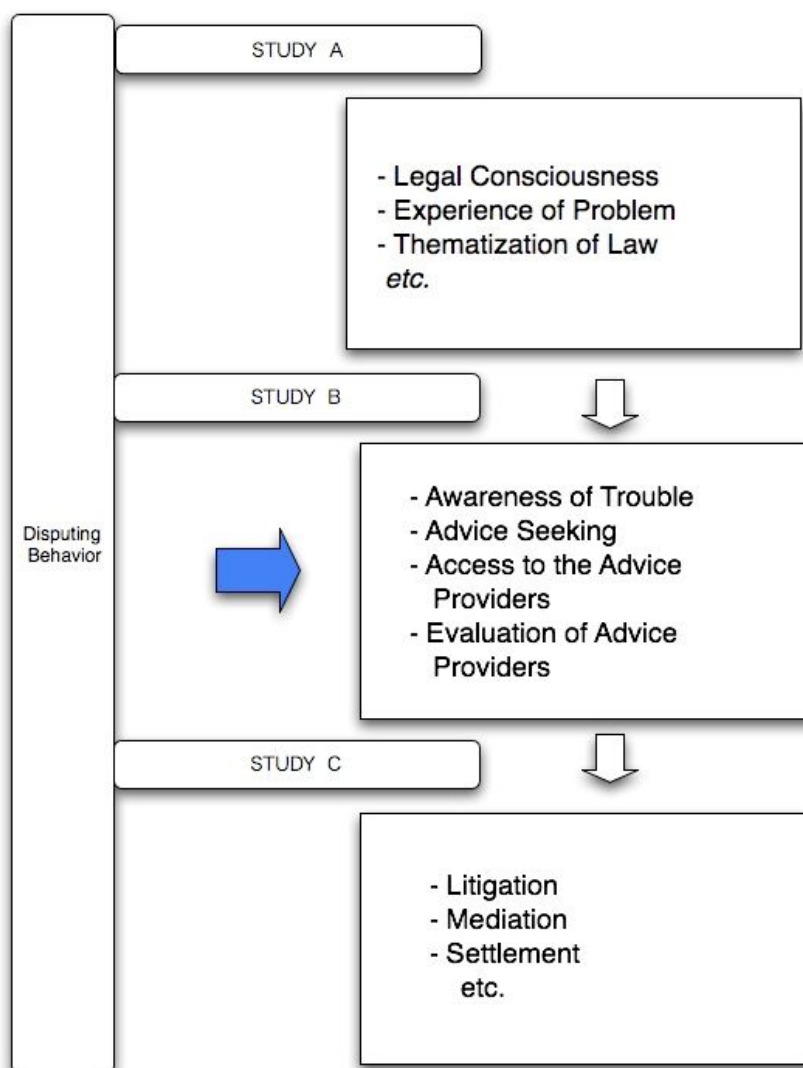
(3) The Qualitative Interviews Another complementary study is a qualitative case study, which was undertaken in February 2006 and is still in progress for some 50 cases selected from the national survey sample.

The project began in September 2003. We have developed a questionnaire through a series of preliminary studies: a focus-group interview of ordinary people in 2003, insertion of some questions in an omnibus survey conducted by a research company in the same year, a preliminary national survey by mail in 2004, and a preliminary survey by face-to-face interview in Tokyo and Osaka in 2005.

We have just completed the processing of our National Survey data. The present paper describes the overall picture of responses to the National Survey and proposes some preliminary interpretations of them. We are still in the process of processing data for the Kamaishi Study, and the results of the qualitative interviews are in the process of being transcribed, reread, and summarized. So the present paper generally does not deal with the findings of the latter two studies because the results of those studies are still to be examined for logical errors or ambiguities in responses.

All of the research that this paper is based on is supported by the grants-in-aid for scientific research for priority areas from the Ministry of Education, Culture, Sports, and Technology. The grants support a larger set of research plans that consists of three groups of researchers comprehensively exploring dispute processing behaviors and corresponding legal consciousness of Japanese citizens. The larger research scheme is divided into 3 research-sets (Study A, B, and C), and the whole scheme is called “Civil Dispute Processing in Legalized Society.” This larger research scheme is depicted in Figure 1.

Figure 1. Overall Research Scheme for “Civil Dispute Processing in Legalized Society” Project



The present authors are members of the group for Study B of the project. This group as a whole consists of 11 core researchers from 6 universities (Kobe University, Osaka City University, University of Tokyo, Waseda University, Fukuoka University, and Osaka University). An additional 10 to 15 researchers and graduate students from various universities helped the research as well.

The aforementioned three studies were conducted by this group as a joint effort of the group members focusing on the patterns of advice seeking behavior within the realm of dispute processing.

2 THE DEFINITIONS OF THE BASIC TERMS

The focus of our study is “advice seeking behavior” by individuals who are involved in a “trouble or some unsatisfactory or unacceptable event.” In addition, we set a “threshold” in terms of time, extent of people involved, and “sphere of life” of the experiences to be included in our study.

The definitions of the basic concepts are as follows:

“THE ADVICE SEEKING BEHAVIOR”: “The advice seeking behavior” is defined as individuals’ use or non-use of a variety of consultation services generally relating to law. For the purpose of the study, we adopt a rather wide definition of “advice”; it is defined as any means through which information pertaining to law, a suggestion or a direction of whether to act or not to act and how to act or not to act, regarding the trouble that is being consulted about, are provided. The act of “advice seeking” so defined generally corresponds to the Japanese word “*so-dan*.” A Japanese dictionary defines “*so-dan*” as “obtaining others’ opinions or discussing with others in order for a person to decide on a certain matter.” Indeed, this Japanese word is used for formally naming a variety of consultation services.

“TROUBLESOME EVENTS”: There is a well-known difficulty to define possible legal troubles. Because the focus of our study is advice seeking behavior in general, we decided to adopt a range of the source events as wide as meaningfully possible. However, if the definition is too wide, a study is overwhelmed by trivial troubles. To overcome this difficulty, we adopted a 2-stage selection format in our questionnaire. First, a very loose limit was set to circumscribe the realm of possible sources of advice seeking behavior. In our questionnaire, target events were defined as “troubles or some unsatisfactory or unacceptable events.” The corresponding Japanese word for “trouble” was used to provide a connotation of a relational difficulty, and the corresponding Japanese expression for “unsatisfactory or unacceptable event” was used to pick up other difficulties felt by respondents. The reason for this broad definition is that these expressions would work best being extended over a wide variety of events that possibly lead to advice seeking behavior. We asked respondents to answer about all those events they had experienced during the time period of 5 years from January 2001 to the time of our survey.

To make the realm of possible sources of advice seeking behavior wider, we also decided to include events not only experienced by each respondent him/herself but also experienced by the members of the respondent’s household. The household is defined in terms of sharing living expenses²⁷.

²⁷ For example, a college student who lives separately with his/her family, but shares living expenses with the parents is to be included, while cohabiting persons who live on their own independent living expenses are to be excluded. The reason for this definition is that, based on the preparatory observation of some legal consultation settings, we came to consider that sharing living expenses could be a good reason for a member of the household/family to act for another member in a possible legal trouble. Interestingly, this definition had mixed effects from a methodological point of view; whereas

“THE MOST SERIOUS TROUBLE”: Then, as the second stage of our selection process, we asked respondents to select the most serious event out of the events that they had experienced, about which detailed questions relating to the advice seeking behavior were asked. For those respondents who had experienced only a single event, that event was selected as the most serious one.

there were cases in which the respondent had acted for his/her family member as expected, there were other cases in which, partly by an error on the side of the assigned interviewer, the respondent had acted for another who had not shared living expenses. For example, there was a case in which the respondent had acted for his elderly father who had lived on his own expenses, when he had apparently been going to be a victim of fraudulent construction business, because the respondent had seen suspicious sales people going into his father's house on the same piece of land as his own. We excluded this case out of our sample.

3 THE QUESTIONNAIRE AND UNDERLYING MODEL

3.1. THE 3-STAGE MODEL

3.1.1 THE OVERVIEW

Our questionnaire is divided into the following parts: (1) the front sheet, (2) screening section, (3) questions relating to the description of “the most serious” trouble, (4) questions relating to the first attempt of advice seeking from institutional advisers and the experience with the adviser, (5) the same questions as those in previous sections relating to the second attempt and the second adviser, (6) the same questions as those in previous sections relating to the “latest” attempt and the latest adviser, (7) questions relating to the outcome and/or current states of the trouble, (8) questions relating to the general attitudes of respondents towards the law and legal system, (9) questions relating to socio-economic status and other status related characteristics of respondents.

We assume in the questionnaire that the responding behavior of the parties to a trouble generally passes 3 distinctive stages: (1) the “AWARENESS” Stage, (2) the “ADVICE SEEKING” Stage, and (3) the “RESOLUTION” Stage.

Our model basically follows the Civil Litigation Research Project (CLRP) of the University of Wisconsin. However, we put more emphasis on the distinctive character of “advice seeking” in the intermediate stages of disputing, so that we changed the “blaming/claiming” stages in the CLRP model to the “advice-seeking” stage. As a consequence, our model of trouble response behavior may be said to take a less adversarial stance, and a more community-oriented stance. It assumes that an individual’s response to a trouble starts with a re-conceptualization of his/her normal living situation, which we call the “awareness” stage, and goes to the 2nd stage of seeking advice from others, which we call the “advice-seeking” stage, and finally he/she starts to return to, and re-settle in, a normal living situation, which we call a “resolution” stage.

An individual lives in a universe of potential troubles. In his/her pursuit of living concerns, he/she encounters various obstacles. The pursuit may be purposive-rational, or value-rational, or emotional, or routine in the terminology of Max Weber. However, a number of those obstacles are not serious enough to lead to the awareness of trouble.

3.1.2 THE “AWARENESS” STAGE

Some encounters of an individual with an obstacle are serious enough to motivate him/her

to re-analyze or re-evaluate the situation with a new awareness of “trouble”. This re-conceptualization may include efforts to search a new key to understanding the relations with others, the communal resources, potential justifications for various claims, and prospects for the future in various ranges.

3.1.3 THE “ADVICE-SEEKING” STAGE

The individual who now was alarmed/armored with a renewed awareness of the situation may begin to reach out for the others and try to seek advice from them. The initial goal is presumably set forth by the initial awareness, but when he/she actually reaches out to the advice providers and obtains advice, if any, he/she may be led to re-consider their goals, because the advice may be consequential to the contents of the initial awareness. This change may lead to another attempt to seek advice; or this may lead to some kind of “resolution” of the trouble.

3.1.4 THE “RESOLUTION” STAGE

The individual may now, for various reasons, want to “cease-fire” or de-escalate the trouble and seek to “landing on the ground”. Once the mood of resolution was set, the concerns and interests at stake in the trouble should be reconsidered again. Some advice providers may not be of much help in the efforts to resolve the trouble, but others may be of substantial help in constructing agreements, drafting of settlement contracts, easing the hurt feelings of the individual, and finding a solution to the individual’s problem.

3.2 THE TROUBLE CATEGORIES - A UNIVERSE OF TROUBLES

In section 2 of the questionnaire, respondents were shown cards listing categories of troubles and asked to name the troubles they had experienced in the preceding 5 years (since January 2001 to the time of the survey, i.e., March/April/May 2006). The categories listed on the cards are listed below. They are shown in the same order of categories and subcategories as asked on the research site. Short definitions of each category follow.

[Trouble Categories and Sub-Categories with Definitions]

1. Goods/Services

1.1 Shortages/Deficiencies in the Goods

1.2 Shortages/Deficiencies in the Services

1.3 Quality Differed from Explanation by the Seller/Contractor

- 1.4 Price Was Too High for Actual Quality of the Goods/Services
- 1.5 Denial/III-Natured Response to a Claim/Inquiry
- 1.6 Other Unsatisfactory/Unacceptable Events
- 2. Money Loan
 - 2.1 Unnecessary Loan Was Forced Upon Them
 - 2.2 Interests Were Too High
 - 2.3 Unfair Collection of Debt
 - 2.4 Default on Loan (as a Debtor)
 - 2.5 Default on Loan (as a Creditor)
 - 2.6 Other Unsatisfactory/Unacceptable Events
- 3. Real Properties
 - 3.1 Deficiencies in Purchased Land/House
 - 3.2 Deficiencies in Construction/Home Repair
 - 3.3 Price/Cost Differed from Explanation by the Contractor
 - 3.4 Price/Cost Was Too High for Actual Quality of the Work
 - 3.5 Denial/III-Natured Response to a Claim/Inquiry
 - 3.6 Other Unsatisfactory/Unacceptable Events
- 4. Landlord-Tenant Relations
 - 4.1 Eviction
 - 4.2 Default/Grace of Rent
 - 4.3 Change of Rent/Additional Payment for Renewal of the Term
 - 4.4 Return of Security Deposit
 - 4.5 Denial/III-Natured Response to a Claim/Inquiry
 - 4.6 Other Unsatisfactory/Unacceptable Events
- 5. Information Technology/Telecommunication
 - 5.1 Fictitious/Excessive Bills Sent via Mail/Internet
 - 5.2 Attempts to Obtain Personal Information with Dubious Reasons
 - 5.3 Leakage of Personal Information
 - 5.4 Embarrassing Phone Calls
 - 5.5 Importunate/Persistent Phones/Emails
 - 5.6 Other Unsatisfactory/Unacceptable Events
- 6. Workplace
 - 6.1 Wages/Working Hours
 - 6.2 Promotions/Transfers
 - 6.3 Discharges/Retirement Allowances
 - 6.4 Activities of Labor Union

- 6.5 Sexual Harassment/Other Kind of Harassment
- 6.6 Other Unsatisfactory/Unacceptable Events
- 7. Hospital
 - 7.1 Medical Examination/Prescription/Operation
 - 7.2 Explanation of Diagnosis/Treatment of Illness/Injury
 - 7.3 Bills for Treatment or Pharmaceutical Costs
 - 7.4 Discourteous Expression/Remarks by Doctors/Nurses
 - 7.5 Denial/Ill-Natured Response to Claim/Inquiry
 - 7.6 Other Unsatisfactory/Unacceptable Events
- 8. School
 - 8.1 Bullying
 - 8.2 Mistreatment by Teachers, Corporal Punishment, Dis-crimination, Discourteousness
 - 8.3 Mistreatment Due to Student's Illness/Injury
 - 8.4 Entrance Fees/Donations/Tuitions
 - 8.5 Denial/Ill-Natured Response to Claim/Inquiry
 - 8.6 Other Unsatisfactory/Unacceptable Events
- 9. Neighborhood
 - 9.1 Noise/Miasma/Refuse Disposal
 - 9.2 Fences/Boundary Line of Lands/Houses
 - 9.3 Construction of Large Buildings/Condominiums
 - 9.4 Keeping of Pets or Use of Common Spaces
 - 9.5 Malicious Gossip/Slander by the Neighbors
 - 9.6 Other Unsatisfactory/Unacceptable Events
- 10. Family/Relatives
 - 10.1 Divorce/Custody of Children
 - 10.2 Nursing Care for Elderly/Handicapped Family Members
 - 10.3 Will/Succession/a Family Tomb
 - 10.4 Violence/Neglect/Harassment within Family
 - 10.5 Borrowing/Lending Money among Family Members/Relatives
 - 10.6 Other Unsatisfactory/Unacceptable Events
- 11. Accident/Crime
 - 11.1 Violence
 - 11.2 Automobile Accident (Both as Victim/Offender)
 - 11.3 Sexual Molestation/Stalking
 - 11.4 Theft/Vandalism
 - 11.5 Trouble with Insurance Company Relating to Damage Insurance Contract/Payment

- 11.6 Other Unsatisfactory/Unacceptable Events
- 12. Government
 - 12.1 Tax
 - 12.2 Social Insurance/Pension Plan
 - 12.3 Social Security/Welfare Benefits
 - 12.4 Investigation/Regulation by Police
 - 12.5 Application/Registration as to Regulations by Government
 - 12.6 Other Unsatisfactory/Unacceptable Events
- 13. Business
 - 13.1 Time/Quality of Goods/Service
 - 13.2 Collection of a Bill/Payment of a Debt
 - 13.3 Fictitious/Excessive Claim
 - 13.4 Threat/Violence by Customer/Party of Transaction
 - 13.5 Slander relating to Reputation of Business/Work
 - 13.6 Other Unsatisfactory/Unacceptable Events

As shown above, each of the trouble categories has 5 specific subcategories and one residual category. The former 5 categories were introduced mainly to show instances for the parent category to encourage memory recall. The last one was set forth to solicit other appropriate troublesome events that are not listed in the preceding categories. We also added a 14th category called “Any Troubles or Unsatisfactory/Unacceptable Events Not Listed Above”.

