

NATIONAL REPORT : JAPAN

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I Recent Situation of Legal Aid in Japan

1. Overview

In Japan, Japan Legal Support Center (JLSC)¹ is responsible for providing both civil and criminal legal aid which was established as an incorporated administrative legal aid agency in April 2006 in accordance with Comprehensive Legal Support Act² intended to settle both criminal and civil disputes.

In essence, JLSC was established along the wave of judicial reform in Japan from the late 1990s, which replaced former inadequate legal aid schemes with publicly funded and organized schemes.

Since JLSC was established in 2006, the number of aided matters as well as annual budgets has increased relatively steadily across the country.

However in a time of austerity, momentum of budgetary expansion has stopped in 2012 and the further expansion in the future seems to be unclear at this point.

2. Legal Aid in a Time of Austerity

Since JLSC was established in 2006, annual budgets have increased consistently as Table 1.1 shows.

(Table 1.1) Annual budgets of JLSC *1 Euro=120 yen(as of March 2013)

2008	19,478 million yen(=162 million Euro)
2009	26,203 million yen(=218 million Euro)
2010	31,090 million yen(=259 million Euro)
2011	31,347 million yen(=261 million Euro)
2012	31,847 million yen(=265 million Euro)

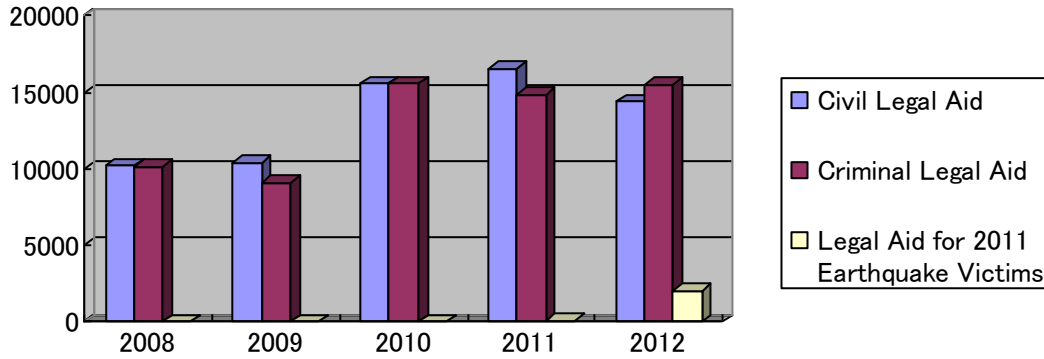
However, considering a breakdown of the total expenditure in details as Figure 1.1 shows, budgetary expansion stopped in 2012 actually and further expansion seems not to be clear in the future.

¹ Japan Legal Support Center (<http://www.houterasu.or.jp/en/>)

² Comprehensive Legal Support Act

(http://www.houterasu.or.jp/content/legal_support_law.pdf)

(Figure 1.1) Breakdown of the JLSC budget (million yen)



As Figure 1.1 shows, total budgetary increase in 2012 is due to the newly introduced special legal aid measures for 2011 earthquake victims which are valid for a specified period of time. That means general civil legal aid has stopped the momentum of initial budgetary expanding phase while constitutional criminal legal aid seems to stand as they are in the future.

3. Methods of Delivery via Technology

JLSC provides free legal information via telephone, e-mail as well as face-to-face method based on users' inquiries without means test. For telephone inquiries, our centralized main information office which is called "Call Centre"³ is staffed with specialized operators (non-attorneys) to provide users with easy access to useful information to help them solve their issues; if they wish to consult face-to-face, specialists staffed at the JLSC district offices around the country are ready to provide guidance (Figure 1.2).

