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The Relationship Between Target Users’ Attributes and Access to Justice : Focused on Age Group, Gender, and Hesitancy

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1. Introduction

Japan reformed its judicial system in the 1990s. This judicial system reform was accompanied by the broadening of the civil legal aid system and completion of the court-appointed defender system. Lawyers are even being dispatched to judicially underserved areas. Three elements—financial resources, information, and geographical elements—have been cited as barriers to access to justice. It can now be stated that these three obstacles (barriers) will soon be largely resolved.

Nevertheless, there are other issues that past judicial system reforms could not fully resolve. For example, past reforms of the judicial system were unable to satisfactorily resolve the psychological problem that makes it difficult for people to seek advice from judicial organizations. Additionally, as discussed below, regarding the question “What kinds of problem resolution actions do people take when they face legal issues?” it is known that the actions they take in response vary according to individual attributes (annual income, region, gender, etc.). It can prob-

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ably be said that in order to genuinely ensure access to justice, it is necessary to consider policies adapted to the attributes of individuals.

Therefore, [1] this paper first introduces an overview of judicial system reforms carried out in Japan in recent years. [2] Next, it organizes legal access surveys in Japan and the challenges that they have revealed. [3] Finally, it analyzes surveys conducted in recent years to consider the relationship to access to justice with women in particular. By considering these issues, factors obstructing access to justice in Japan are investigated, and the existence of a gender gap in access to justice is explored.

2. Judicial system reforms carried out in Japan in recent years —Overview and ideology of judicial system reforms—

Japan carried out a full-scale reform of its judicial system in the 1990s. To create a judicial system more accessible to citizens, it took actions including the introduction of the lay judge system, establishment of law schools, and enactment of the Comprehensive Legal Support Act. Also related to access to justice, as a result of a series of judicial system reforms, the civil law legal aid system was broadened, and the court-appointed defender system was completed. In particular, through initiatives undertaken by the Japan Legal Support Center (JLSC) established under the Comprehensive Legal Support Act and by the Japan Federation of Bar Associations (JFBA), lawyers have been sent to judicially underserved areas more frequently than before, gradually reducing difficulties in accessing justice caused by geographical location.

Structural barriers to individuals' access to justice that have been cited are the problem of so-called judicially underserved areas —the lack of lawyers and other legal professionals in regions where they live—and inadequate system design and public understanding of dispute settlement methods for cases where people do not wish to initiate litigation. To handle these issues, a series of judicially underserved area measures by the JFBA and JLSC, the provision of legal information, Alternative

Dispute Resolution (ADR)², and other standard resolution measures have been attempted by legal bodies concerned with structural issues.

For example, the establishment of the JLSC under the Comprehensive Legal Support Act which was passed as part of a prior judicial system reform has provided some benefits to people located in areas without judicial services by providing judicial support to people who appear to lack financial resources (completion of civil legal aid) or by sending lawyers to so-called “zero-one areas” (areas with only one or not even one lawyer)³. Similarly, as initiatives intended to remove obstacles to legal system access caused by structural factors, measures to achieve the provision of law-related information through various methods have been undertaken, including completing websites for law-related organizations, opening more dispute resolution consulting counters, increasing the number of personnel working in these areas, the use of media, and so on⁴. Additionally, focusing on the fact that many of the cases submitted for legal consultation are those in which a variety of problems (such as

2 ADR refers to dispute resolution methods, such as arbitration, reconciliation, or mediation that are not dependent on courts. In Japan, the Act on Promotion of Use of Alternative Dispute Resolution was announced in December 2004 and came into force in April 2007.

3 For discussions of judicial system reform and for the roles of legal aid, see Takeshita Morio (2002): *Legal Aid Goals and Policies—Judicial System Reform and Roles of Legal Aid—*, edited by the Legal Aid Society, *Legal Aid in Japan—50 Years History and Challenges*, Seikosha, pp. 171 – 190.

4 Regarding methods of providing legal information, based on discussions of the possibility of providing legal information as a function of the JLSC call center or its website, or in libraries, it has been pointed out that information providers must respond by also considering psychological barriers faced by people requiring assistance. For example, see Osawa Tsuneo (2007): *Judicial Information Provision Methods—Diverse Possibilities—*, edited by Legal Aid Society, *The Japanese People and the Law—Significance of and Challenges to the Comprehensive Legal Support Act*, EDIX, pp. 179 – 192. For a publication introducing the relationship of legal services with IT overseas, see Ibusuki Makoto (2006): *Legal Services and IT: Surrounding Their Use and Expansion—Referring to Cases Overseas*, *Legal Aid Research No. 12*, pp. 83 – 98.

welfare problems or educational problems) are complexly intertwined, places where people facing such complexly intertwined problems can seek resolution by visiting one counter for one-stop services rather than multiple counters are offered as a way to try to both physically and psychologically promote access to the legal system by lightening the burden felt by target users of such services⁵.