Here are definitions of the 13 trouble categories.

1. Goods/Services: This category involves all troublesome events arising from transactions of goods/services between a consumer and a merchant. This category covers both types of transactions in store and those in home selling or in mail order selling; for each event-experience, we asked in a sub-question which type the transaction was. The sub-category of “Denial/Ill-Natured Response to Claim/Inquiry” was listed to cover the cases in which the response of a party (e.g. a store) to a claim or inquiry of another party (e.g. a consumer) on some matter caused a more serious problem than the inquired/claimed matter itself.

2. Money Loan: This category covers all troublesome events arising from loaning (lending and borrowing) of money both between a credit company and a client and between friends. Loaning of money between the members of respondents’ family or relatives is not included in this, but in the Trouble Category #10 (“Family/Relatives”). Some of the subcategories of this category specifically refer to problematic activities by credit companies to collect the debts.

3. Real Properties: This category involves all troublesome events arising from buying, selling, or repairing of the real properties of respondents or household members. Both problems

experienced by the seller and problems experienced by the buyer are involved in this category; for each problem-experience, we asked in a sub-question which side the respondent/disputant was on.

4. Landlord/Tenant Relations: This category covers all troublesome events arising from landlord/tenant relationship regarding the land/house/apartment house. This category covers experiences of parties on both sides of the relationship; we asked in a sub-question which side the respondent/disputant was on.

5. Information Technology/Telecommunication: This category covers all troublesome events arising from using telecommunication systems (mail, telephone, or fax) or Internet (e-mail, or WWW). The problem of contracts providing Internet connection service are not included in this category, but in Trouble Category #1 (Goods/Service). From some time before our research, a claim or inquiry on the fraudulent practice of sending a postcard or an email fictitiously claiming a sum of money was registered in substantial volume in the lists of consumer protection agencies. While the trouble of this type may cause no more than a feeling of anxiety in most cases, it was reported in the news that there were some amount of cases in which the receiver of such a communication paid a substantial money to the sender. We included this type for 2 reasons; these cases are one of the major categories to which consumer protection agencies respond; the victims possibly may well bring the case not only to those agencies, but also to court or lawyer in a serious case.

6. Workplace: This category involves all troublesome events arising from the employment relationship of respondents or a member of their household who experienced a trouble. Both problems experienced by the employer and by the employee are included in this category; and we asked in a sub-question what the respondent's/disputant's status in employment was at the time of the trouble. The troubles are between the employer and employee; so that the troubles between a worker/business and the client are not included in this category, but in Trouble Category #13 (Business).

7. Hospital: This category covers all troublesome events arising in medical institutions (like hospitals, or clinics) between medical personnel (doctors, nurses, medical technicians etc) and a patient. The sub-categories were related to quality of medical service (7.1 & 7.2), its financial aspect (7.3), its social aspect (7.4), and quality of response (7.5).

8. School: This category involves all troublesome events arising in educational institutions (both between students and between a teacher and a student. The sub-categories were related to bullying (8.1), mistreatments (8.2 & 8.3) financial aspect (8.4), and quality of response (8.5).

9. Neighborhood: This category covers all troublesome events in respondents' neighborhood. The problems may be caused either by the resident of the same neighborhood or by the passers-by in the neighborhood; for example, littering or illegal parking of a car may be caused by either the visitor of a resident or a passer-by in the neighborhood; we did not ask who caused the

harm, though a hint is available for the “most serious trouble.” If the damage was to some private property of respondents or their household member, the experience is not likely to be included in this but in Trouble Category #11 (Accident/Crime).

10. Family/Relatives: This category covers all troublesome events arising in the relationships of family or the relatives. The sub-categories were divorce and child custody (10.1), caretaking (10.2), succession of the property and the tomb (10.3), domestic violence or harassment (10.4), and money loan (10.5).

11. Accident/Crime: This category involves car accidents or crimes experienced by respondents or their household member. The experience of the offending party is not excluded, but is not specifically listed in the sub-categories because it is not expected to emerge in the answers. The exception to this is the sub-category of car accidents, because talking about their experience of being an offender may be difficult but possible. A sub-category asking problems in claiming insurance payment was included (11.5).

12. Government: This category involves all troublesome events arising between governmental bodies and a citizen. The sub-categories are relating to tax (12.1), social insurance (12.2), social welfare benefits (12.3), police (12.4), and administrative procedures (12.5).

13. Business: This category involves all troublesome events experienced by respondents or their household member as individuals related to the clients in his/her work or business. The troubles “experienced” by the company or organization (like, local governmental bodies) itself are to be excluded, but distinction between the personal and the organizational is not clearly drawn in privately-owned/small business. The sub-categories depict exemplary troubles like troubles relating to the content of goods/services (13.1), payments (13.2), claims (13.3), violence (13.4), and slander (13.5).

3.3 THE MODEL OF INDIVIDUAL’S TROUBLE-RESPONSE

3.3.1 THE DIMENSIONS OF TROUBLE

Respondents who experienced at least one troublesome event were asked to select one “most serious” trouble and to describe the content verbally. Then they were asked questions to characterize basic features of the trouble such as the following.

- When the trouble happened.
- Who the parties of the trouble were.
- Who the parties of the other side were.
- How frequent the parties interacted before the trouble happened.
- How intimate the parties were before the trouble happened.
- How the respondent initially understood the other’s case, if at all.

- Who the respondent initially thought was responsible for the trouble.
- Who the respondent initially thought were the ones who were hurt.
- How large an amount of money the respondent initially thought the damage was, if such estimation was possible.
- Whether the parties of the respondent's side made claims against the other side, and if they did, what they were.
- How large an amount of money the parties of the respondent's side claimed against the other side, if any.
- Whether the parties of the other side made claims against the respondent's side, and if they did, what they were.

Then they were asked about their actions to remedy the trouble in the following questions.

- Whether they sought information in books or on the internet about the trouble.
- Whether they talked/wrote to other side about the trouble.
- Whether they consulted the members of their family or relatives about the trouble.
- Whether they consulted their colleagues or their superiors in the workplace about the trouble.
- Whether they sought advice from advice providing institutions.

3.3.2 THE SEEKING OF ADVICE FROM INSTITUTIONAL ADVICE PROVIDERS

20 advice providers and one "others" category were listed on a card which was shown to respondents. The 20 advice providers were as follows:

1. Legal Consultation Service Provided by Local Governments
2. Sections of Local Governments in Charge of Matters Relating to the Type of Trouble
3. The Labor Standard Inspection Office Branches, the National Taxation Office Branches, or the Local Public Health Centers
4. Police
5. A local District Welfare Officer (*Minsei-Iin*), a local Civil Rights Protection Officer (*Jinken-Yogo-Iin*), or a local Probation Officer (*Hogo-shi*)
6. Consumer Centers Run by Local Governments
7. Companies or Associations of Business Companies Relating to the Particular Type of Trouble
8. Insurance Companies
9. Political Parties or Politicians
10. Labor Unions
11. Agricultural Regulation Commissions or the Farmers' Cooperatives

12. Social Welfare Councils
13. Religious Institutions
14. NGOs, NPOs, or Volunteer Groups/Associations
15. Legal Consultation Service Provided by Local Bar Associations or Legal Aid Societies
16. Lawyers or Law Offices
17. Judicial Scriveners
18. Administrative Scriveners, Tax Consultants, or Social Insurance Labor Consultants
19. Arbitration Offices/Services (Japan Commercial Arbitration Association, The Construction Business Dispute Arbitration Council, etc.)
20. Court Officers at the Reception Section

Respondents were then asked questions about their experiences with advice providers which they consulted first, second, and last. The same set of questions was used for each advice provider so that the distinct stages of advice seeking can be compared and understood. The questions about the experiences include descriptive and evaluative questions such as the following.

- Whether the respondent had a prior knowledge of the advice provider, and if not, how he/she had become aware of it.
- When advice about the trouble was obtained and through how many sessions/meetings it was obtained.
- How long it took for the respondent to travel to the place of the advice provider.
- What the respondent expected the advice provider to do about the trouble.
- What the advice provider actually did about the trouble.
- How many hours it took for advice to be provided, and how the time was evaluated by the respondent.
- How much it took for advice to be provided in terms of money, how the price was evaluated by the respondent.
- According to the respondent's appraisal, whether the respondent was given enough opportunity to tell about the trouble.
- According to the respondent side's appraisal, whether the advice provider had enough legal knowledge about the trouble.
- According to the respondent's appraisal, whether the advice provider had enough specialized knowledge other than legal knowledge (e.g. knowledge about the administrative procedure, the nature of the goods/services, etc.) about the trouble.
- According to the respondent's appraisal, whether the advice provider responded efficiently toward the trouble.
- According to the respondent's appraisal, whether the advice provider gave a thorough

explanation of the advice regarding the trouble.

- According to the respondent's appraisal, how useful the advice provider was.
- According to the respondent's appraisal, how satisfied the respondent was with the advice provider.
- What action the respondent's side took after receiving advice.
- Whether the perception of the respondent's side of their case's fairness changed after the receiving of the advice, and if so, to what direction it changed.

3.3.3 THE TROUBLE OUTCOME

In the following part of the questionnaire, respondents were asked about the current (at the time of research) state of the trouble and their actions that caused the present outcome.

- Whether there were such advice providers which the respondent considered to consult about the trouble but did not, and if yes, why they did not consult them.
- Whether the respondent resorted to the procedures of the court (i.e. civil/family matter mediation, civil litigation etc.), and whether such procedures were taken against him/her by the other side.
- Whether the trouble was resolved, and if so, how it was resolved (e.g. settlement in/out of court, decision of the court, voluntary giving-up by the party, etc.) , and if not, how close to a resolution the trouble currently was.
- How much the respondent is satisfied with the end-results of the trouble.

Who is the “Party” in Disputes?

—Some Observations from the 2006 National Survey—

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[Summary] The previous surveys on dispute experience including advice seeking behaviour, such as the “Transformation” model of disputes, often adopted “individualistic” approach to disputes. The Respondents of our survey, however, have a tendency to seek advice actively when the problem was related not to themselves but to their children, and this pattern of behaviour have been overlooked by the previous approach. Our survey suggests that individualistic approach to disputes may result in failing to grasp the total landscape of “troubles” in our society.

[Key Words] “Transformation” Model of Disputes/ Disputing Behaviour/ Collective Disputes/ Advice Seeking Behaviour

1. Introduction

Beyond the analyses of configuration and determinants of advice seeking behaviour²⁸, our research offers further important insight regarding the theoretical framework adopted in the previous surveys on the public experience. The “party” to the trouble will come into focus. The previous surveys were had in common that they were designed based on the “individualistic” understanding of disputes, and that theoretical postulate led the confinement of the troubles to be surveyed. Our survey suggests that such confinement may result in failing to grasp the total landscape of “troubles” in our society.

2. Theoretical Framework of Previous Surveys

²⁸ See Iwao Sato, *Citizens' Access to Legal Advice in Contemporary Japan: Findings from the 2006 National Survey*, in GRANT-IN-AID FOR SCIENTIFIC RESEARCH FOR PRIORITY AREAS DISPUTE RESOLUTION AND CIVIL JUSTICE IN THE LEGALIZING SOCIETY, VOL. 2

First, let us summarise how the previous similar surveys approached the dispute experiences of common people. Our interest lies in the way the research tried to grasp the “party” to trouble/ dispute.

It is no doubt that one of the most important starting points for dispute resolution studies for these three decades is the “Transformation” model of dispute.²⁹ Felstiner, Abel and Sarat, founders of the model, chose the perception of the disputants as their reference point for analysing dispute process. There is a great change in the perspective when we take the characteristics of traditional approach into account. The traditional approach, which preceded the Transformation model, paid attention only to the functions and influences of official dispute resolution institutions instead of the parties’ own precognition.

Then, what is the result of the new approach? Due to this theoretical characteristic, an individual party to the dispute forms the focal point of the analysis. Although Felstiner, Abel and Sarat admit that the parties to disputes often consist of collective individuals³⁰, the principal subject of analysis in their theory is strongly oriented towards each individual person³¹. In this sense, the “Transformation” model of disputes can be described as “individualistic” approach to disputes.

The previous surveys on dispute experience basically share this approach. For example, “Paths to Justice” research, which was conducted under the direction of Professor Hazel Genn in the UK in late 1990s³², surveyed the “justiciable problems”³³ experienced by respondent or their spouse/ partner. The important point of interest here is the fact that the problems faced by the respondent’s family members other than his/ her partner are systematically excluded from the range of justiciable problems surveyed in the research.^{34 35}

²⁹ William L. F. Felstiner, Richard L. Abel, & Austin Sarat, *The Emergence and Transformation of Disputes: Naming, Blaming, Claiming...*, 15 LAW & SOC. REV., 631 (1981).

³⁰ See *Id.* at 639.

³¹ Felstiner, Abel and Sarat argue as following: “Because transformation studies begin with the individual, they enable researchers to examine perceptions, grievances and conflicts that are never institutionalized as disputes.” (*Id.* at 649)

³² The reports of the researches were published as two volume books: HAZEL GENN (with NATIONAL CENTRE FOR SOCIAL RESEARCH), *PATHS TO JUSTICE: WHAT PEOPLE DO AND THINK ABOUT GOING TO LAW*, Hart Publishing, 1999/ HAZEL GENN & ALAN PATERSON (with NATIONAL CENTRE FOR SOCIAL RESEARCH), *PATHS TO JUSTICE SCOTLAND: WHAT PEOPLE IN SCOTLAND DO AND THINK ABOUT GOING TO LAW*, Hart Publishing, 2001.

³³ See GENN, *PATHS TO JUSTICE* (*supra* note 5) at 12-13.

³⁴ In the “Paths to Justice” researches, whether or not respondents had experiences the problems “connected with having children aged less than 18” was asked in the series of questions. These problems, however, are mainly not concerned with children but respondents themselves as parents. Also see GENN, *PATHS TO JUSTICE* (*supra* note 5) at 14.

³⁵ Further, the similar research in Japan undertaken between 2005 and 2006 (The basic results of this research were published as MASAYUKI MURAYAMA/ YOSHIYUKI MATSUMURA (eds.), *FUNSO KODO CHOSA KIHON SHUKEISHO* [STATISTICAL SUMMARY ON DISPUTE BEHAVIOUR RESEARCH], (Yuhikaku Gakujutsu

When we compare our research with these previous surveys, prominent characteristics can be highlighted. Firstly, the range of troubles to be covered by our research is comparably wider than previous similar surveys. We asked respondents whether or not they or their family members (including parent/ brother/ sister) who run the household together had experienced trouble. Secondly, we asked who the direct party to the trouble was if the respondent answered that he/ she was not the direct party. This design in research made it possible to explore the universe of the trouble experience of citizens in more detail, as well as more carefully than in previous studies.