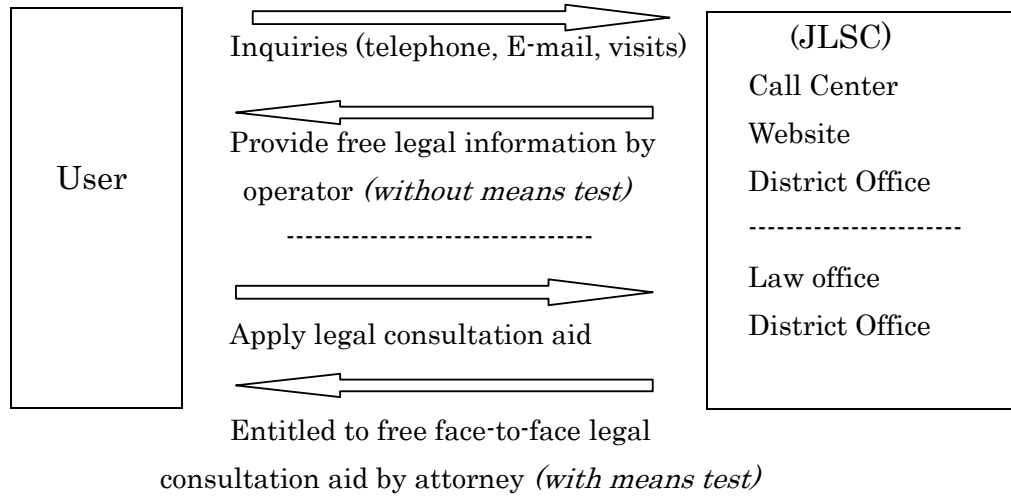
Details of our Information Services are described in section V.

If people need assistance of attorneys but have limited financial resources, they are entitled to legal consultation aid with attorney at their law offices or JLSC district offices if they meet the means test (Figure 1.2).

Details of our means test are described in section V.

³ Guidance of Call Centre(<http://www.houterasu.or.jp/en/>)

(Figure 1.2) The image of Methods of Delivery

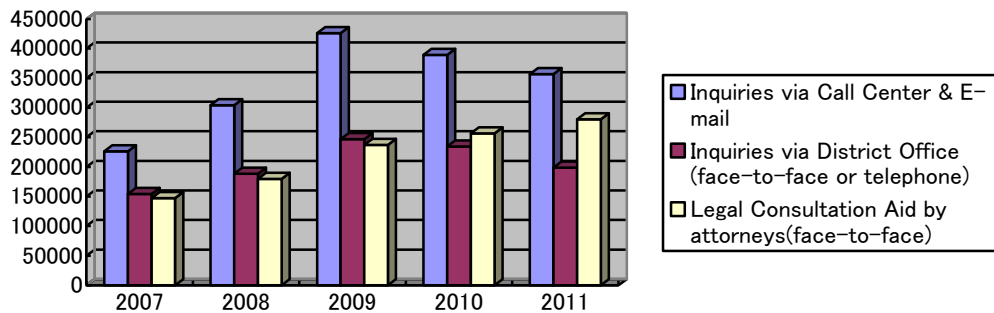


Since JLSC was established in 2006, number of users' inquiries and legal consultation aid has shifted as Table 1.2 and Figure 1.3 show.

(Table 1.2) Number of users' inquiries and legal consultation aid

Type of Users' Inquiries (without means test)				Legal Consultation Aid (face-to-face, with means test)
	Call Center	E-mail	District Office (face-to-face or telephone)	
2007	220,727	5,842	154,389	147,430
2008	287,897	16,287	188,661	179,546
2009	401,841	24,574	247,172	237,306
2010	370,124	19,470	234,614	256,719
2011	339,334	17,553	198,963	280,389

(Figure 1.3) Number of users' inquiries and legal consultation aid



As Table 1.2 and Figure 1.3 show, the number of traditional face-to-face legal consultation aid by attorneys is increasing consistently year by year while free technological legal information services via telephone and E-mail are slightly declining in recent years. That may be explained traditional face to face legal consultation by attorneys is the most essential and popular services people need.

On the other hand international trend is observed in recent years that a number of jurisdictions are attracted to the idea replacing traditional face-to-face advice services by cost-effective Call Center.

However, even in a time of austerity in Japan, the above international trend or idea is not so observed to date, that is partly because there have been criticisms since the outset of the Call Centre saying that it would cause referral fatigue.

4. Methods of Delivery through Multidisciplinary Practice to Provide Holistic Service

The recent biggest judicial reform in Japan is based on the recommendation of Justice System Reform Council released in 2001(Details of judicial reforms are described in section IV). The recommendation and reform included not only liberalization of profit-earning activities of attorneys; deregulation of legal fees but some improvement of the disciplinary system including one stop service.

However, a specific measure related to the Multidisciplinary Practice is not introduced so far, much less a measure is proposed which enables attorneys to share management and control of the law office with non-attorneys such as accountants or business entity etc.