Initiatives to present improvement measures dependent on a series of structural aspects in this way, or in other words, “newly establishing or completing the functions of legal organizations,” “providing legal information,” “broadening access points,” and so on, can, at the very least, ensure systems that allow citizens to easily access legal information. Structurally ensuring a situation in which it can be guaranteed that accessibility to legal organizations as the first step in dispute resolution is easier than it was in the past conforms with the basic idea expressed in the Comprehensive Legal Support Act—namely, that measures taken under the act “...shall aim at creating a society in which the provision of information and support necessary to settle disputes based on laws concerning criminal as well as civil cases can be received nationwide...”

3. Challenges revealed by surveys regarding access to justice in Japan

(1) Gap between knowledge and utilization

Measures taken in response to legal system reforms as cited above—specifically, improving legal organizations, providing legal information, broadening access points, and so on—have, to a certain degree, effectively removed structural factors obstructing access.

However, the series of measures described above do not reach people who lack affinity with the system itself—in other words, people who are outside the categories of people for whom the system was designed. In

5 Refers to the ideal of permitting procedures or consultations without going to multiple counters or organizations. This paper focuses on one-stop services based on multidisciplinary cooperation, particularly in the dispute resolution process.

fact, even when these measures reach such people to some degree, the people do not necessarily utilize them. Even assuming they have opportunities to obtain legal information, or encountered legal information some way or another, there is a wide gap between knowing about the information and actually utilizing it. It is important to consider structurally dependent measures that do not extend appropriate legal support to areas where there is a need for it. At the same time, it is important to consider measures in the context of the realities of those who have lost ground as a result of being committed to the system.

Just what is the characteristic of the gap that separates “knowing” legal knowledge from “utilizing” it? As a starting point for a discussion of this point, I will now focus on data obtained by a large-scale survey conducted in 2008⁶.

Comprehensive and corroborative research related to legal advice-seeking behavior has built up a stock of many valuable studies in the field of sociological jurisprudence⁷. Many of these past studies have treated legal consciousness as a factor restricting legal advice-seeking behavior and pointed out that awareness of the existence of legal specialists and consulting bodies exist as elements that govern people’s litigation behavior⁸.

6 Japan Legal Support Center (2008): Report on a Survey of Legal Aid Needs and State of Use of the JLSC. This survey was conducted to analyze the need for and state of usage of legal aid. It was a face-to-face interview survey of 3,000 people 20 years of age and older. It was conducted from September to November 2008. Valid responses were received from 1,636 people for a response rate of 54.5%. At approximately the same time, an on-the-street interview survey was conducted.

7 For example, Ota Shozo, Daniel H. Foote, Hamano Ryo, editors (2009): *New Generation of Sociological Jurisprudence*, Yuhikaku; Kashimura Shiro, Bushimata Atsushi, editors (2010): *Trouble Experience and Consultation Behavior*, University of Tokyo Press; and others.

8 It has been pointed out that the classification of consulting services has advanced and fractionalized in Japan, making it unlikely for a person who initially sought consultation at a nonlegal consultation service provider to later visit a legal consultation service provider later visiting a legal con-

A nationwide public opinion survey conducted in 2008 involved interviews concerning people's experiences of legal and welfare problems, the state of consultations, the state of responses, etc. It was conducted by dividing those surveyed into four groups—a young group of people aged 20 to 29, a middle-aged group from age 30 to 49, a prime group from age 50 to 64, and a senior group of people aged 65 years and older—and comparing and studying a wide range of items in each group, including how often they experience legal problems, how often they access legal professionals, and so forth⁹.

Among the responses to these items, for the item concerning frequency of access to “lawyers or judicial scriveners,” among those who had experienced legal problems in the young group, only 7.7% reported consulting with a “lawyer or judicial scrivener.” They consulted almost exclusively with “family or relatives” or with “friends, acquaintances, or neighbors”¹⁰. In contrast, the rate of access to “lawyers or judicial scriveners” in the other age groups was 24.8% in the middle-aged group, 37.3% in the prime group, and 33.3% in the senior group, showing that in each of these groups, the rate of access to “lawyers or judicial scriveners” was between three times and five times as high as in the young group.