3. Hypothesis

Under the premise of this research design³⁶, we can deduce the following: On the one hand, we can presume that the extent of the advice-seeking activity (Q26/ Q28) would be intensified according to the interest, that is, amount of damages at stake. On the other hand, the interest at stake would be felt greater for the respondent if the trouble is directly related to the respondents compared to the situation where trouble is related to the other member of his/ her family if the face-value of the interest is the same as far as we adopt the individualistic approach. Then, we can formulate a hypothesis based on these premises: the respondents would more actively seek either help or advice when the trouble is directly related to them compared to the situation in which the trouble's party is family member.

Next thing we should do is to confirm whether this hypothesis can be verified on the evidence we gathered through our research.

4. Analysis

Table 1 shows the cross-tablature between advice-seeking behaviour (Q.28) and party to the most serious disputes to the respondents (Q.17) and amount of the damages the respondents suffered by the problem (Q.23)³⁷. It should be noted that some operations

Centre, 2006)) limited the problem to be surveyed to the problem those which were experienced by respondents themselves and their children aged less than 20. On the one hand, this confinement is reasonable when the research adopts the individualistic approach which emphasised the perception of the individual party to dispute. On the other hand, however, this means that even the problems with which respondents' partners faced were out of focus of the research. This means that the disputes to be surveyed in this research were in a certain sense much narrower than those in the "Paths to Justice" researches.

³⁶ For a detailed structure of questionnaire, see Shiro Kashimura, *The Design and Methodology of the 2006 National Survey on Legal Advice Seeking*, in GRANT-IN-AID FOR SCIENTIFIC RESEARCH FOR PRIORITY AREAS DISPUTE RESOLUTION AND CIVIL JUSTICE IN THE LEGALIZING SOCIETY, VOL. 2.

³⁷ See SATO (*supra* note 1) for a comprehensive picture of advice-seeking behaviour.

were carried out prior to the analysis. Firstly, this table shows the comparison between advice seeking behaviour for troubles which directly relate to the respondents and which relate to their children. In order to highlight the difference between advice-seeking behaviour for the respondent's own trouble and their family member's trouble, we excluded the troubles faced by spouse/ parent/ sister /brother. Secondly, problems which amount of damages exceeded 100,000 Japanese yen were excluded from the table because the number of such cases in which the party is the respondent's children is very small (5 in total). Thirdly, problems related to accident/crime (those which belong to Q11) were excluded from the analysis here. Because those problems often accompany the automatic or mandatory intervention of police service or insurance company, these cases function as raising the percentage of active advice-seeking behaviour on the surface. The treatment is conducted in order to eliminate the effect of such trouble category.

Table 1. Advice-seeking Behaviour and Party to the Disputes

Party to Dispute		Advice-Seeking Behaviour		
		Respondent	Children	Total
Third-Party Advice Seekers	Number	20	5	25
	Percentage	10.6%	29.4%	12.1%
	Standardised Residual	-2.27	2.27	
Self-Helpers	Number	147	10	157
	Percentage	77.8%	58.9%	76.2%
	Standardised Residual	1.76	-1.76	
Lumpers	Number	22	2	24
	Percentage	11.6%	11.8%	11.7%
	Standardised Residual	-0.02	0.02	
Total	Number	189	17	206
	Percentage	100%	100%	100%

The results of the Chi-square test for the table reject the hypotheses formulated above at the 10% significance level. Therefore, we can induce that the respondents did not necessarily seek advice more actively when the problem was directly related to them. Instead, they seem to have sought advice more eagerly when the party to the problem was their children.

5. Findings and Conclusions

We may find a cue to explain such phenomenon in the socio-psychological study on altruistic helping behaviour. Such socio-psychological approach may, however, have inherent limit. The limitation lies in the fact that social psychological studies traditionally pose a question concerning the helping behaviour as follows: Under what conditions do people show altruistic behaviour to help those who have no everyday-contact?³⁸ Our concern, on the contrary, relates to the reason why people have a strong commitment to problems regarding children, and why they seek advice and help more actively when their children become the party to the dispute.

One of the fundamental problems might be the individualistic premise which the “Transformation” model of disputes and socio-psychological study on helping behaviour adopt in common. We may more appropriately understand the landscape of the disputes by adopting the collective approach instead of individualistic approach as far as the family members, especially children, are related to the trouble. It is true that many troubles/disputes are developed between individual members of the society. The individualistic “Transformation” model is still effective for analysing such disputes. Some disputes should be, however, recognised as collective, and individualistic approach may not grasp such social phenomena appropriately. Conversely, the collective approach admits that the party to certain kinds of disputes is not individual but family as a “unit”. When we adopt this approach, advice-seeking behaviours relating to the problem of family member are not recognised as “altruistic” helping behaviour conducted by individual person but “self-help” behaviours conducted by family as a collective entity. Our result on advice-seeking behaviour for children’s problem would constitute one of the evidences that the individualistic approach fails to cover the total universe of disputes in our society.

³⁸ For a classical study on helping behaviour, see BIBB LATANÉ & JOHN M. DARLEY, *THE UNRESPONSIVE BYSTANDER: WHY DOESN'T HE HELP?* (Englewood Cliffs; Prentice-Hall, 1970).

Citizens' Experience of Utilizing Third-Party Advice Providers for Resolving Everyday Disputes in Contemporary Japan

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[Summary]

In this paper, what determines Japanese people's evaluation of institutional advice providers which they utilized for coping with troubles they or their family members had been involved is examined. The result of our nationwide survey conducted in 2006 shows that Japanese people's evaluation of institutional advice providers is influenced not only by particular services provided by the institutional advice providers they utilized but also by the types of troubles about which the institutional advice providers were utilized. Moreover, legal consultation services provided by local governments get significantly lower evaluation among their users even if the influences of variables concerning "what the institutional advice providers did" and "the types of troubles" are controlled. This low evaluation seems to be due to the way lawyers in charge of legal consultation services provided by local governments deal with those who seek advices.

[Key Words]

Trouble, Advice Seeking Behavior, The Evaluation of Institutional Advice Provides

1. "THE EVALUATION OF USEFULNESS" AND "SATISFACTION"

In our survey, we measured the respondents' evaluations of advice providers from two angles. One is "the evaluation of usefulness." We measured the level of respondents' evaluation of the usefulness of advice providers by asking, "For dealing with the trouble which you experienced, was it useful to consult the particular agency, association, or specialist which you consulted?" Respondents were then asked to select one of five alternatives ranging from "quite useless" to "very useful." Another is "satisfaction." We measured the level of respondents' satisfaction with advice

providers by asking, "Are you satisfied with the services offered by the particular agency, association, or specialist which you consulted?" Respondents were then asked to select one of five alternatives ranging from "quite unsatisfactory" to "very satisfactory."

So far as advice providers which respondents consulted first are concerned, these two evaluations correlate with each other strongly ($r = 0.818$). In addition, as shown in Table 1-1 and Table 1-2, most respondents evaluate advice providers which they consulted first positively in both respects.

As to the determinants of the degrees of "the evaluation of usefulness" and "satisfaction" among the users of advice providers, we can formulate three hypotheses. The first is a rather commonsensical hypothesis that the degrees of "the evaluation of usefulness" and "satisfaction" vary with services offered by advice providers. The second is that the degrees of "the evaluation of usefulness" and "satisfaction" vary with the types of the troubles about which advice providers were used because it is easy for advice providers to offer useful services concerning some types of troubles while it is not concerning other types of troubles. The third is that the degrees of "the evaluation of usefulness" and "satisfaction" vary with some peculiar attributes of advice providers which are independent of both the services offered by them and the types of troubles about which they offered certain services. For instance, one may be satisfied with the fact that a prestigious advice provider gave him an advice independently of the content of the advice. If this is the case, then, the level of the prestige of a particular type of advice provider may be a key determinant of the users' evaluation of the advice provider.

In the following pages, we will examine the validity of these three hypotheses. While some respondents had consulted two or more advice providers, and we asked those respondents their evaluation of the advice providers they had consulted first, second, and last, the following analyses are all concerning the advice providers which respondents consulted first.

2. THE RELATIONSHIP BETWEEN THE SERVICES OFFERED BY PARTICULAR ADVICE PROVIDERS AND THE USERS' EVALUATION OF THOSE ADVICE PROVIDERS

In our survey, we asked respondents who had consulted advice providers, "What did the advice provider do for you?" Respondents were asked to select all of what advice providers that they had consulted had done for them among 10 alternatives listed in our questionnaire. These alternatives are (1) the advice provider listened to

your side of the story, (2) the advice provider negotiated with the other party with whom you had been in trouble, (3) the advice provider gave you legal advice, (4) the advice provider gave you specialized, non-legal knowledge, (5) the advice provider taught you how to protect your interests, (6) the advice provider introduced another agency, association, or specialist to you, (7) the advice provider recommended that you should use either litigation or mediation, (8) the advice provider represented you in litigation or mediation, (9) the advice provider did something else for you, and (10) the advice provider did not do anything. The number of respondents who selected each alternative is shown in Table 2.

The relationships between what advice providers did for respondents on the one hand and the respondents' evaluation of the usefulness of and their satisfaction with the advice providers on the other are shown in Table 3-1 to Table 3-10. Each numerical value shown in Table 3-1 to Table 3-10 is the mean value of the number attached to the alternatives selected by respondents when they were asked their evaluation of the usefulness of and their satisfaction with advice providers they had used by selecting among five alternatives ranging from "quite useless" to "very useful" or "quite unsatisfactory" to "very satisfactory." Therefore, the larger the numerical value shown in a particular box is, the higher the average evaluation of the usefulness of and satisfaction with advice providers among respondents who are categorized in the box is.

In particular, those tables show the following things. Firstly, in respect of both "the evaluation of usefulness" and "satisfaction," advice providers which negotiated with the other party with whom respondents had been in trouble, gave respondents legal advice, gave respondents specialized, non-legal knowledge, and taught respondents how to protect their interests are evaluated higher than advice providers which did not offer those services. Secondly, advice providers which represented respondents in litigation or mediation are evaluated higher in respect to the evaluation of usefulness, but satisfaction with those advice providers is not very high. And thirdly, advice providers which did nothing for respondents are evaluated lower in respect to both "the evaluation of usefulness" and "satisfaction." In short, it seems undeniable that what kind of services a particular advice provider offered to respondents is an important determinant of respondents' evaluation of the usefulness of and their satisfaction with the advice provider.

3. THE RELATIONSHIP BETWEEN THE TYPES OF TROUBLES AND THE USERS' EVALUATION OF ADVICE PROVIDERS

Then, what influence does the type of a trouble about which an advice provider was used exert on the users' evaluation of the advice provider?

Table 4 shows the mean values of "the evaluation of usefulness" and "satisfaction" among those who used advice providers in order to deal with particular types of troubles. The larger the numerical value is, the higher "the evaluation of usefulness" or "satisfaction" is.

Both "the evaluation of usefulness" and "satisfaction" vary considerably with the types of troubles. First of all, among those who used an advice provider for dealing with a trouble concerning information technology or telecommunication, both "the evaluation of usefulness" and "satisfaction" are relatively high. Secondly, among those who used an advice provider for dealing with a trouble with the national or local government, both "the evaluation of usefulness" and "satisfaction" are relatively low. Thirdly, among those who used an advice provider for dealing with a trouble arising from money loan or the buying, selling or repair of real properties, "the evaluation of usefulness" is relatively high while "satisfaction" is not very high. Fourthly, among those who used an advice provider for dealing with a trouble in the workplace or school, "satisfaction" is relatively high while "the evaluation of usefulness" is not.

These results suggest the validity of the hypothesis that "the evaluation of usefulness" and "satisfaction" vary with the types of troubles about which advice providers were used because it is easy for advice providers to offer useful services concerning some types of troubles while it is not concerning other types of troubles.

4. DIFFERENCES IN THE EVALUATION OF ADVICE PROVIDERS WHICH ARE UNRELATED TO THE SERVICES OFFERED BY ADVICE PROVIDERS OR THE TYPES OF TROUBLES

Then, does the degree of "the evaluation of usefulness" and "satisfaction" vary with some particular attributes of advice providers which are independent of both the services offered by them and the types of troubles about which they offered certain services?

Table 5 shows the mean value of respondents' evaluation of the usefulness of and satisfaction with various advice providers which more than 20 respondents used as their first consultant other than family members, relatives, friends, and coworkers. The larger the numerical value is, the higher "the evaluation of usefulness" or

“satisfaction” is.

Both “the evaluation of usefulness” and “satisfaction” vary considerably with advice providers. Firstly, among those who consulted a consumer center run by a local government, both “the evaluation of usefulness” and “satisfaction” are relatively high. Secondly, among those who used legal consultation service provided by a local government, both “the evaluation of usefulness” and “satisfaction” are relatively low. Thirdly, among those who consulted an insurance company or a lawyer, “the evaluation of usefulness” is relatively high while “satisfaction” is not.

These results seem to show that the degree of “the evaluation of usefulness” and “satisfaction” vary with some particular attributes of advice providers which are independent of both the services offered by them and the types of troubles about which they offered certain services.

5. MULTIVARIATE ANALYSES

Some portions of the influences that “what advice providers did”, “the types of troubles,” and “some particular attributes of advice providers” exert on “the evaluation of usefulness” and “satisfaction” which we have seen up to now may be mere appearance. For instance, difference in evaluation among the users of different advice providers may indicate nothing but the fact that advice providers offering something which tends to be evaluated high are evaluated high and advice providers which don’t do such things are evaluated low. Or, the reality may be that advice providers handling only those troubles which are likely to result in high evaluation of advice providers are evaluated high and advice providers handling mainly those troubles which tend to bring about low evaluation of advice providers are evaluated low. Therefore, in order to measure the influence that a certain specific factor exerts on “the evaluation of usefulness” and “satisfaction” accurately, it is necessary to control the influence of other factors. For this purpose, some methods of multivariate analysis must be used.

We used the general linear model (GLM) in the following way. In the beginning, we used as independent variables only those dummy variables which were concerning “what advice providers did” and measured their influence on the variation of respondents’ evaluation of the usefulness of and satisfaction with advice providers (Model 1). Then, we added as independent variables dummy variables concerning “the types of troubles” and “some particular attributes of advice providers” in this sequence, and examined the improvement in the explanation of the variation of respondents’ evaluation of the usefulness of and satisfaction with advice providers as well as the

significance of the influence of each independent variable on those dependent variables (Model 2 & Model 3). The results are shown in Table 6-1 and Table 6-2.

When only variables concerning “what advice providers did” were used as independent variables, the following results were obtained. In respect to both “the evaluation of usefulness” and “satisfaction,” those advice providers which negotiated with the other party with whom respondents had been in trouble, gave respondents legal advice, gave respondents specialized, non-legal knowledge, taught respondents how to protect their interests, and did something else which is not listed in our questionnaire, tend to be evaluated higher than advice providers which did not offer those services. Those advice providers which recommended that respondents should use either litigation or mediation tend to be evaluated lower than advice providers which did not recommend such solutions in respect to both “the evaluation of usefulness” and “satisfaction.” Whether or not advice providers represented respondents in litigation or mediation does not exert a significant influence on either “the evaluation of usefulness” or “satisfaction.”