5. Eligibility, Scope, Depth of Cover

Exemption from Attorney's Fee for Social Security Recipients

In the Japanese civil legal aid, users have to repay the attorney's fee, which JLSC paid for them, in principle. Before January 2010, this principle was enforced strictly and users who receive social security had to repay the money as well as non-social security recipients did. Although exceptional exemption rule was applied to social security recipients considering their financial difficulties individually, it wasn't widely applied. Such a strict rule caused the harsh reality for them, so JLSC reviewed and amended the rule in January 2010. Under the current rule, social security recipients are suspended from repayment until the conclusion of the case and they are entitled to exemption finally after their financial difficulties were confirmed again. This amendment practically has realized free representation service for the first time in the Japanese legal aid history.

Argument over Introducing first Free Legal Consultation Aid without Means Test (Details are Described in section VI)

JLSC provides a wide range of legal services. One of its main activities is to provide free legal information services without means test and proceed to provide free legal consultation aid under means test when users need further advice. However, JLSC cannot provide free legal consultation aid without means test under the current rule (Details of our means test are described in section V).

In April 2010, former president of JLSC announced the plan of a free legal consultation aid without means test. The new scheme plans to include all sorts of legal problems without any means test and first consultation gets free. When a case cannot be solved within first consultation, second free legal consultation is provided with means test. Or attorney can accept the case on market terms if the user doesn't meet the means test.

However, after new plan was announced, local bar associations widely opposed to it. The bar argued that if JLSC introduces such a free legal consultation aid without means test, all citizens would apply to not bar associations' fee-paying legal consultation services but JLSC offices, which infringes on the realm of bar associations and weaken their financial basis.

The influence of the Bar Association has been strong until now, and its attitudes will be crucial to the JLSC and Ministry's future decisions.

Introducing Free Legal Consultation Aid without Means Test and Suspension from Repayment in the form of Legal Representation Aid for Disaster Victims

The magnitude 9.0 earthquake hit east Japan on 11 March 2011 which caused tremendous damage to the disaster area.

In Japan, as stated above,

- Users are entitled to free legal consultation aid if they meet the means test.
- If the case cannot be settled by means of the legal consultation and users need further legal representation aid, they have to repay the assisted legal representation cost in principle, which JLSC paid for them, except those who receive social security.

However, JLSC reviewed these rules after the earthquake and users living in disaster areas are not only entitled to free legal consultation aid without means test but also are able to be suspended from repaying the assisted legal representation cost.

6. Balance between Private Attorney (Judicare) and the Staff Attorney

In Japan most of civil and criminal legal aid services are provided by judicare attorneys (private practitioners) who enter into a contract with JLSC. As of March 2012, total 16,570 judicare entered into a contract with JLSC to provide civil legal aid and total 21,259 entered to provide criminal legal aid.

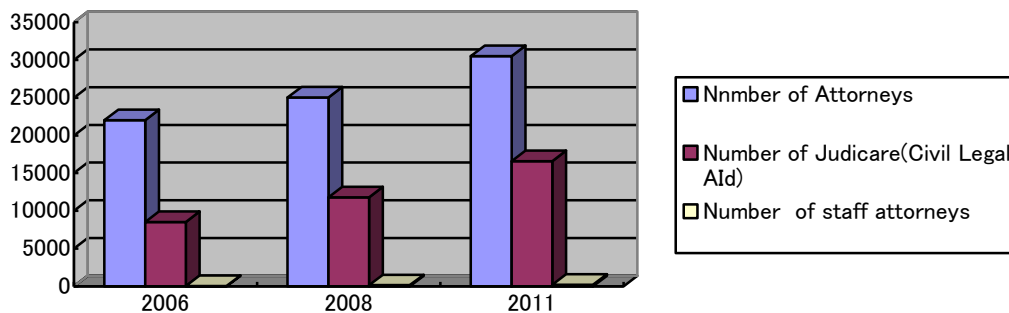
In addition, JLSC introduced staff attorneys system in 2006 for the first time in Japanese legal aid history that deals with both civil and criminal legal aid. JLSC has already hired 220 staff attorneys as of March 2012 and they have made much of community-based approach and organic use of local networking, which has improved the access to justice in both city and rural area.