In response to the item, “the most important person I consult with concerning legal problems,” the percentage of members of the young group who selected an answer responded that they do not consult with any person (in other words, “do not consult”) was 34.6%. The percentage of participants who selected the response “do not consult” was 18.8% in the middle-aged group, 29.3% in the prime group, and 36.5% in the

sultation service. Murayama Masayuki (2009): Characteristics of Lawyer Use Patterns in Japan—Dispute Resolution and Civil Justice in Legal Society: Including International Comparisons, *Sociology of Law* No. 70, Yuhikaku, pp. 27 – 28.

9 For details about the survey, see the Japan Legal Support Center (2008) report cited above as well as Sugawara Ikuo (2011): Present State of and Challenges to Civil Legal Aid from the Perspective of a Needs Survey, *Jurist* No. 1415, pp. 27 – 32.

10 Japan Legal Support Center (2008), *op. cit.*, pp. 27 – 32.

senior group.

The results for these items show that the percentage of respondents who “do not consult” is high among members of the young group and senior group. One reason for the large number in the young group who answered “do not consult” is presumed to be that their age prevents them from building new social relationships, or, in other words, that they build human relationships or expand friendly relationships in the workplace less often than members of the middle-aged group. The fact that, at the same time, the percentage of respondents who “do not consult” rises again among members of the senior group suggests the possibility that the guarantee of someone a person can consult with, which the person had likely achieved, is lost when the person withdraws from the employment system through retirement. In other words, it is possible to interpret these findings as showing that, on one hand, in the young group, their youth and the resulting limit on developing the broadening of human relationships act as conditions that hamper guaranteeing or broadening parties with whom they can consult, while on the other hand, in the senior group, the loss of human relationships built up during the middle-aged years and prime years leads directly to the loss of parties with whom they can consult.

Of course, further survey work to clarify the background behind participants’ responses is necessary, and it would be premature to present fixed conclusions based only on this data. It is nevertheless presumed that withdrawal from one functional system (the employment system) as one ages is linked to the loss of social capital (in other words, links with other people). It is further presumed that in a case where a person is, even while still young, in a position where they can skillfully use each functional system while maturing, they can be counted on to build and expand human relationships at their workplace, etc., to guarantee a person with whom they can consult. However, in a case where a person was isolated from the system in the first half of his life, it would be difficult to obtain social relationship capital through such expansion of relationships. Therefore, it is correct to state that verifying

factors underlying a person's selection of "do not consult," regardless of whether or not the person is in an isolated state, to consider measures to narrow the gulf separating "knowing" from "utilization" is an important challenge. The results of this series of surveys suggest that the attributes of an individual person, namely the person's age group, greatly impact the person's legal advice-seeking behavior.

(2) Challenges revealed —Multiple factors obstructing access to justice—

In Japan, it has been said that there are three main barriers to gaining access to justice. [1] One is economic (does a person have enough money to hire a lawyer?), [2] the second is geographical (is there a lawyer in the region where the person lives?), and [3] the third is informational (can the person obtain legal information?). The success of the reform of the judicial system described above has been gradually resolving [1] and [2], the economic and geographical issues, to a certain degree.

However, as shown by the gap that exists between the knowledge of and the use of legal information by the senior group described above, the reforms have not dealt adequately with many of the barriers related to information. In other words, there is a group able to smoothly obtain legal information and a group which cannot. There is also a gap between knowing legal information and actually utilizing the information. Additionally, measures to resolve the psychological aspect of the issue, which is in a sense of rejection of the law itself, continue to be insufficient.

4. Access to justice and gender

(1) Percentage of legal professionals who are women in Japan

There were 40,066 lawyers in Japan in 2018. Of these, 7,462, or 18.6%, were women lawyers. Women comprised 26% of judges and 24% of public prosecutors. These figures are impacted by the problem of the so-called "glass ceiling," the problem of work-life balance, and consciousness

of the division of work roles by gender. It is a fact that in Japan, a gender imbalance has appeared among the providers (supply side) of legal services.

(2) Location of the problem

Problems related to access to justice and gender are considered by looking at two broad issues: [1] problems of providers of legal services (supply side) and [2] problems of users of legal services (demand side). This paper chooses from between these two problems to perform an analysis focused on the factors obstructing access to justice by the latter: the users of legal services. Specifically, it narrowly considers the question “Is there a gap in access to justice according to gender, age, or whether a person feels a psychological barrier between themselves and the legal system?”