Next, by including variables concerning “the types of troubles” in the general linear model as independent variables, we obtained the following results. Even if the influences of variables concerning “what advice providers did” are controlled, those respondents who used advice providers for dealing with troubles arising from “money loan,” “the buying, selling, or repair of real properties,” “information technology or telecommunication,” and “an accident or a crime” tend to evaluate the usefulness of the advice providers they used higher than those who used advice providers for dealing with other types of troubles, and those respondents who used advice providers for dealing with troubles arising from “the buying, selling or repair of real properties,” “landlord-tenant relations,” “information technology or telecommunication,” and “an accident or a crime” tend to be more satisfied with the advice providers they used than those who used advice providers for dealing with other types of troubles. If the influences of variables concerning “the types of troubles” are controlled, whether or not advice providers recommended that respondents should use either litigation or mediation does not exert a significant influence on either “the evaluation of usefulness” or “satisfaction.” In addition, by including variables concerning “the types of troubles” in the general linear model as independent variables, the value of adjusted R^2 becomes larger. This means that the types of troubles have some influence which is independent of the influence of what advice providers did on both the evaluation of the usefulness of and satisfaction with advice providers.

Finally, by including variables concerning “some particular attributes of advice

providers” in the general linear model as independent variables in addition to variables concerning “what advice providers did” and “the types of troubles,” we obtained the following results. Even if the influences of variables concerning “what advice providers did” and “the types of troubles” are controlled, those respondents who used legal consultation service provided by a local government evaluate the advice providers they used significantly lower than those who used other advice providers in respect to both “the evaluation of usefulness” and “satisfaction.” The higher evaluation of usefulness among those who used a consumer center and higher satisfaction among those who used either an insurance company or a lawyer which were observed when other variables are not controlled disappear when other variables are controlled. It seems to mean that the higher evaluation of usefulness among those who used a consumer center and higher satisfaction among those who used either an insurance companies or a lawyer are derived from what those advice providers did and/or the types of troubles which those advice providers mainly handle.

The higher evaluation of the usefulness of advice providers among those who used advice providers for dealing with troubles arising from “an accident or a crime,” which we observed when only those variables concerning “what advice providers did” and “the types of troubles” were used as independent variables, disappears when variables related to “particular attributes of advice providers” are included in the general linear model as independent variables.

In addition, by including variables concerning “some particular attributes of advice providers” in the general linear model as independent variables, the value of adjusted R^2 certainly becomes larger but the increment is only a little. This means that the influences of some particular attributes of advice providers, which are independent of what those advice providers did and the types of troubles, on the evaluation of the usefulness of and satisfaction with advice providers are limited.

6. DISCUSSIONS

If advice providers negotiate with the other party with whom advice seekers have been in trouble for the sake of the advice seekers, give legal or specialized, non-legal knowledge to advice seekers, or teach advice seekers how to protect their interests, the advice providers are rated highly. In contrast, in the case that what advice providers do is only to listen to the advice seekers’ side of the story, advice seekers’ evaluations of the advice providers do not become very high. Probably, it is because in most cases the purpose of advice seekers’ visit to advice providers is not to

tell them about the troubles they are involved in, but to get something useful to resolve their troubles. What is important is that users' evaluations of advice providers vary with what advice providers did for them. While this finding may be common sense, it is not meaningless to confirm the validity of that common sense by statistical analyses.

What is more important, however, is that users' evaluations of advice providers are not determined only by what advice providers did for users. The types of troubles also influence users' evaluations of the usefulness of and satisfaction with advice providers. There are certain types of troubles which are likely to result in high evaluations of advice providers among their users. Troubles related to information technology or telecommunication are typical of such types of troubles, and troubles concerning real properties, landlord-tenant relations, and accidents or crimes are also similar.

A common characteristic of these types of troubles seems to be that the way to deal with those troubles is obvious for advice providers on the one hand, but unknown to advice seekers on the other, and hence advice providers can offer clear and concrete advice to advice seekers who long for such advice. That is, these are such types of troubles as a large gap of knowledge exists between amateurs and specialists concerning how to deal with them. It seems that advice providers which offer services mainly concerning such types of troubles tend to obtain high evaluation among their users.

Finally, the fact that legal consultation services provided by local governments get significantly lower evaluation among their users even if the influences of variables concerning "what advice providers did" and "the types of troubles" are controlled suggests that there are some particular attributes which are typical of legal consultation services provided by local governments which result in low evaluations among their users. These attributes seems to be related to the way lawyers in charge of those legal consultation services cope with advice seekers. A typical session of this type of legal consultation is no more than 30 minutes, within which a lawyer has to listen to what an advice seeker says, comprehend the legal essence of the trouble in which the advice seeker has been involved, and give proper legal advices. In most cases, it is difficult for a lawyer to grasp the details of the trouble and hence the advice given is generally unspecific and is not well fit for the trouble. In addition, as a rule, lawyers in charge of those legal consultation services do nothing more than giving legal advices. They don't make legal documents for advice seekers, negotiate with the other party with whom the advice seekers are in trouble, or represent the advice seekers in litigation or mediation. Because of this limited involvement, lawyers in charge of those

legal consultation services tend to hesitate to encourage advice seekers to assert their legal rights aggressively for fear that the advice seekers may not be able to realize their legal rights by themselves without some additional help from lawyers. Therefore, they are inclined to give very moderate advice. Such practices of giving unspecific and conservative legal advice in a short time seem to give advice seekers such an impression that they are treated neither kindly nor sincerely, and hence result in low evaluations among those advice seekers.

TABLES

Table 1. Evaluation of Advice Providers Which Respondents Consulted First

Table 1-1. Evaluation of Usefulness

	Frequency	Percent
1. Quite Useless	59	11.75
2. Rather Useless	49	9.76
3. No Opinion Either Way	43	8.57
4. Rather Useful	112	22.31
5. Very Useful	239	47.61
Total	502	100.00

Table 1-2. Satisfaction

	Frequency	Percent
1. Quite Unsatisfactory	80	15.90
2. Rather Unsatisfactory	49	9.74
3. No Opinion Either Way	76	15.11
4. Rather Satisfactory	123	24.45
5. Very Satisfactory	175	34.79
Total	503	100.00

Table 2. What the Advice Provider Which Respondents Consulted First Did for Respondents

	Frequency	Percent
1. The Advice Provider Listened to Your Side of the Story	354	68.1
2. The Advice Provider Negotiated with the Other Party with Whom You Had Been in Trouble	127	24.4
3. The Advice Provider Gave You Legal Advice	149	28.7
4. The Advice Provider Gave You Specialized, Non-Legal Knowledge	79	15.2
5. The Advice Provider Taught You How to Protect Your Interests	67	12.9
6. The Advice Provider Introduced Another Agency, Association, or Specialist to You	34	6.5
7. The Advice Provider Recommended that You Should Use either Litigation or Mediation	20	3.8
8. The Advice Provider Represented You in Litigation or Mediation	12	2.3
9. The Advice Provider Did Something Else for You	42	8.1
10. The Advice Provider Did Not Do Anything	28	5.4

Table 3. Relationship between the Services Offered by Particular Advice Providers and the Users' Evaluation of Those Advice Providers

Table 3-1. The Advice Provider Listened to Your Side of the Story

	Yes (N=354)	No (N=166)	The Significance of the Difference in Evaluation ** = significant at 1% level * = significant at 5% level
Evaluation of Usefulness	3.873	3.774	
Satisfaction	3.578	3.408	

Table 3-2. The Advice Provider Negotiated with the Other Party with Whom You Had Been in Trouble

	Yes (N=127)	No (N=393)	The Significance of the Difference in Evaluation ** = significant at 1% level * = significant at 5% level
Evaluation of Usefulness	4.366	3.673	**
Satisfaction	3.846	3.421	**

Table 3-3. The Advice Provider Gave You Legal Advice

	Yes (N=149)	No (N=371)	The Significance of the Difference in Evaluation ** = significant at 1% level * = significant at 5% level
Evaluation of Usefulness	4.429	3.600	**
Satisfaction	4.000	3.332	**

Table 3-4. The Advice Provider Gave You Specialized, Non-Legal Knowledge

	Yes (N=79)	No (N=441)	The Significance of the Difference in Evaluation ** = significant at 1% level * = significant at 5% level
Evaluation of Usefulness	4.513	3.719	**
Satisfaction	4.231	3.395	**

Table 3-5. The Advice Provider Taught You How to Protect Your Interest

	Yes (N=67)	No (N=453)	The Significance of the Difference in Evaluation ** = significant at 1% level * = significant at 5% level
Evaluation of Usefulness	4.731	3.706	**
Satisfaction	4.433	3.385	**

Table 3-6. The Advice Provider Introduced Another Agency, Association, or Specialist to You

	Yes (N=34)	No (N=486)	The Significance of the Difference in Evaluation ** = significant at 1% level * = significant at 5% level
Evaluation of Usefulness	4.088	3.825	
Satisfaction	3.677	3.514	

Table 3-7. The Advice Provider Recommended that You Should Use Either Litigation or Mediation

	Yes (N=20)	No (N=500)	The Significance of the Difference in Evaluation ** = significant at 1% level * = significant at 5% level
Evaluation of Usefulness	3.900	3.840	
Satisfaction	3.400	3.530	

Table 3-8. The Advice Provider Represented You in Litigation or Mediation

	Yes (N=12)	No (N=508)	The Significance of the Difference in Evaluation ** = significant at 1% level * = significant at 5% level
Evaluation of Usefulness	4.818	3.821	**
Satisfaction	4.167	3.509	

Table 3-9. The Advice Provider Did Something Else for You

	Yes (N=42)	No (N=478)	The Significance of the Difference in Evaluation ** = significant at 1% level * = significant at 5% level
Evaluation of Usefulness	3.850	3.842	
Satisfaction	3.561	3.525	

Table 3-10. The Advice Provider Did Not Do Anything

	Yes (N=28)	No (N=492)	The Significance of the Difference in Evaluation ** = significant at 1% level * = significant at 5% level
Evaluation of Usefulness	2.036	3.949	**
Satisfaction	1.893	3.621	**

Table 4. The Relationship between the Types of Troubles and the Users' Evaluation of Advice Providers

	Good or Service (N=24)	Money Loan (N=14)	Buying, Selling or Repair of Real Properties (N=12)	Landlord-Tenant Relations (N=22)	Information Technology or Telecommunications (N=107)
Evaluation of Usefulness	3.087	4.077	4.083	3.429	4.596
Satisfaction	3.250	3.485	3.417	3.381	4.385

	Workplace (N=30)	Hospital (N=17)	School (N=14)	Neighborhood (N=57)	Family or Relative (N=38)
Evaluation of Usefulness	3.379	3.875	3.308	3.127	3.806
Satisfaction	2.963	3.635	2.714	2.873	3.171

	Accident or Crime (N=143)	National or Local Government (N=10)	Business (N=19)
Evaluation of Usefulness	4.000	2.700	4.000
Satisfaction	3.657	2.400	3.684

**Table 5. Difference in Evaluation among Advice Providers
Which More than 20 Respondents Consulted First**

	Legal Consultation Service Provided by a Local Government (N=34)	Section of a Local Government in Charge of the Particular Type of Trouble (N=41)	Police (N=164)	Consumer Center (N=56)	Company or Association Related to the Particular Type of Trouble (N=27)
Evaluation of Usefulness	2.941	3.275	3.887	4.352	3.800
Satisfaction	2.500	2.875	3.600	4.352	3.556

	Insurance Company (N=55)	Lawyer or Law Office (N=38)
Evaluation of Usefulness	4.396	4.135
Satisfaction	3.849	3.459

Table 6. The Influence of What Advice Providers Did, the Types of Troubles and Peculiar Attributes of Advice Providers on the Users' Evaluation of Advice Providers

Table 6-1. Evaluation of Usefulness

	Model 1		Model 2		Model 3	
	Parameter Estimate	<i>p</i>	Parameter Estimate	<i>p</i>	Parameter Estimate	<i>p</i>
Intercept	-0.271	0.613	-7.529	0.069	-6.166	0.156
The Advice Provider Listened to Your Side of the Story	0.085	0.504	0.012	0.921	0.022	0.857
The Advice Provider Negotiated with the Other Party with Whom You Had Been in Trouble	0.795	0.000	0.915	0.000	0.848	0.000
The Advice Provider Gave You Legal Advice	0.694	0.000	0.748	0.000	0.788	0.000
The Advice Provider Gave You Specialized, Non-Legal Knowledge	0.538	0.001	0.381	0.017	0.420	0.010
The Advice Provider Taught You How to Protect Your Interests	0.753	0.000	0.614	0.000	0.597	0.000
The Advice Provider Introduced Another Agency, Association, or Specialist to You	0.121	0.601	0.147	0.500	0.156	0.475
The Advice Provider Recommended that You Should Use either Litigation or Mediation	-0.652	0.038	-0.531	0.082	-0.589	0.059
The Advice Provider Represented You in Litigation or Mediation	0.306	0.470	0.237	0.555	0.145	0.725
The Advice Provider Did Something Else for You	0.455	0.036	0.395	0.053	0.388	0.058
Good or Service			0.241	0.565	0.166	0.703
Money Loan			0.955	0.044	0.869	0.068

Buying, Selling or Repair of Real Properties			1.234	0.011	1.282	0.009
Landlord-Tenant Relations			0.367	0.387	0.431	0.312
Information Technology or Telecommunication			1.614	0.000	1.504	0.000
Workplace			0.364	0.363	0.316	0.444
Hospital			0.784	0.080	0.717	0.113
School			0.540	0.252	0.480	0.318
Neighborhood			0.100	0.786	0.095	0.796
Family or Relative			0.615	0.116	0.685	0.083
Accident or Crime			0.854	0.015	0.683	0.062
National or Local Government			-0.259	0.609	-0.329	0.516
Business			0.767	0.081	0.687	0.119
Legal Consultation Service Provided by a Local Government					-0.770	0.002
Section of a Local Government in Charge of the Particular Type of Trouble					-0.106	0.661
Police					0.027	0.888
Consumer Center					-0.073	0.775
Company or Association Relating to the Particular Type of Trouble					0.070	0.804
Insurance Company					0.144	0.614
Lawyer or Law Office					-0.042	0.871
R ²		0.189		0.321		0.338
Adjusted R ²		0.174		0.289		0.298

Table 6-2. Satisfaction

	Model 1		Model 2		Model 3	
	Parameter Estimate	<i>p</i>	Parameter Estimate	<i>p</i>	Parameter Estimate	<i>p</i>
Intercept	0.461	0.411	-7.529	0.069	-5.678	0.217
The Advice Provider Listened to Your Side of the Story	0.112	0.407	0.069	0.588	0.071	0.578
The Advice Provider Negotiated with the Other Party with Whom You Had Been in Trouble	0.535	0.000	0.678	0.000	0.682	0.000
The Advice Provider Gave You Legal Advice	0.511	0.000	0.567	0.000	0.610	0.000
The Advice Provider Gave You Specialized, Non-Legal Knowledge	0.612	0.001	0.467	0.006	0.497	0.004
The Advice Provider Taught You How to Protect Your Interests	0.800	0.000	0.616	0.001	0.579	0.001
The Advice Provider Introduced Another Agency, Association, or Specialist to You	0.028	0.909	0.080	0.728	0.063	0.786
The Advice Provider Recommended that You Should Use either Litigation or Mediation	-0.701	0.035	-0.559	0.085	-0.538	0.102
The Advice Provider Represented You in Litigation or Mediation	0.270	0.526	0.322	0.426	0.320	0.437
The Advice Provider Did Something Else for You	0.418	0.066	0.352	0.101	0.341	0.112
Good or Service			0.947	0.033	0.712	0.120
Money Loan			0.865	0.086	0.652	0.195
Buying, Selling, or Repair of Real Properties			1.110	0.032	1.115	0.031
Landlord-Tenant Relations			0.910	0.044	0.886	0.050

Information Technology or Telecommunication		1.919	0.000	1.712	0.000
Workplace		0.489	0.256	0.261	0.553
Hospital		1.074	0.024	0.874	0.068
School		0.505	0.306	0.314	0.530
Neighborhood		0.425	0.281	0.346	0.376
Family or Relative		0.605	0.148	0.639	0.127
Accident or Crime		1.122	0.003	0.994	0.010
National or Local Government		0.046	0.932	-0.107	0.842
Business		1.094	0.018	0.973	0.035
Legal Consultation Service Provided by a Local Government				-1.036	0.000
Section of a Local Government in Charge of the Particular Type of Trouble				-0.361	0.157
Police				-0.211	0.299
Consumer Center				-0.070	0.793
Company or Association Relating to the Particular Type of Trouble				-0.161	0.577
Insurance Company				-0.313	0.300
Lawyer or Law Office				-0.466	0.091
R ²	0.138		0.270		0.296
Adjusted R ²	0.122		0.236		0.253

Mobilization of Legal Professionals by the Ordinary Citizens in Contemporary Japan

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[Summary]

To tackle a socio-legal issue of lawyer mobilization, we empirically investigated its pattern in the particular context of contemporary Japanese society. The data used in this paper was collected in a national survey conducted in 2006. By reviewing the previous research on this issue, we picked up the four aspects in problem-solving process as important elements in our analytical framework : (1) problem or dispute type, (2) social background of citizens, (3) the way of access to lawyer, and (4) citizen's expectation of lawyers. In each aspect, by analyzing the relevant data, we explored any characteristics when citizens use lawyers to solve their problems. Several characteristics found by data analysis shall be described. Finally, a consideration about the relationship among those characteristics shall be presented.