However recently, two frictions are observed between staff attorneys and their stakeholder.

First one is between staff attorneys and judicare. As Japan has long history and tradition of “judicare culture”, the power of private legal profession is very strong. So, staff attorney is often viewed by judicare as infringing on the professional realm of traditional legal professions. Second one is between staff attorneys and Ministry of Finance, which means staff attorneys are viewed by Ministry of Finance as not cost-effective as they had been expected.

These frictions may be attributed to the rapid increase of the number of attorneys and judicare in recent years since judicial reform started in Japan as Figure 1.4 shows (Details of the recent policy to increase the number of attorneys are described in section IV).

(Figure 1.4) Increase of the number of attorneys and judicare



That means, Ministry of Finance comes to put more and more pressure on staff attorneys to handle more litigation cases as a cheap alternative to judicare, while judicare's growing concern or hostility comes to be observed for fear that judicare have to compete with salaried-staff attorneys.

Anyway, both judicare and staff attorneys are indispensable to realize effective access to justice in Japan and as a way of mitigating the conflict and finding a better solution, joint committee of JLSC and Japan Federation of Bar Associations (JFBA) reached the conclusion that JLSC sets up staff attorneys' pilot office in Tokyo to survey how staff attorneys can collaborate with judicare and relevant organizations in long term and how they can bring potential unmet legal needs effectively before the public. Staff attorneys' pilot office in Tokyo was established in 2012 and research has been conducted to date.

7. Legal Needs Survey in Disaster Area

Unprecedented Earthquake and Legal Needs

The magnitude 9.0 earthquake hit east Japan on 11 March 2011 and the subsequent tsunami, fires and collapse of buildings and houses brought about a devastating disaster. Furthermore, the radioactive materials released by the multiple accidents at the Fukushima nuclear power plant have caused and continue to cause great fears and threats to the safety of not only the residents in the immediate vicinity of the plant but to the wide population.

Implementation of the Disaster Area Needs Survey

In November and December 2012, JLSC conducted legal needs survey for 5 disaster

area locations (3 in tsunami disaster areas, and 2 in nuclear energy disaster areas. Approximately 300 people were surveyed in each area, for a total of 1,598 people surveyed)

Key Points of Interest from the Finding

- About 40 %(39.5%) of all respondents reported experiencing legal problems after the earthquake.

Comparison between general legal needs survey in 2008 and Disaster Area Needs Survey in 2012

JLSC already conducted nationwide general legal needs survey in 2008 before the earthquake. According to the nationwide general survey, 25.2% of all respondents reported experiencing legal problems in the past 5 years. That means 40 %(39.5%) in disaster area is relatively high ratio. However, considering the existence of enormous legal needs, the result of disaster area needs survey suggests victims even don't recognize their dormant legal needs.

- In tsunami area, the most common legal problems included the legal problem of land purchase by local governments and relocating evacuees (14.7%), mortgages (14.6%), real estate contract and construction (10.3%), employment (8.9%), inheritance (8.1%).
- In nuclear energy disaster area, 27.9% of respondents reported experiencing the legal problem of compensation for nuclear energy damages and 5.8% reported the other legal problems related to nuclear energy disaster.
- Of the people experiencing legal problems in tsunami area, 27.0% had had a legal consultation with an attorney, 61.1% had NOT had any legal consultation with an attorney.
- Of the people experiencing legal problems in nuclear energy disaster area, 35.2% had had a legal consultation with an attorney, 47.9% had NOT had any legal consultation with an attorney.

- Reasons for NOT consulting with attorneys in tsunami area were that it would be meaningless (28.1%), it would take too long (26.2%), it would cost too much (26.2%).
- Reasons for NOT consulting with attorneys in nuclear energy disaster area were that it would take too long (44.1%), it would cost too much (35.3%), it would be meaningless (29.4%).
- Respondents who had NOT had legal consultation with an attorney were likely to achieve poor outcomes (32.7% were finalized), while respondents who had had legal consultation with an attorney were likely to achieve good outcomes (51.8% were finalized).

Outreach Service and Holistic Approach

In spite of huge amount of unmet legal needs, needs survey in disaster area suggested that victims even don't recognize their dormant legal needs and don't go for legal consultation. On the other hand, survey demonstrated that setting up legal aid offices in the most serious disaster area and developing intensive outreach service successfully remove the barrier and achieve justice for victims in disaster areas.