(3) Overview of the survey

The following is an outline of the specific survey performed to prepare this report.

Object of the survey: A questionnaire survey of people seeking legal advice

Responses: 9,888 (response rate of 49.4% out of 20,000 questionnaires distributed)

Survey period: May 27 to August 27, 2014

With the assistance of the JFBA, legal information centers of regional bar associations, normal law offices, and JLSC law offices, people seeking legal advance directives who requested legal advice at 147 locations throughout Japan were surveyed.

They were asked many questions, but this report focuses on whether or not each person sought advice from a lawyer and each person's gender, age group, and psychological barriers.

(4) Analysis

The survey was conducted by also distributing questionnaires to target users who came to an office seeking legal advice but did not ultimately hire a lawyer. Table 1 shows the results for “gender” and “reason why I did not hire a lawyer.” The results show that 65% of women and 52% of men provided the cost reason, “I could not pay the lawyer’s fee.” The percentage of women who could not hire a lawyer because of the cost was 13% higher than the percentage of men who gave the same reason.

Table1: Gender × The reasons for not consulting a lawyer

	gender	
	men	women
Economic reason	52.3%	65.0%
People felt they could resolve the problems by themselves	40.5%	27.8%
They didn't know how to find a lawyer	33.2%	44.7%

Table 2 shows age groups and “reasons for not hiring.” The results show that in the 20 to 39 year-old group, 74.2% selected the economic reason, “because I could not pay the lawyer’s fee,” while 37.7% referred to their consciousness of the need to hire a lawyer by selecting the response “because I did not think it was a problem that I should refer to a lawyer,” and 47.5% reported that they were unable to effectively obtain legal information by selecting the response “because I did not know how to find a lawyer.” These results show that these three items are the most important issues for people from aged 20 to 39 but not among members of the other age groups.

Table2: Age × The reasons for not consulting a lawyer

	Age		
	20's-30's	40's-50's	People over 60
They didn't think a lawyer wouldn't help them.	16.3%	19.3%	25.1%
They didn't think a lawyer couldn't help them.	8.2%	11.6%	15.4%
The lawyer wouldn't hear the case.	20.0%	20.3%	16.3%
They couldn't afford the lawyers.	74.2%	62.4%	43.0%
They didn't think it was a legal matter.	37.7%	29.9%	26.0%
They didn't know how to find the lawyers.	47.5%	41.6%	30.0%

Table 3 illustrates whether or not the respondents felt ambivalence (hesitancy) before visiting the legal advice service. Here, more than 40% of all respondents answered, "I felt hesitant." People who actually visited a legal advice service were asked this question. We think that at the point where a person has "actually visited a legal advice service," that person has already cleared the first barrier (first hurdle) to accessing justice. This information is valuable considering that more than 40% of such people felt "hesitant." If the question had been posed to people before they decided to come for legal advice, it is likely that an even higher percentage of them would have answered "I feel hesitant."

Table3: Whether or not there is hesitation to consult a lawyer

Question : Did you feel hesitant to consult a lawyer about this problem?

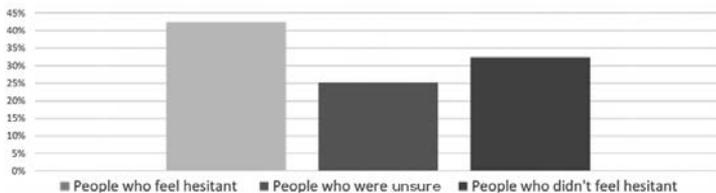


Table 4 shows the results concerning "reason for hesitation." The top three are, in order from highest to lowest, "because it seemed it would be expensive," "because my image of lawyers is that they are unapproach-

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ble,” and “because it would take a long time for a decision to be made.” More than 90% answered “because it seemed it would be expensive.” This question was, as in the case of Table 3, a question answered by people who actually came for legal advice. It clarifies the fact that even among those who actually came for legal advice, more than 90% felt hesitant about consulting with a lawyer.