[Key Words]

Lawyer, legal mobilization, legal problem, dispute

INTRODUCTION

When people experience problems or disputes that could be adjudicated, to what extent and how do they use lawyers? This question has been one of the most important foci in socio-legal research. Some large-scale survey research has revealed the general patterns of lawyer mobilization. Among others, the Civil Litigation Research Project in the United States is well-known (Kritzer 1980-81). It depicted the frequency of lawyer mobilization visually in the form of dispute pyramids (Miller & Sarat 1980-81). In the United Kingdom, the research project led by Genn also covered this research agenda (Genn 1999).

How is the lawyer mobilization in contemporary Japan ? In this paper, we will present a preliminary analysis of the data concerning this matter and discuss the

implication. The data we analyze here are obtained from a national survey on citizens' advice seeking behavior conducted in 2006. Here, we first summarize the findings of previous research in Japan. Second, the data collection procedure and the analytical framework of this study are briefly described. Third, we provide data analysis in terms of problem or dispute type, disputants' background, pathway to lawyers, and disputants' expectation of lawyers. Finally some implications shall be discussed in concluding remarks.

It should be noted that there exist two kinds of legal professional in Japan: attorney and judicial scrivener. Lawyer conventionally means attorney, not judicial scrivener. However it has been argued that the latter would have played a significant role as legal service provider in the rural judicial districts where there is no or only one attorney. As a result of the recent judicial reform, judicial scriveners were conferred the right to represent in the Summary Courts [the lowest court]³⁹. Although the role of judicial scriveners should be ignored, the scope of the analysis in this paper is limited to lawyer, i.e., attorney.

OVERVIEW OF THE PREVIOUS RESEARCH FINDINGS IN JAPAN

In late 1970s, through his pioneering work, Rokumoto empirically investigated the use of lawyers among Tokyo citizens in a particular ward who experienced any legal problems. The investigation revealed that the lawyers were used in 17% of total number of problems and more than half of them appeared as a representative in court proceedings. He also found greater distance between citizens and lawyers in Japan by collecting the data on how citizens get to lawyers. He noted that "in most cases the lawyer is found through the established social network which connects him with his potential clients" (Rokumoto 1978b: 246). He tried to explain those findings through a hypothesis stating "the general negative attitudes toward law and strict application of rules" in Japan (Rokumoto 1978b: 246).

In another study of automobile accidents case, Rokumoto made an exploratory analysis of plaintiffs' dispute behavior (Rokumoto 1978a). According to his data, lawyers are used by the plaintiffs in 15 cases out of 108 randomly selected cases. Of 15 these cases, the plaintiffs sought court representation in 7 cases, and only advice in 8 cases. Here too, he suggested that a cultural factor like the general negative attitudes toward

³⁹ The Judicial Scrivener Act was amended in 2003, and put into effect in 2004. The requirement for representation for the Summary Court civil matters is that a judicial scrivener must take a given training course and be certified by the Justice Minister. The representation in criminal cases by judicial scrivener is not allowed.

law would have brought about this pattern of lawyer mobilization.

In mid-1980s, Japanese Federation of Bar Associations, the national organization of attorneys, took the initiative to do large-scale survey research on Japanese citizens' legal problems basically from the Bar's concern with legal service market (Nihon Bengoshi Rengoukai 1986)⁴⁰. This survey revealed that among the total 374 respondents who sought consultations for their problems with any third party (excluding relatives, friends, and acquaintances), 53 had contact with lawyers (14.2%). Thus, the low degree of lawyer mobilization in Japan has become empirically clearer at the national level than before. In addition, lawyers were first advisors for 40 out of those 53 respondents (about 75%). Furthermore, it is necessary to note that the degree of choosing lawyer as an advisor varied across the problem types. It was found that the most remarkable types which lawyers appeared were money problem first and inheritance problem second, regardless of the timing of consultation.

After the JFBA survey, it was not until 2000 that new large-scale survey research regarding lawyer mobilization emerged. This study was sponsored by the Justice System Reform Council established by the Cabinet in 1999, and investigated the behavior, attitudes and opinions of the national sample of civil litigants (Shiho Seido Kaikaku Shingikai 2000)⁴¹. Because the study focused on civil litigation, the rate of representation was very high, that is, 73% of the respondents. However, during the period when they did not anticipate that a dispute would be litigated in court, only one third of the litigants went to lawyer to obtain advice, including the free of charge consultation provided by such an organization as the legal aid society.

A Civil Justice Research Project supported by a government fund began in 2003 and is still on-going. As a part of this project, a research team led by Murayama conducted a national survey on citizens' disputing behavior which included an inquiry into lawyer mobilization (Murayama & Matsumura 2006)⁴². As for the access to lawyers, the result of the survey revealed that 9.2% of total number of respondents who used any third party advisors chose a lawyer (127/1376). As for legal representation, 7% of total number of respondents who contacted or negotiated with the other party in the dispute process hired a lawyer (120/1645). Based on the survey data, the team also constructed

⁴⁰ Three thousands adults were randomly selected as nationally representative samples. The number of respondents was 2315.

⁴¹ The population of this survey is the parties in the civil litigations disposed during the period between 1995 and 1998 by the 16 District Courts selected throughout the country. The number of the random samples was 1612, including organizations as well as individuals. Among them, 592 responded. For the detailed analysis of this data, see Sato et. al.(2006).

⁴² The samples of this survey were randomly selected from Japanese adult population. Its size was about 25000 individuals and 12408 responded (49.6%)

dispute pyramids, which would contribute to the comparative analysis with the United States and Australia. Estimating from these pyramids, lawyers are mobilized in 87 out of 1000 disputes across the various problem types in Japan. Regarding the difference among problem types, the most mobilized problem type is family and the least is goods & services.

DATA AND ANALYTICAL FRAMEWORK

The data analyzed here was collected by a national survey conducted in 2006 as a part of the Civil Justice Project mentioned above. We selected about 12000 citizens from the electoral roll as the random sample of the Japanese adult population, and attempted to interview them by using our questionnaire (See appendix B). Consequently we succeeded in interviewing 5330 citizens (48.5%).

The first thing to do was to distinguish the respondents who experienced any problems that could be adjudicated from the others. From the responses to the questionnaire, it was found that 1821 respondents had experienced any problems. Next, by asking the question of whether or not they consulted any third party advisor, we divided those reporting having experienced any problems into 3 groups: the advised, the self-helpers and the lumpers. The advised means a group which is consisted of the respondents who obtained advice or help from outside advisors. The individuals of this group occupied 28.4% of all respondents with problems of any particular type (529/1821). The respondents who tried to resolve their problem without help or advice belong to a group of the self-helpers, whose proportion was 53.2% (992/1821). The lumpers mean the individuals who took no action, no contact, no advice to resolve their problems. The proportion of the group of the lumpers was 16.1% (300/1821)

For the purpose of this study, our analysis is limited to the data collected from the group of the advised. For seeking advice, the individual citizens of this group consulted various advisors such as police, politicians, governmental offices, labor unions, or insurance companies and the like, as well as legal professional. Out of all the 529 advised individuals, the proportions of those who used a lawyer and a judicial scrivener are 13.8% (73/529) and 2.6% (14/529) respectively.

In the following analysis, we will aim at inquiring the characteristics of the cases where legal professionals were used. The scope of the analysis is limited to the advice seeking behavior directed to legal professionals. The method employed here for such an inquiry is very simple. We will analyze cases where the respondents used legal professionals (hereinafter referred to as “lawyer cases”) in comparison with the cases

where the respondents did not use any legal professionals but the other kind of third party advisors (hereinafter referred to as “non-legal professional cases”)⁴³. First we will explore and describe the behavioral, background, situational and perceptual characteristics in the lawyer cases. Then the interrelationship among those characteristics in the chosen aspects will be explored. In doing so, we will finally try to elucidate the pattern of the lawyer mobilization in Japan.

It should be noted that we also conducted the separate analysis of the judicial scrivener cases through the same procedure as in the lawyer cases. But the result of the analysis is omitted in this paper.

ANALYSIS AND FINDINGS

For What Kind of Problem Lawyers are Used ?

The first aspect in which we should explore the characteristics of lawyer mobilization is problem or dispute types. What is the variation in the frequency of the cases where a lawyer appears as an advisor across the various types of problem? The respondents were asked to select the most important problem types which they experienced within the past five years from the thirteen types⁴⁴ listed in the survey questionnaire.

As Table 1 indicates, the top four types of problem most frequently experienced by those who used lawyers are family/relatives (23.9%), accident/crime (12.7%), neighborhood (11.3%), and business (11.3%). On the other hand, the top three types of problem most frequently experienced by those who used the third party advisors other than legal professionals are accidents/crime (30.6%), IT/telecommunication (23.7%), and neighborhood (11.3%).

When we compare the distributions in the two datasets of the lawyer cases and the non-legal professional cases, accident/crime and neighborhood are common types in both datasets. The difference appears in family/relatives and business in the lawyer cases, and IT/telecommunication in the non-legal professional cases. So, there may be something in particular that has driven the citizens to lawyers when dealing with the family/relatives problems and the business-related problems.

⁴³ The cases in which respondents used the legal consultation service by local governments, bar associations and the legal aid society are included in the category of non-legal professional cases. In these entities, it is a lawyer that actually provides legal advice. However, the access to these entities is not treated as lawyer mobilization in this paper.

⁴⁴ The thirteen problem types are as follows: goods/services, money loan, real properties, landlord-tenant relations, information technology/telecommunication, workplace, hospital, school, neighborhood, family/relatives, accident/crime, government, and business

Table 1: Most Frequently Experienced Problem

Rank	Lawyer Cases	Non-Legal Professional Cases
1	Family/Relatives 23.9% (17)	Accident/Crime 30.6% (133)
2	Accident/Crime 12.7% (9)	IT/Telecommunication 23.7% (104)
3	Neighborhood 11.3% (8)	Neighborhood 11.3% (49)
3	Business 11.3% (8)	-----

We believe that the amount of money involved in a problem may be an important factor in using a lawyer. According to Table 2, nearly half of the respondents in the lawyer cases answered that the amount of money involved with their disputes was over three million yen, whereas those in the non-legal professional cases was only 10%. It may be safe to say that the amount of money in the lawyer cases is larger than in non-legal professional cases.

Table 2: The Amount of Money Involved in a Problem

Amount of Money	Lawyer Cases	Non-legal Professional Cases
Less than one million	22.5% (9)	79.1% (151)
Less than 3 millions	30.0% (12)	11.0% (21)
More than 3 millions	47.5% (19)	9.9% (19)
	100% (40)	100% (191)

Another question that needs to be asked is whether there is a relationship between the amount of money and the most frequently experienced problem types. Table 3 seems to indicate that the amount of money in the family/relatives problem contributes to the above distribution of the amount of money in the lawyer cases.

Table 3: Amount of Money and Problem Types

Problem Type	Less Than 3 Millions	More Than 3 Millions	Total
Family/Relatives	2	5	7
Accident/Crime	6	1	7
Neighborhood	0	0	0
Business	4	3	7
Real Properties	0	4	4

Who Uses Lawyers?

The next aspect of inquiry is the social background of the users of lawyers. Is there any characteristic of the users of lawyers? We selected three background variables: education, occupation and personal income. Compared to the non-legal professional cases, we can clearly find the characteristics of the users in terms of personal income, as Table 4 indicates. Namely, the higher is the level of personal income, the more likely the users go to a lawyer when they experienced problems. On the other hand, we can not distinguish at all the respondents in the lawyer cases from those in the non-legal professional cases in terms of educational background. Concerning the occupational background, the proportions of proprietor/executive and self-employment are relatively higher in the lawyer cases, while the proportion of temporary/part-time is relatively higher in the non-legal professional cases⁴⁵.

Table 4: Personal Income of Respondents

Income Level (¥)	Lawyers Cases	Non-legal Cases	Professional Cases
Less than 1.5 millions	25.5% (14)	43.1%	(142)
Less than 3 millions	14.5% (8)	20.7%	(68)
Less than 5 millions	20.0% (11)	15.2%	(50)
More than 5 millions	39.0% (22)	21.2%	(69)
	100% (55)	100%	(329)

When Do Citizens Go to Lawyers?

We obtained the data on the timing in consulting with lawyers by asking the respondents to select the first advisor through, if any, the tenth advisor whom they chose from the advisors' list in the questionnaire. The result is shown in Table 5. Lawyers are the first advisors for about half of the users of lawyers.

Table 5: Timing of the Consultation with Lawyers

Lawyer is First Advisor	52.1% (38/73)
Lawyer is Second Advisor	31.5% (23/73)
Lawyer is Third Advisor	8.2% (6/73)
Lawyer is Fourth Advisor	5.5% (4/73)

⁴⁵ The percentages of proprietor/executive and self-employment in lawyer cases are 11% and 21.9% respectively compared to 4.6% and 10% in no-legal professional cases. While the percentage of temporary/part-time in non-legal professional cases is 16.4%, the percentage of this category in lawyer cases is 8.2%.

We here try to make a further investigation into the relationship between the timing on the one hand and the problem types on the other. Table 6 shows the relationship between the timing and the problem types.

Table 6: Timing of Consultation and Problem Types

	First Advisor	Second Advisor	Last Advisor
Family/Relatives	32.4%	8.7%	20.0%
Accident/Crime	10.8%	8.7%	20.0%
Neighborhood	2.7%	17.4%	30.0%
Business	13.5%	13.0%	0%
Real Properties	10.8%	8.7%	0%

According to Table 6, the citizens with family/relatives problem tend to go to a lawyer at an earlier stage in the dispute process, while those with neighborhood problem tend to go to a lawyer at a later stage in the dispute process.

How Do Citizens Get to Lawyers?

We asked the respondents in the lawyer cases what made them think of contacting their lawyers and prepared four alternatives as possible answers. First alternative is that they had known their lawyers before the problem occurred (pathway 1). Second is that they knew their lawyers by way of advertisement, signboard and the like (pathway 2). Third is that they were referred to their lawyers by their family members, relatives or acquaintances (pathway 3). Fourth is that they were referred to their lawyers by any third-party organizations, entities or professionals (pathway 4). Table 7 shows the responses to this question.