II National Statistics

1. Population

The Population of Japan was about 127,799,000 in 2011 and 10% of them lived in Tokyo. The number of attorneys was 32,088 in 2012 (about 47% of them were in Tokyo). It has increased by about 87% since 2000.

The number of judges was 3,671 in 2012.

The number of prosecutors was 2,709 in 2012.

2. Economical Situation *1 Euro=120 yen(as of March 2013)

The substantial GDP was about 520 trillion yen in 2012 (approximately 4.3 trillion Euros).

The GDP per capita was about 3,705,000 yen in 2011 (approximately 30,875 Euros).

3. Budget *1 Euro=120 yen(as of March 2013)

National Budget expenditure for 2013 was about 92.6 trillion yen (approximately 0.77 trillion Euros).

Budget expenditure for civil legal aid was about 18.5 billion yen (approximately 154 million Euros) in 2012. (This doesn't include administration costs.)

Budget expenditure for criminal legal aid was about 12.4 billion yen (approximately 103 million Euros) in 2012. (This doesn't include administration costs.)

In 2012, expenditure on legal aid per capita was about 263 yen (approximately 2.2 Euro. This doesn't include administration costs.).

4. Court Cases

The number of cases handled by courts in 2011 was as follows:

Civil Case (include administrative case) 1,985,298 (After the peak of 2003, it has been decreasing)

Family Case 815,522 (The number has been increasing since 2000.)

Criminal Case 1,105,825(The number has gradually decreased for 9 years.)

III The History of Legal Aid in Japan

- 1946 New Constitution was enforced. Under the Constitution, indigent criminal defendants had the right to be represented by court-appointed attorneys at the government's expense. But suspects didn't have the right.
- 1952 Japan Legal Aid Association (JLAA, which is an incorporated foundation sponsored mainly by Japan Federation of Bar Associations) was established.
- 1958 JLAA started to receive a subsidy for civil legal aid from Ministry of Justice.
- 1992 JLAA started to provide a legal aid for suspects in criminal cases at Japan Federation of Bar Associations' (JFBA) expense.
- 1999 The Judicial Reform Council was established within the government to conduct a research and discuss the future judicial system.
- 2000 The Civil Legal Aid Act was enacted and enforced. It prescribed the responsibility of government to expand civil legal aid for the first time. Since 2000, the governmental subsidy for civil legal aid has increased sharply. The subsidy more than tripled in 2000, to 2.1 billion yen. The number of legal aid provided by JLAA also increased rapidly. In 2004, the number of legal representations was 48,435, about 5 times as many as that of 1998.
- 2001 The statement which included fundamental reform of legal aid system was released by the Judicial Reform Council. It was the beginning of the biggest judicial reform after World War II .(Details of the judicial reform are

described in Section IV.)

2004 The Comprehensive Legal Support Act⁴ was enacted. The purpose of the act is prescribed as follows:

(Purpose)

Article 1 Owing to the changes in the social and economic situation at home and abroad, the settlement of disputes based on laws has become increasingly more important. Bearing such in mind, the purpose of this Act shall be to contribute to the formation of a freer and fairer society by providing not only the basic principles, the responsibilities of the national and local government and other basic matters, but also the organization and operation of the Japan Legal Support Center which is the core body of comprehensive support (hereinafter referred to as “comprehensive legal support”), with respect to the implementation and the establishment of systems of comprehensive legal support to further facilitate the use of judicial decisions and other systems for the settlement of disputes based on laws, and to make it easier to receive support from attorneys at law and legal professional corporations, as well as judicial scriveners and other related legal experts and specialists (parties or persons who are not attorneys at law or legal professional corporations but who are authorized to engage in the practice of handling other persons' legal affairs based on laws; the same shall apply hereinafter).

2006 Japan Legal Support Center (JLSC) was established in April under the Comprehensive Legal Support Act. And JLSC started the operation in October. (Details of JLSC are described in section V.)

2007 JLAA was dissolved in March.

⁴ The translation of the Comprehensive Legal Support Act is available at (<http://www.japaneselawtranslation.go.jp/law/detail/?ft=1&re=01&dn=1&co=01&x=0&y=0&ky=%E7%B7%8F%E5%90%88%E6%B3%95%E5%BE%8B%E6%94%AF%E6%8F%B4%E6%B3%95&page=2>)

IV Judicial Reform in Japan from the late 1990s and Establishment of Japan Legal Support Center (JLSC)

For over the past decade, the Japanese judicial system has been in the midst of major reforms.