Table4: Reasons for feeling hesitant

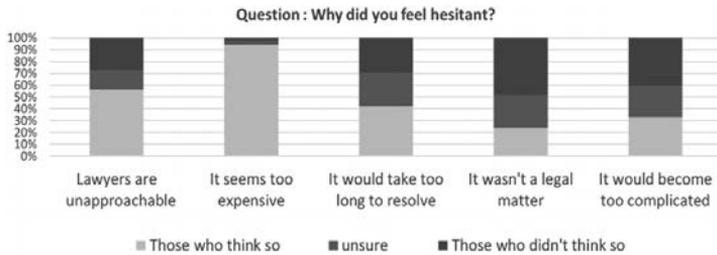


Table 5 presents the results of studying the correlation of “hesitancy” with “gender.” Table 5 shows that the percentage of women who answered “I felt hesitant” was about 6% higher than the percentage of men who gave that answer. It is impossible to make a hasty conclusion based only on this item, but it suggests that women are more likely to feel hesitation than men.

Table5: Hesitation × Gender

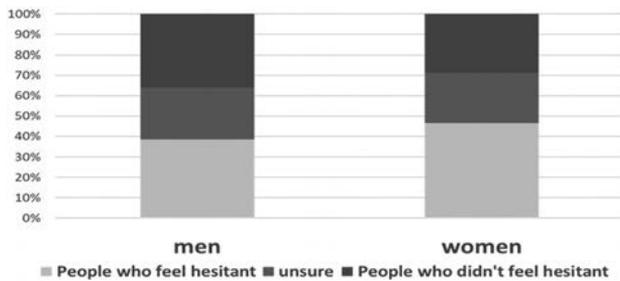
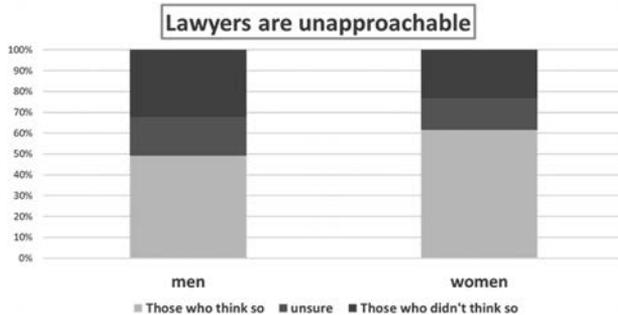


Table 6 shows the results of asking about the image of lawyers. In response to the item “have an image of lawyers as unapproachable,” the answers “I think so” and “on balance, I would say that is so” were given by more than half of the women. The results also show that more than

40% of men have an “image of lawyers as unapproachable.” These results suggest that both men and women harbor a psychological burden regarding lawyers.

Table6: The image of lawyers × Gender



5. Conclusions

This analysis revealed the following three facts.

First, of the barriers to access to justice described in the introduction, strengthening the information aspect actually broadens access to justice. The analysis of Table 1 shows that more than 50% of both men and women indicated that because they were worried about lawyer fees, they decided not to hire a lawyer. Additionally, the analysis of Table 4 similarly showed that “because it seemed it would be expensive” was the top reason why people who visited a legal advice service felt hesitant about coming. It is probably necessary to more openly inform people of the criteria for setting the fees that are necessary to seek legal advice or to hire a lawyer.

Secondly, target users’ attributes and access to justice are related. The results have demonstrated that the psychological aspect that is “hesitation” has particularly important significance as a factor blocking access to justice in relation to both actually seeking legal advice and to hiring a lawyer.

Thirdly, it revealed that this last trend is expressed remarkably by people in two specified attribute groups of women and young people.

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From the knowledge obtained by these analyses, regardless of target users' attributes, a method of transmitting legal information (information about lawyer's fees and legal advice service counters) is necessary. It has also shown the need for a method that considers ambivalence (hesitation) as a psychological barrier that target users are susceptible to.

Furthermore, regardless of gender (male or female), there are people who find it difficult to access justice because of various other attributes (people who are disabled, elderly, impoverished, etc.). In the future, it will be important to consider ensuring access to justice not only from two-dimensional categories of male/female but also from LGBT or SOGI perspectives. The perspective "Legal Access for All" will be important. Specifically, providing more free legal advice services or organizations that play a coordinating role bridging the gulf between lawyers and target users will become important.

This paper presented an analysis from the demand side (user's side) of legal services. However, as already stated, in Japan, only about 18.6% of all lawyers (fewer than 1 in 5) are female. In the future, it will be necessary to also analyze structural issues related to access to justice, such as the relationship between women and access to justice from the perspective of the supply side (providers) of legal services.

This survey was premised on obtaining legal advice from lawyers, so it is possible that the psychological burden on the clients was increased. In the future, I wish to conduct a multilayered comparative study by similarly surveying cases of judicial scriveners, administrative scriveners, and other legal professionals who are not lawyers.