Table 7: Pathway to Lawyers as a First, Second and Last Advisor

	First Advisor	Second Advisor	Last Advisor ⁴⁶
Pathway 1	42.1% (16/38)	34.8% (8/23)	18.2% (2/11)
Pathway 2	10.5% (4/38)	4.3% (1/23)	0% (0)
Pathway 3	36.8% (14/38)	26.1% (6/23)	45.5% (5/11)
Pathway 4	2.6% (1/38)	26.1% (6/23)	18.2% (2/11)
The Others	10.5% (4/38)	8.7% (2/23)	9.1% (1/11)

⁴⁶ One of the respondents who belong to this category did not answer the question.

Generalizing the overall pattern of the responses in Table 7, it seems to corroborate such statement by Rokumoto that a “lawyer is found through the established social network which connects him with his potential clients”. The way that citizens get to lawyers remains roughly unchanged over 30 years. But, when we scrutinize Table 7, the fact should be noticed that the later the timing of the contact to lawyers, the lower the proportion of the pathway 1. Also it is noticeable that when lawyers are used as a second advisor, the proportion of the pathway 4 is relatively high. Further analysis of the data concerning this point suggests that the people with the lower level of education may tend to use lawyers through the pathway 4 and at a later stage in the dispute process (Table 8).

Table 8: Pathway 4 and Educational Background

Educational Background	Pathway 4	Not Applicable	
Below College Level	5	6	11
College/Graduate Level	1	11	12
	6	17	23

What Do Citizens Expect Lawyers to Do?

Finally we investigate the characteristics of lawyer mobilization in the perceptual aspect of the respondents. For obtaining the information about the expectation of lawyers, we asked a question regarding what sort of help the respondents expect their lawyers to provide for solving their problem. We prepared seven types of expectation in the questionnaire: (1) listening to the assertion, (2) negotiation, (3) legal advice, (4) non-legal expertise/advice, (5) advice about how to be saved, (6) referral to the other organizations and (7) representation in court.

Table 9-1: Expectation of Lawyers

	First Advisor	Second Advisor	Last Advisor
Listen to assertion	50.0%	34.8%	63.6%
Negotiation	55.3%	21.7%	45.5%
Legal advice	84.2%	69.6%	72.7%
Non-legal expertise/advice	13.2%	17.4%	27.3%
How to be saved	42.1%	26.1%	36.4%
Referral to other organization	5.3%	4.3%	9.1%
Representation in court	44.7%	43.5%	45.5%

Table 9-2: Expectation of Non-Legal Professional Advisors

	First Advisor	Second Advisor	Last Advisor
Listen to assertion	60.9%	69.0%	57.1%
Negotiation	35.0%	40.2%	33.3%
Legal advice	34.5%	40.2%	47.6%
Non-legal expertise/advice	23.0%	29.9%	28.6%
How to be saved	20.7%	33.3%	38.1%
Referral to other organization	3.6%	1.1%	4.8%
Representation in court	1.8%	3.4%	9.5%

Table 9-1 shows what the respondents in the lawyer case expect their lawyers to do. Legal advice was most wanted by the respondents in the lawyer cases, regardless of the timing of contact to lawyers. When we compare Table 9-1 and Table 9-2, it is also clear that relatively many respondents in the lawyer cases wanted their lawyers to represent them before court. Although negotiation is a major form of legal service which lawyers can provide, it should be noted that the proportion of those who wanted a negotiation service is not always higher in the lawyer cases than in the non-legal professional cases.

We further considered about the relationship between two major expectations of lawyers (legal advice and representation before court) and the other two variables: the types of problem and the use of court proceedings. First, concerning the relation of legal advice and the types of problem, Table 10 indicates that the types of problem most frequently experienced by those who used lawyers overlap with the problem types in which high proportion of respondents wanted legal advice.

Table 10: Proportion of those who wanted legal advice by problem types

	First Advisor	Second Advisor	Third Advisor
Family/Relatives	83%	50%	50%
Accident/Crime	100%	100%	50%
Neighborhood	100%	100%	100%
Business	100%	67%	-----

Then did those who wanted legal advice by their lawyers use court proceedings? The answer is most likely, NO. Table 11-1, 11-2, 11-3 show the relation between legal advice and use of court proceedings. As far as judging from these results of the cross

tabulations, respondents' needs for legal advice are irrelevant to the use of court proceedings. Or, as Table 11-2 and 11-3 suggest, those who wanted legal advice may have less tendency to go to court.

Table 11-1: Legal Advice and Court Proceedings: First Advisor

Legal Advice	Court Proceedings		Total
	Used	Not Used	
Wanted	13	19	32
Not Wanted	3	3	6
Total	16	22	38

Table 11-2: Legal Advice and Court Proceedings: Second Advisor

Legal Advice	Court Proceedings		Total
	Used	Not Used	
Wanted	5	11	16
Not Wanted	7	0	7
Total	12	11	23

Table 11-3: Legal Advice and Court Proceedings: Last Advisor

Legal Advice	Court Proceedings		Total
	Used	Not Used	
Wanted	1	7	8
Not Wanted	3	0	3
Total	4	7	11

The second further consideration concerns whether the respondents' needs for representation in court would actually lead to the use of court proceedings. By analyzing the relevant data, the answer is probably, YES.

Table 12-1: Representation in Court and Court Proceedings: First Advisor

Representation In Court	Court Proceedings		Total
	Used	Not Used	
Wanted	12	5	17
Not Wanted	4	17	21
Total	16	22	38

Table 12-2: Representation in Court and Court Proceedings: Second Advisor

Representation In Court	Court Proceedings		Total
	Used	Not Used	
Wanted	7	3	11
Not Wanted	5	8	13
Total	12	11	23

Table 12-3: Representation in Court and Court Proceedings: Last Advisor

Representation In Court	Court Proceedings		Total
	Used	Not Used	
Wanted	3	2	5
Not Wanted	1	5	6
Total	4	7	11

As Table 12-1, 12-2, 12-3 suggest, it seems that the respondents' needs for representation in court may be positively correlated to the use of court proceedings. The question of whether those who used the court proceedings with their needs for representation would actually be represented by lawyers remains to be asked.

CONCLUDING REMARKS AND DISCUSSION

Finally we would like to summarize the above findings and create a picture of the overall pattern of lawyer mobilization in contemporary Japan.

We found that the citizens who experienced such types of problem or disputes as family/relatives, accident/crime, neighborhood and business tend more likely to contact with lawyers. And the family/relatives problem is a particularly characteristic type in which lawyers are used. Among these people, those with family problem seem to be relatively wealthier than the others. They tend to have more needs for representation in court, and go to lawyers at the earlier stage in the dispute process. Consequently they do more likely go to court to solve their problem. A similar pattern is found in the citizens with real estate transaction problem, although this problem is not always the most frequently experienced type in the lawyer cases.

In somewhat contrast to those with family/relatives problem, the citizens with neighborhood problem have much needs for legal advice by lawyers. But they more

likely go to lawyers at the later stage in the dispute process and do less likely go to court to solve their problem. Their financial positions are presumed to be randomly distributed.

In between, the citizens with accident/crime problem do not show any characteristics in almost any of the aspects. In each aspect of financial background, expectation of lawyers and the timing of contact to lawyers, their responses seem to be randomly distributed. Only in the aspect of the use of court proceedings, it is clear that they are less likely to go to court. In this respect, they are like those with neighborhood problem.

Thus, how can the pattern of lawyer mobilization summarized above be explained or interpreted? From a theoretical viewpoint, we readily recall the have/have-not hypothesis developed by Galanter (Galanter 1974). So far as the type of family/relatives problem is concerned, the pattern could be adequately interpreted by this hypothesis. To some extent, the same seems to hold true of the real properties problem. However, it is difficult to explain the pattern in the type of neighborhood problem by applying the have/have-not hypothesis. It may be expressing a new way in which lawyers are mobilized in contemporary Japan. But such speculation must be verified by a further investigation

From a methodological viewpoint, what has been dealt with in this paper is basically a description of lawyer mobilization, not a causal analysis. We looked at the several aspects of those who used lawyers as the plausible independent variables, and examined them separately. But it is not possible to make clear the causal relations among these aspects without a further detailed analysis or, if possible, a multivariate analysis.

From a comparative viewpoint, the search for the international variation in lawyer mobilization is needed. But we could not undertake here the comparative analysis of our data and foreign comparable data concerning lawyer mobilization. For the moment, the comparative examination of the relevant data from Path to Justice Study in particular should be an interesting task to be done.

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Views of Litigation, Lawyers, and Judges in Japan

— Contrasting the Views of Litigants, Lawyers, and the General Public —

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【Abstract】 This working paper summarizes the principal components of research on Japanese litigation behavior undertaken through the summer of 2007, and then provides a brief comparative examination of responses by members of the general public, represented litigants, non-represented (or self-represented) litigants, and lawyers, to questions regarding their perceptions and experiences with respect to various aspects of the litigation process. The primary findings discussed herein relate to access to lawyers, factors considered in selecting lawyers, goals of litigation, who takes the initiative in the litigation process, evaluations of lawyers, and evaluations of judges.

【Key words】 litigation behavior, survey, lawyers, judges, access to justice

1. Introduction

This working paper first summarizes the principal components of research on Japanese litigation behavior undertaken through the summer of 2007 by the Civil Litigation Behavior Research Group, Group C of the Nationwide Survey on Civil Disputes (Japan) research project, “Dispute Resolution and Civil Justice in a Legalizing Society.” The working paper then provides a brief comparative examination of responses by members of the general public, represented litigants, non-represented (or self-represented) litigants, and lawyers, to questions regarding their perceptions and experiences with respect to various aspects of the litigation process.

At the outset, it should be emphasized that the results summarized herein are highly preliminary in nature. The data collection phase for the components of research discussed herein was only recently completed. Data cleaning is still under way, and detailed analysis of the data is currently being undertaken. Accordingly, this essay is intended to identify a number of interesting results and to provide a sense of some of the avenues my colleagues and I in the Civil Litigation Behavior Research Group will be pursuing in our future analysis of the data.

2. Overview of Research

Research conducted by Group C through the summer of 2007 consisted of three principal

components: (1) compilation of data from the court files for 1132 randomly selected civil cases, from courts throughout Japan; (2) a questionnaire survey addressed to all individual litigants and lawyers involved in those 1132 cases; and (3) a questionnaire survey addressed to members of the general public, utilizing identical or similar questions to those utilized in phase (2) of the research. (A fourth major component of our research, an Internet survey, is now being planned.) A somewhat more detailed summary of each of these three components follows.

(1) Court file data: Our research focused on civil cases concluded during calendar year 2004, involving at least one individual litigant (in other words, business-business disputes and other disputes involving only institutional litigants were excluded), and excluding family matters. The Supreme Court of Japan afforded us unprecedented cooperation in conducting the research. The Supreme Court's General Secretariat provided us with a list of the case numbers for all civil cases nationwide that met our research criteria. We were then allowed to randomize that list ourselves, in order to specify the cases we would investigate. In doing so, we calculated the proportion of the total nationwide caseload occupied by each of the 50 prefectures, and weighted our sample of 1132 cases accordingly. Utilizing the list of cases we had compiled, we then made arrangements, with the assistance of the Supreme Court's General Secretariat, for court clerks at district courts in each of the prefectures to assemble the files for those cases and facilitate our investigation of the files. In the summer and fall of 2005, teams of researchers (including members of Group C, researchers from other groups, and students who had attended special training sessions) visited each of the 50 district courts and compiled data from the case files, in accordance with a data-input software package prepared by Group C (based on experiences with pre-testing of the data compilation process, conducted with a sample of 125 cases from five district, files for which were examined in 2003). Through the above process, we assembled data on 1132 randomly selected civil cases concluded in 2004, with cases from all 50 prefectures, weighted in proportion to each prefecture's percentage of the overall national caseload for 2004.

(2) Questionnaire survey of litigants and lawyers: The second major component of our research is a questionnaire survey, addressed to all individual litigants and lawyers involved in the abovementioned 1132 cases. Based on a wide range of sources (including consideration of the survey instruments utilized in the Wisconsin Civil Litigation Research Project and in the Paths to Justice project, interviews with litigants, discussions with lawyers, and numerous other sources), Group C prepared survey instruments aimed at those who had actually experienced litigation, in a total of six versions (represented plaintiff, represented defendant, non-represented [self-represented] plaintiff, non-represented [self-represented] defendant, plaintiff-side lawyer, and defendant-side lawyer). The questionnaires addressed a rather broad range of topics, including the following: access

to lawyers; access to litigation; the respective roles of the litigants and lawyers in making decisions related to litigation; factors influencing the decision whether to settle the case or proceed to judgment; evaluation of the result; evaluation of the courts, procedures and judges by litigants and lawyers; and evaluation of lawyers by litigants. These questionnaire surveys (which were refined through pre-testing and several stages of deliberations) were implemented (by Central Research Services, Inc., an opinion research instituted based in Tokyo), from December 2006 through March 2007.

Calculating the response rate of course depends on what one uses as the base. In conducting the survey, we sent advance notification and requests for cooperation to all the individual litigants and lawyers involved in the 1132 cases (or, more precisely, to all we could locate). At that time, we provided a reply card in which one of the options they could choose was to decline to participate in the survey, because, even though their names were listed in the court file, they had not actually participated in the litigation. (In many cases, for example, several lawyers were listed, but only one or two might have had significant responsibility.) For each of the six categories, the following figures set forth: (A) the total number of subjects, (B) the adjusted number of subjects (omitting those who had moved, died, or were long-absent, and could not be located, and those who indicated they had not actually participated in the litigation), (C) the total number of completed questionnaires, and (D) the response rate (as calculated based on the adjusted number of subjects, i.e., C/B).

Represented plaintiff: (A) 749, (B) 498, (C) 243, (D) 48.8%

Represented defendant: (A) 502, (B) 288, (C) 137, (D) 47.6%

Non-represented [self-represented] plaintiff: (A) 82, (B) 57, (C) 37, (D) 64.9%

Non-represented [self-represented] defendant: (A) 531, (B) 361, (C) 116, (D) 32.1%

Plaintiff-side lawyer: (A) 1024, (B) 798, (C) 211, (D) 26.4%

Defendant-side lawyer: (A) 687, (B) 548, (C) 113, (D) 20.6%

(3) Survey of general public: To enable us to compare the knowledge and perceptions of members of the general public with the knowledge and assessments by those who have actually experienced litigation, we also undertook a survey addressed to members of the general public. That survey, the third major component of our research, utilized questions identical or, in cases where identical questions would have been unnatural (such as, for example, questions inquiring about litigants' actual experiences), similar to those used in the surveys addressed to litigants described above. Two versions of this questionnaire were prepared (essentially the same, except that one specified "civil litigation" every time the word "litigation" appeared, whereas the other left out the word "civil"). These surveys were administered (again by Central Research Services, Inc.) to 500 randomly-selected respondents each, in March 2007. (As it turned out, in nearly all respects the results were very similar for the two versions.)

3. Preliminary findings: Comparing litigants, lawyers, and the general public

As mentioned above, data analysis is still in the early stages, and the findings that follow remain highly preliminary in nature. These initial observations are based on a straightforward comparison of the responses to identical or similar questions regarding perceptions and experiences by two or more of the following categories of respondents: represented litigants (plaintiffs and defendants combined, 380 respondents total), non-represented [self-represented] litigants (combined, 153 total), lawyers (combined, 324 total), and members of the general public (two versions combined, 1000 total). Needless to say, the discussion that follows represents a simple first cut at the data, based on one set of factors. A wide range of other variables -- including plaintiff/defendant; type of case; amount at stake; age, gender and other personal characteristics of those involved; prior experience with litigation; geographic location; etc. -- must be taken into account. Yet even this simple first cut at the data, based on the above categories, reveals a number of intriguing findings. The following section briefly introduces some of those findings.