In 1999, the government established a Judicial Reform Council to study basic policies and programs to achieve a judicial system that is more accessible to the general public, encourage greater participation of the general public to the judicial procedures and improve the skills and abilities of legal professions. Since its inception, it had met 63 times and in 2001 issued an opinion paper calling for fundamental reforms.

These reforms advocated the transition from “small-scale justice” to “large-scale justice.” They seek to extend the rule of law to every part of society and, within the context of deregulation, to orient Japanese society away from “prior regulation” to “after-the-fact relief,” as well as expanding the number of people involved in the judiciary which takes on a greater role as the institution for providing “after-the-fact relief.” The Council’s opinion paper, together with subsequent discussions in the Judicial System Reform Promotion Headquarters, resulted in the passage of 24 Acts that were related to the judicial reform by the end of 2004.

One specific issue for judicial reform was achieving a substantial increase in the number of legal professions (Total number of attorneys has increased from 17,126 to 32,088 between 2000 and 2012. This represents a significant acceleration; in the past it took approximately 33 years for the number of attorneys to double.) In 2004, the first graduate-level law school was established to provide professional legal training and education for law school students. The aim of “law school” is to shift the focus from the single event of the bar examination to legal training through the broader process of

professional legal education at law schools.

Second, in 2009, Saiban-in(Lay Judge) System was also introduced. It allows ordinary citizens to participate in the judicial processes. In Saiban-in system, six lay judges are chosen to serve alongside three professional judges in examining cases involving certain serious criminal cases. Lay judges involved in criminal proceedings determine facts and decide sentences with an authority basically equivalent to that of professional judges. The procedure for electing lay judges is similar to a jury system in that lay judges are chosen at random from voters lists and assigned to serve on specific cases. And it also resembles a lay judge (Schöffe or échevin) system in that citizens participate in trials alongside professional judges.

Third, in 2006, government-funded legal aid organization “Japan Legal Support Center” (JLSC) started to operate. The center was established as a “quasi-incorporated administrative agency”⁵ (Details of JLSC are described in section V). It provides 5 main services to help citizens to get access to justice. The services are: (1) Information Service, (2) Civil Legal Aid Services, (3) Services related to Court-Appointed Defense Counsel, (4) Services for Areas with Insufficient Legal Services, (5) Criminal Victims Support.

These reforms also include : various systemic reforms regarding the criminal justice system such as provision of court-appointed attorneys to suspects; reforms of the administrative litigation system such as expansion of the range of parties qualified to file suits; reforms of the intellectual property system such as establishment of the Intellectual Property High Court; reforms of the system concerning judges such as appointment and evaluation of judges; establishment of a system where judges and prosecutors experience other professions; liberalization of profit-earning activities of attorneys; deregulation of legal fees; improvement of the disciplinary system; and

⁵ “An incorporated administrative agency is a judicial person that acts independently of the state and manages business operations such as research, inspection and trade insurance that were formerly performed by the state. A particular feature of such agencies is that they can independently consider how to perform their operations, and run these operations in a better, more efficient manner on their own responsibility. Specially, each minister sets objectives to be attained by agencies under his or her jurisdiction, and each agency draws up a plan to achieve the objectives and carry out operations in line with the plan. The results obtained are evaluated by external experts, and the evaluation is reflected in management plans for subsequent years.”
(<http://www.meti.go.jp/english/aboutmeti/data/aOrganization/keizai/dokuritugvousei/01.htm>)

establishment of the labor adjudication system.

V Japan Legal Support Center (JLSC)

1. Quasi-incorporated Administrative Agency

The Comprehensive Legal Support Act which was enacted in 2004 designates the JLSC as the comprehensive legal support center.

As outlined above, JLSC was established in 2006 as a quasi-incorporated administrative agency. In the framework of Incorporated Administrative Agency system, Ministry of Justice, which is responsible for the operations of JLSC, sets a Medium-term goal to improve the efficiency and quality of the service. JLSC makes a plan to achieve the goals and carries out operations in line with the plan. After the Medium-term expires, the results of JLSC's operations are evaluated by external experts and the evaluation is reflected in Medium-term goals for subsequent years.