A. Access to lawyers

A frequently voiced premise is that one of the reasons for Japan's relatively low litigation rate is lack of access to lawyers. (As of 2005, there were 21,205 lawyers in all of Japan, or 1 lawyer per 6022 people.) In connection with access to lawyers, we asked represented litigants the following question: "Was it easy to find a lawyer, or difficult?" (Q.7 on the questionnaire for represented plaintiffs and defendants.) So as to provide a basis for comparison with perceptions of the general public, on the general public questionnaires we asked: "Assuming you are faced with ... a lawsuit ...: Do you think it would be easy to find a lawyer, or difficult?" (General Public questionnaire, Q.7(2))

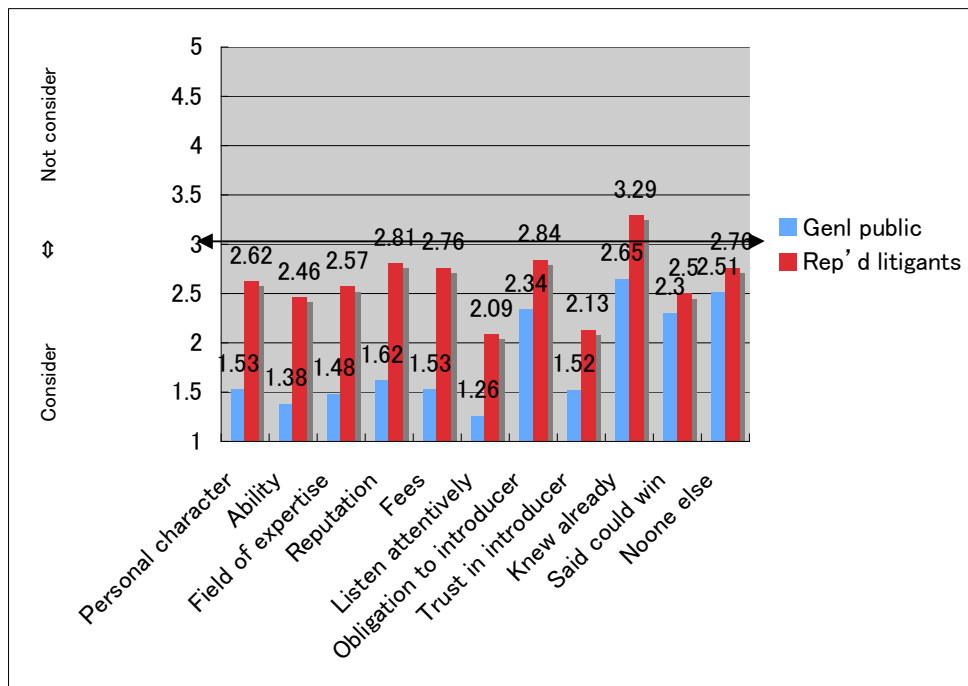
The contrast in responses was striking. The questions were based on a 5-point scale, where a score of 1 meant "It was (or I think it would be) easy," 5 meant "It was (or would be) difficult", and 3 corresponded to "Can't say one way or other." The mean score for the general public was 3.75; members of the general public do indeed have the perception that it is difficult to find a lawyer. In contrast, the represented litigants' mean score was 2.37. On balance, they did not find it so difficult to find a lawyer.

The contrast is striking. How to interpret that contrast is not so simple. One possible explanation is that those who find it relatively easy to find lawyers are more likely to undertake litigation. By implication, that interpretation would lend support to the view that the low number of lawyers, and consequent difficulty in finding lawyers, deters litigation. Another possible explanation, though, is that, when one actually is faced with a serious matter that may lead to litigation, it is easier to find a lawyer than commonly imagined. Since we had no way of identifying and questioning those who

considered litigation but did not file lawsuits, offering a firm answer to this question may be impossible. By probing the data we do have further, however, we hope we may be able to offer some tentative conclusion to this question.

B. Factors considered in selecting lawyers

Through the following question, we sought to identify what qualities litigants and members of the general public view seek in lawyers: “In choosing the lawyer, to what extent would (did) you consider the following factors? (1) The personal character of the lawyer (2) The lawyer’s ability (3) The lawyer’s field of expertise (4) The lawyer’s reputation (5) The lawyer’s fees (6) When you consulted with the lawyer, he or she listened attentively (7) Feeling of obligation to the person who introduced the lawyer (8) Trust toward the person or body who introduced the lawyer (9) The fact you knew the lawyer personally beforehand (10) The fact the lawyer said you could win the case (11) There was no other lawyer you could find” (Q.10 on both the GP and Represented Litigants (RL) questionnaires). Based on a 5-point scale, from 1: “Would (Did) consider” to 5: “Would (Did) not consider” (with 3 corresponding to “Can’t say one way or other”), the results were as follows:

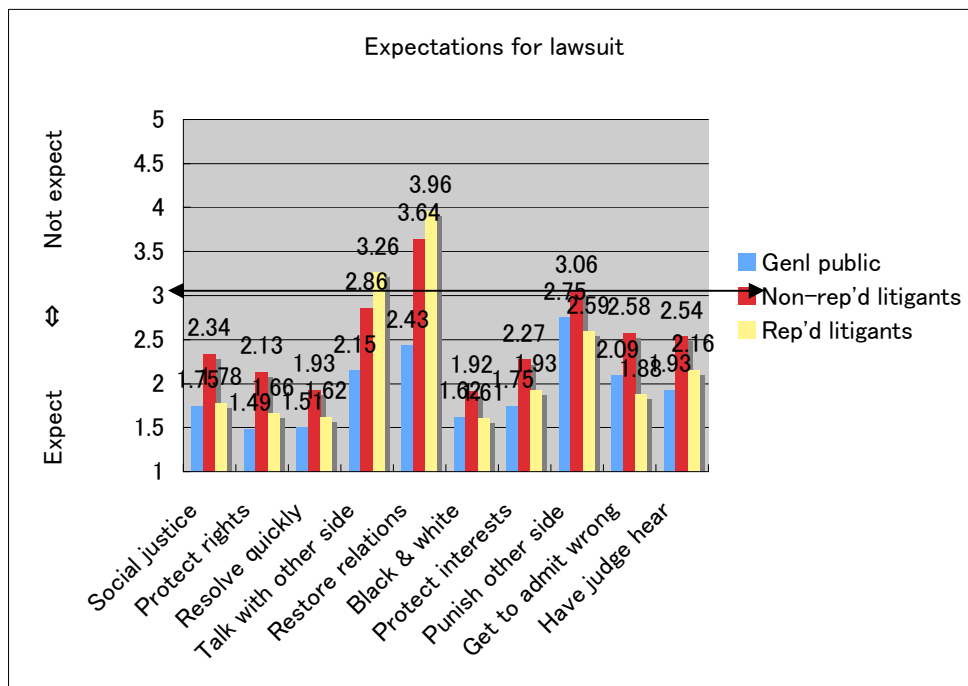


Various aspects of these results are of interest. Focusing first only on the responses of the represented litigants, the score for all factors except (9) (“Knew the lawyer beforehand”) (which presumably was not true for many of the respondents) was lower than 3 -- indicating that, on balance, the litigants viewed all the other factors as relevant. The scores on all those other items, though, were over 2, with most lying between 2.5 and 3.0, suggesting that the litigants viewed the items as

relevant, but not overwhelmingly so. In contrast, on seven of the eleven items, the mean scores for the general public were 1.62 or lower; the members of the general public place far higher weight on those factors than the actual litigants. Again, one might interpret these results in various ways. One possible interpretation is that the general public has an idealized set of expectations for the lawyers they desire, whereas those who have actually experienced litigation have a lowered (or, perhaps, more realistic) set of expectations. One other noteworthy aspect of the results relates to the highest rated factor among both groups of respondents: above all, they appear to want a lawyer who “listens attentively.”

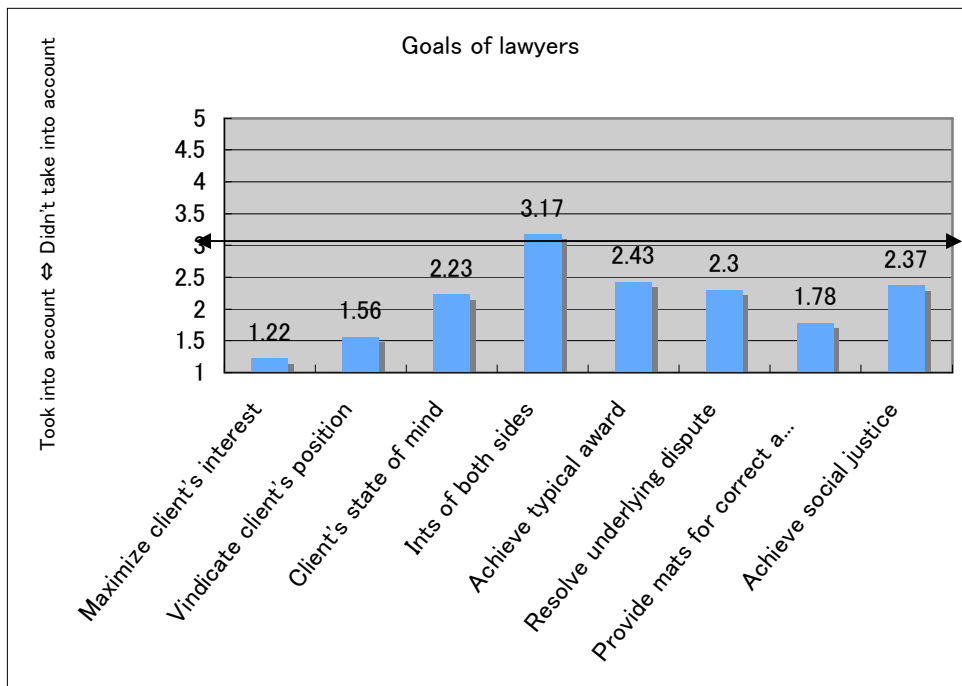
C. Goals of litigation

Questions on each of the questionnaires addressed the goals of litigation. For the parties and general public, the key question in that regard was the following: “Assume you have decided to file a lawsuit. What would you expect from the lawsuit? (1) To achieve social justice (2) To protect your rights (3) To resolve the dispute quickly (4) To get the opportunity to talk with the other side (5) To restore relations with the other side (6) To clearly decide right and wrong (literally, "black and white") (through the lawsuit) (7) To protect your interests (8) To punish the other side (9) to compel the other side to admit he/she was wrong (10) To have a judge hear what you have to say” (This question was taken from the GP questionnaire, Q.13. The Represented Litigants and Non-Represented Litigants questionnaires all contained similar questions.) Based on a 5-point scale, from “Would expect” (1) to “Would not expect” (5), the results were as follows:



Numerous aspects of these results bear further examination. For the time being, I might offer two observations. First, as with the preceding results relating to what is expected of lawyers, the general public in general has high expectations for litigation. For most of the factors listed, the general public's expectations are higher than those of the actual litigants. Secondly, the litigants (represented and non-represented alike) decidedly do not view litigation as a means for "restoring relations with the other side," and the litigants do not place much weight on litigation as a means for "talking with the other side," either. In this respect, the results accord with the widely voiced view that, in the Japanese setting, institution of litigation represents a clear rupture in relations with the other side.

The lawyers were asked a different question regarding litigation goals. They were asked: "Looking back on the trial in the first instance, to what extent did you take the following items into account? (1) Maximizing the client's interests (2) Vindicating the client's position (3) Caring for the client's state of mind (4) Achieving a resolution of the dispute that takes into account the interests of both parties, not just your client (5) Achieving a resolution in accordance with precedent and the typical award (typical resolution) for such cases (6) Achieving a resolution that addresses the problems underlying the dispute, including the background circumstances (7) Assembling and providing materials for assessing the case, to ensure the judge would make the correct judgment (8) Achieving social justice" (Lawyer questionnaire, Q.30). Based on a 5-point scale, from "Took into account" (1) to "Did not take into account" (5), the results were as follows:



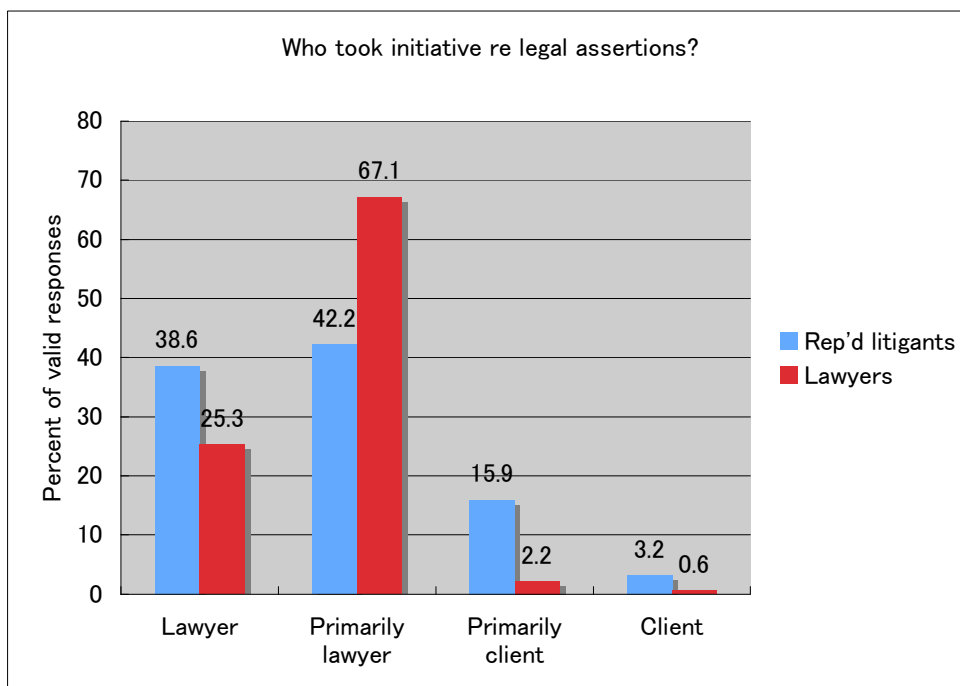
Not surprisingly, "maximizing the client's interests" and "vindicating the client's position" ranked

number one and two. Somewhat more surprising, at least to me (perhaps in a reflection of the influence of my American law training), is the third-ranked item: “Assembling and providing materials for assessing the case, to ensure the judge would make the correct judgment.” A second part of this question, though, asked: “Of the above items, what was most important to you?” An examination of the responses to that sub-question provides a rather different picture of the lawyers’ priorities. Of 308 total responses, the top three were: “Maximizing the client’s interests” (169), “Achieving a resolution that addresses the problems underlying the dispute, including the background circumstances” (47), and “Vindicating the client’s position” (31). On this sub-question, of the eight possible choices, the lowest-ranking item was “Assembling and providing materials for assessing the case” (7).

D. Who took initiative?

One set of questions sought to identify who took the initiative in handling the case. The most direct such question, addressed, in slightly different form, to both represented litigants and lawyers, asked: “What did you do with respect to legal assertions, claims, and counterarguments?” The response options were as follows: “Left up to the lawyer” (or “Lawyer decided almost entirely”); “Lawyer primarily decided, in consultation with the client”; “Client primarily decided, in consultation with the lawyer”; and “Client decided” (or, for Lawyer questionnaire, “Lawyer decided almost entirely”) (RL, Q.35; L, Q.22). The results were as follows:

While the great majority of represented litigants and lawyers alike agree that the lawyers played either the primary or dominant role with regard to legal assertions, the contrast in perceptions is



striking. Over two-thirds of the lawyers expressed the standard view on the desirable allocation of roles, with the lawyer primarily deciding, in consultation with the client; and very few lawyers admitted that the client primarily decided. On the other hand, nearly forty percent of the clients felt the lawyers had decided, without much consultation with the client, and nearly twenty percent more felt that they, the clients, had been the primary or entire decision-makers with regard to legal assertions. The reasons for this difference in perceptions warrant further examination. One possible interpretation is that the lawyer responses reflect positive self-appraisal (or, to use a somewhat less charitable term, wishful thinking), whereas the clients' responses more closely approximate reality. Another possible interpretation is that the lawyers have a rather different conception of what constitutes "consultation with the client" than do the clients themselves.

E. Evaluations of lawyers

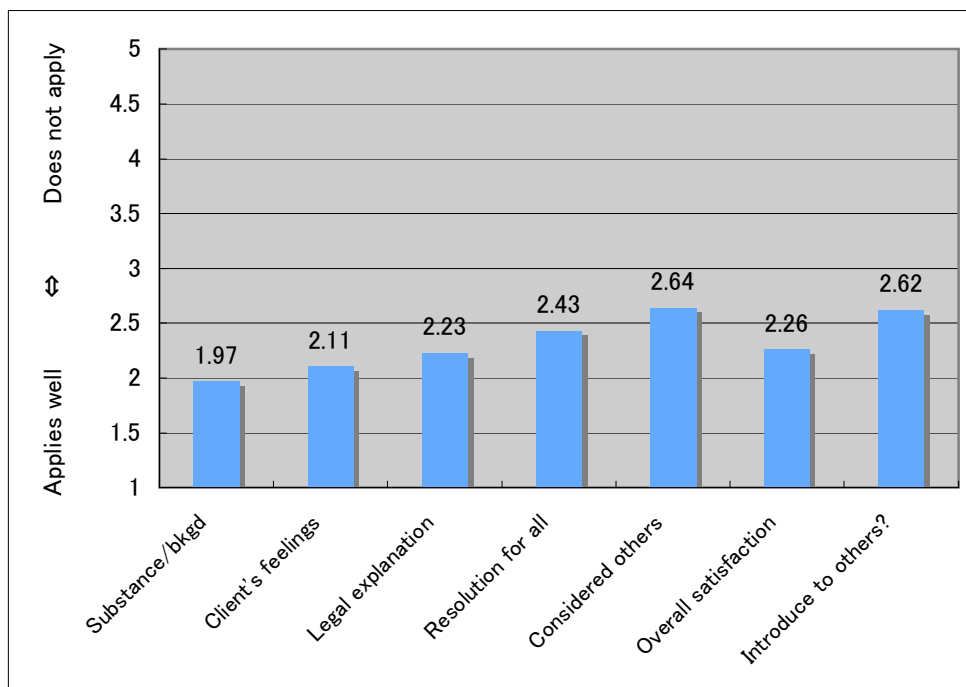
Several questions explored evaluations of lawyers. The following section briefly introduces three sets of such questions.

First are questions addressed to lawyers, regarding how they believe they were perceived by their own clients. Lawyers were asked the following two questions: "Overall, to what extent do you believe your client was satisfied with your work?" (L, Q.15(1)); and "To what extent were you successful in establishing a relationship of trust with the client?" (L, Q.15(2)). On both questions, the lawyers felt they were perceived very positively. On the former, with a 5-point scale (from "Satisfied" to "Unsatisfied"), the mean score was 1.81. The "Satisfied" and "Somewhat satisfied" responses combined amounted to over 85% of the total responses; only 2.0% of the lawyers felt their clients were "Unsatisfied" (just 6 of 306 valid responses). The lawyers were even more confident they had achieved a relationship of trust. Again using a 5-point scale (from "Successful" in establishing a relationship of trust to "Unsuccessful"), the mean score was 1.71. The "Successful" and "Somewhat successful" responses together amounted to 87% of total responses; among the 309 valid responses to this question, only 1 lawyer admitted to being "Unsuccessful" in establishing such a relationship.

Turning next to the clients' views, they were generally satisfied with their own lawyers -- but not nearly so satisfied as the lawyers seemed to think they would be. Represented litigants were asked: "During the lawsuit ..., did you think you wanted to change a lawyer(s) ...?" (RL, Q.19(1)) Of the 370 valid responses, 310 said no, but 60 (over 16%) said yes. Of those who said yes, the top five reasons given for wanting to change lawyers were: "Did not understand issues or problems accurately" (24), "Was overly considerate to the other side" (23), "Did not work diligently", "Did not listen well" (20 each), and "Sheepishly followed the judge's wishes" (18). Upon further examination, though, one finds that, of the 60 respondents who said they wanted to change lawyers during the lawsuit, only five actually did change lawyers. The question itself does not reveal why the

dissatisfied clients did not change lawyers. One possible explanation is that the dissatisfaction was temporary. Another possibility is that the others resigned themselves to the lawyers they had because of difficulty in finding replacements.

Another set of questions asked clients for their assessments of their own lawyers. One question asked: “To what extent do the following evaluations apply to the lawyer who worked on your case? (1) Understood substance and background of the case well; (2) Sincerely sought to understand your feelings; (3) Explained the legal aspects of the case in an easy-to-understand fashion; (4) Gave thought to a good resolution of the case for all parties, including the other side; (5) Took into consideration family members or others who were not parties to the lawsuit.” (RL, Q. 22). Another question asked represented litigants for their “overall evaluation” of their own lawyer, with the following two specific inquiries: “Are you satisfied with the lawyer?” and “If a friend or relative asked you to introduce a lawyer, would you introduce that lawyer?” (RL, Q.23). All of these questions utilized a 5-point scale, with 1 being a positive evaluation and 5 a negative evaluation. The results are as follows:



With a score of 3.0 representing the midpoint (“Can’t say one way or the other”), the overall response on each of these items is positive. The overall scores were highly positive with regard to several items, including “understanding the substance and background of the case,” “sincerely

seeking to understand the client's feelings," "explaining the legal aspects of the case in an easy-to-understand fashion," and overall satisfaction. These results should please the lawyers. It bears note, however, that of the 353 valid responses, 33 of the represented litigants (9.3%) proclaimed themselves "Unsatisfied" with their lawyers.

Another set of questions sought evaluations of the lawyer on the other side. Where there was a lawyer on the other side, litigants (both represented and non-represented) were asked their views about that lawyer. Of the represented litigants, 273 reported that there was a lawyer on the other side. 98 of those said they hardly had any impressions of the lawyer on the other side. Some of the other responses are intriguing, however. 85 (over 30% of the 273 respondents) agreed with the statement that "the lawyer on the other side seemed like a shyster." 55 (over 20%) said the lawyer on the other side "looked more able than your own lawyer." And 21 (nearly 8%) said the lawyer on the other side "looked too familiar with the judge." Of the non-represented litigants, 93 reported that there was a lawyer on the other side. 20 of them (over 21%) said that lawyer "seemed like a shyster," and 14 (over 15%) said that lawyer "looked too familiar with the judge."

The lawyers were also asked to evaluate the lawyer on the other side; but the format of the question was different from that for the litigants, and utilized a 5-point scale (with a score of 1 representing a positive evaluation, 5 a negative evaluation). In response to the question, "Was the lawyer on the other side well-prepared?", the mean score was 2.4. On the question, "Did you feel the lawyer on the other side was able?", the score was 2.6. And on the question, "Did you feel the lawyer on the other side was trustworthy?", the score was 2.35. The difference in content and format of the questions does not permit direct comparison of the evaluations of opposing counsel by lawyers with the evaluations by the litigants. Given the high score on trustworthiness, however, one can at least say that most lawyers do not share the sentiment, expressed by a substantial minority of the litigants, that the lawyer on the other side seemed "like a shyster."

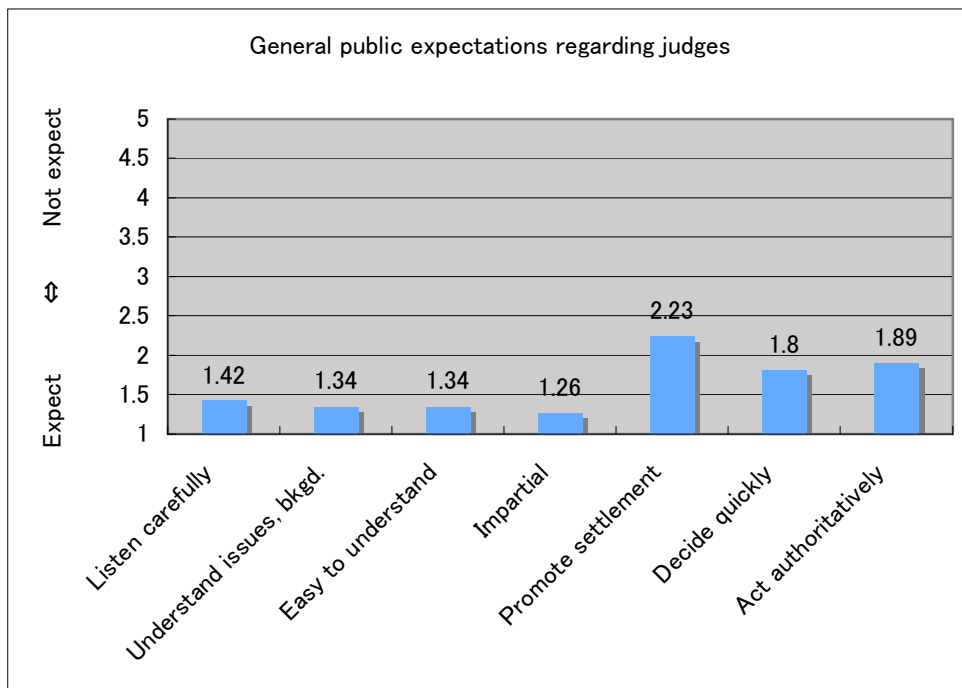
F. Evaluations of judges

This final section will introduce a few findings relating to evaluations of judges. In the survey of the general public, respondents were asked, if they were involved in a lawsuit, what gender and how old would they like the judge to be. As to gender, the great majority of respondents (over 70%) answered, "Either a man or a woman would be fine." (Whether this represents the respondents' true feelings, or a "politically correct" pattern of responses, is open to some debate.) Among the respondents, nearly 83% of the represented litigants, and over 84% of the non-represented litigants, reported that the judge in charge was male. These figures correspond closely to the overall composition of the Japanese judiciary; as of 2006, 85.8% of Japanese judges were male, 14.2% female.

With regard to desired age of the judge, over 60% of the general public respondents indicated they

would prefer a judge in his or her 50s, with only 2.6% expressing a preference for a judge in his or her 30s. The public clearly has an image of a veteran judge as desirable. The reality, as confirmed by the litigants' responses, is that the age distribution of presiding judges is much broader than the general public seems to envision; approximately 15% of the represented and non-represented litigants reported that the judge in charge was in his or her 20s or 30s.

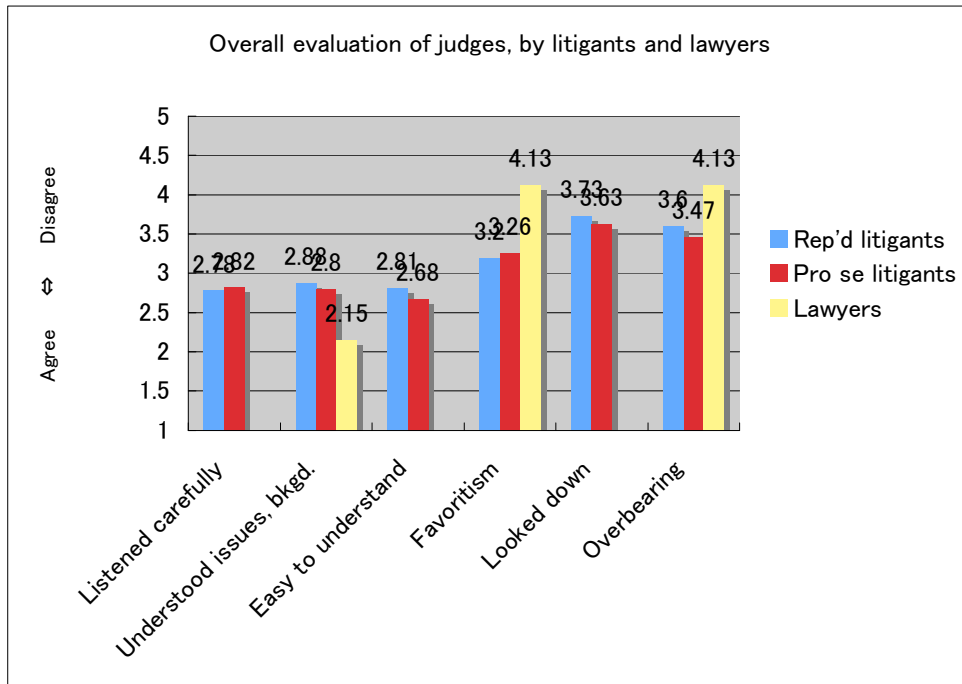
As with their expectations for lawyers and expectations for lawsuits, the general public has very high expectations for judges. Members of the general public were asked: "Assume ... you have decided to file a lawsuit. With respect to the following items, what would you expect of the judge? (1) The judge would listen carefully to what people had to say (2) The judge would understand the issues and background well (3) The judge would speak in an easy-to-understand fashion (4) The judge would be impartial (5) The judge would promote a settlement (6) The judge would issue a judgment quickly (7) The judge would act in an authoritative manner." (GP, Q.21). On a 5-point scale, the responses were as follows:



On all seven items, the general public has high expectations for judges. On the first four in particular, the expectations are extremely high.

How do the evaluations of the litigants and lawyers compare to these expectations? Litigants were asked for their overall evaluation of the judge of whom they had the strongest impressions, with respect to the following items: "(1) The judge listened carefully to what people had to say (2) The judge understood the issues and background well (3) The judge spoke in an easy-to-understand fashion (4) The judge seemed to show favoritism to the other side (5) The judge seemed to look

down on you (6) The judge was overbearing in trying to push the trial forward.” In a similar question, lawyers were asked to evaluate the presiding judge, with respect to items (2), (4), and (6) on the above list. Again, the responses were on a 5-point scale, with 1 meaning “Agree” and 5 meaning “Disagree.” Accordingly, depending on the content of the various statements, lower scores sometimes are positive and sometimes negative. The responses are as follows:



As these results show, on all three aspects considered by the lawyers -- whether the judge understood the issues and background, whether the judge showed favoritism to the other side, and whether the judge was overbearing in pushing the trial forward, the lawyers evaluated the judges very highly. The litigants were not quite so kind to the judges. While the overall litigant evaluation on all six items was, on balance, positive, the scores on the first four items were rather close to the midpoint of 3 (meaning “Can’t say one way or the other”). In that sense, the evaluations by the litigants were far harsher than the lofty expectations expressed by the general public. What it is that accounts for the somewhat mixed assessment of judges by litigants is one of the many topics for further analysis.

4. Conclusion

The principal components of research conducted, through the summer of 2007, by the Civil Litigation Behavior Research Group (Group C) consisted of the following three items: (1) compilation of data from the court files for 1132 randomly selected civil cases, from courts

throughout Japan; (2) a questionnaire survey addressed to all individual litigants and lawyers involved in those 1132 cases; and (3) a questionnaire survey addressed to members of the general public, utilizing identical or similar questions to those utilized in phase (2) of the research. After summarizing those three research components, this working paper sought to offer a preliminary comparative examination of responses by members of the general public, represented litigants, non-represented (or self-represented) litigants, and lawyers, to questions regarding the following matters: access to lawyers, factors considered in selecting lawyers, goals of litigation, who takes the initiative in the litigation process, evaluations of lawyers, and evaluations of judges. As noted earlier, data analysis is still in the early stages, and the findings reported herein remain highly preliminary in nature. Even this simple first cut at the data, based on the above categories, reveals a number of intriguing aspects. In its ongoing analysis, Group C is seeking to explore these and many other aspects of the data in more detail.