2. Organization (As of March 2012)

The headquarters office is in Tokyo.

JLSC has 50 district offices corresponding to district courts.

JLSC has 20 branch offices. Branch offices are set up beneath district offices which cover large area or population.

JLSC has 35 local law offices. Local law offices are set up in rural area where attorneys are none or very few.

The number of staff is 1,544. (This includes 220 staff attorneys.)

3. Main Businesses and Statistics

Information Services

JLSC provides free information at user's request, on a legal system and counseling organizations or groups (bar associations, judicial scriveners associations, counseling counters within local governments, etc.).

JLSC has centralized main information office (which is called "Call Center"). Call Center has skilled telephone operators (non-attorneys) to provide free information to people in trouble over both the telephone and the Internet. For example, they maintain a database of details of bar associations, judicial scrivener associations, local government agencies and other institutions providing consultations around the country. And they refer users to the most suited institutions or transmit users to the most appropriate district or branch office. A telephone call to the centralized offices costs only 8.5 yen nationwide for three minutes.

District offices and branch offices also provide free information to users by face-to-face or telephone.

In 2011, Call Center offered 339,334 telephone services, 17,553 E-mail services and District offices and branch offices offered 198,963 information services to users.

Civil Legal Aid Services (Legal Consultation, Legal Representation and Aid for Making Documents)

JLSC provides civil legal aid services to people who can't afford to pay attorney's fees. Japanese nationals and foreigners who reside in Japan lawfully are eligible to use of JLSC's civil legal aid services.

Financial eligibility is also required (financial eligibilities for legal consultation and representation are the same). For example, in the case of a person with no family, if his/her monthly income is about 180,000 yen (approximately 1,500 Euros) or less and his/her disposable capital is less than 1,800,000 yen (approximately 15,000 Euros), he/she could consult an attorney free of charge. In the case of a person with family of four, if his/her monthly income is about 300,000 yen (approximately 2,500 Euros) or less and his/her disposable capital is less than 3,000,000 yen (approximately 25,000 Euros), he/she could consult an attorney free of charge. It is estimated that about 20% of the Japanese is covered under the current civil legal aid system.

He/She can get legal consultation at either JLSC's offices or attorneys' offices.

If people need further aid from attorney, JLSC performs a merit test to check the nature of the case and probability of winning. Subsequently, users who pass the merit test will be funded by JLSC when they hire attorneys to represent them at court or to draft

documents to be submitted to courts (In Japan, Legal Representation Aid includes negotiation as well as representation at court.).

JLSC temporarily pays attorney’s fee for users, and users have to repay all the money which JLSC paid for them. However, users who receive social security can be exempt from repaying if they make a request to JLSC.

Exemption from Attorney’s Fee for Social Security Recipients

In the Japanese civil legal aid, users have to repay the attorney’s fee, which JLSC paid for them, in principle. Before January 2010, this principle was enforced strictly and users who receive social security had to repay the money as well as non-social security recipients did. Although exceptional exemption rule was applied to social security recipients considering their financial difficulties individually, it wasn’t widely applied. Such a strict rule caused the harsh reality for them, so JLSC reviewed and amended the rule in January 2010. Under the current rule, social security recipients are suspended from repayment until the conclusion of the case and they are entitled to exemption finally after their financial difficulties were confirmed again. This amendment practically has realized free representation service for the first time in the Japanese legal aid history.

In 2011, JLSC offered 280,389 free legal consultation aids to users.

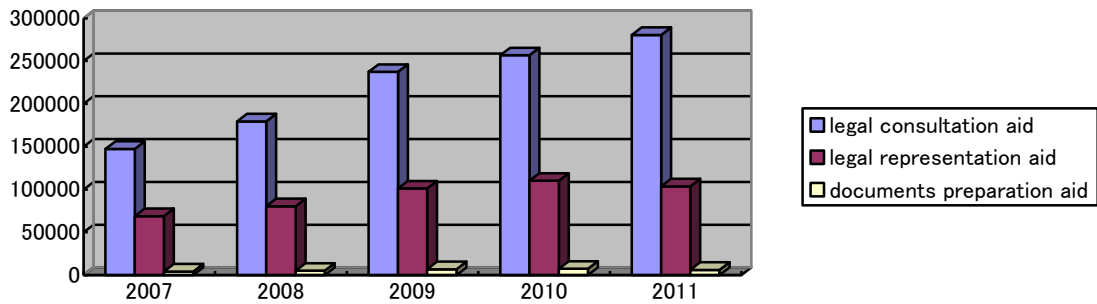
In 2011, JSLC offered 103,751 legal representation aids to users.

The number of civil legal aid is increasing as Table 5.1 and Figure 5.1 show.

(Table 5.1) The number of Civil Legal Aid Services

	Legal Consultation Aid	Representation Aid	Documents Preparation Aid
2007	147,430	68,910	4,197
2008	179,546	80,442	5,101
2009	237,306	101,222	6,769
2010	256,719	110,217	7,366
2011	280,389	103,751	6,164

(Figure 5.1) The number of Civil Legal Aid Services



In Japan, most of Civil Legal Aid Services are provided by judicare attorneys who made contract with JLSC while rests of the services are provided by salaried staff attorneys. Table 5.2 shows the number of judicare and staff attorneys providing civil legal aid.

(Table 5.2) The Number of Provider of Civil Legal Aid
- The breakdown of judicare and staff attorneys

	Judicare	Salaried Staff attorney
2007	10,318	96
2008	11,802	151
2009	13,401	200
2010	15,037	217
2011	16,570	220

Criminal Legal Aid (Services related to Court-Appointed Defense Counsel)

Before the Comprehensive Legal Support Act was enacted, there wasn't a publicly funded court-appointed attorney system to suspects in Japan. After the enactment of the act, JLSC started to provide criminal legal services for both suspects and defendants in 2006 and the scope of criminal legal services for suspects expanded sharply in 2009 as Table 5.3 and Figure 5.2 show.

If people who are indicted or detained for criminal investigations are unable to hire attorneys due to financial difficulties, a court appoints defense counsel for them (Court-Appointed Defense Counsel). JLSC nominates candidates for Court-Appointed Defense Counsel at courts' request and pays defense counsel's fees. When the defendant is sentenced guilty, he/she is obliged to pay the fees. However, a court may discharge him/her from payment of the fees after taking his/her financial situations into consideration. Most of the defendants sentenced guilty are exempt from paying the fees.

JLSC also nominates candidates for official attendants for juveniles in the juvenile trial procedure and for court-appointed attorneys for victims in the criminal procedure on requests from courts.

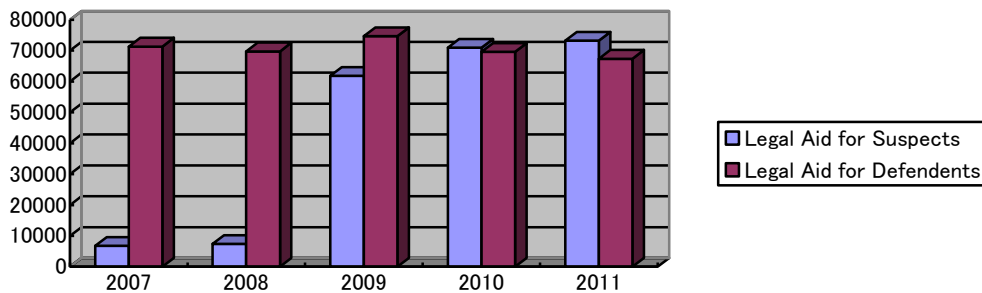
In 2011, total number of 73,209 attorneys was assigned to act as Court-Appointed Defense Counsel for suspects and total number of 67,374 attorneys was assigned for defendants.

Table 5.3 and Figure 5.2 show the number of criminal legal aid since 2007.

(Table 5.3) The number of Criminal Legal Aid Services

	Legal Aid for Suspects	Legal Aid for Defendants
2007	6,775	71,305
2008	7,415	69,756
2009	61,857	74,658
2010	70,917	69,634
2011	73,209	67,374

(Figure 5.2) The number of Criminal Legal Aid Services



Services for Areas with Insufficient Legal Services

In rural areas suffering from shortages of attorneys, it is difficult for residents to find an attorney who deals with their cases. So, JLSC dispatches staff attorneys to such areas to meet the legal needs of residents. As of March 2012, JLSC's staff attorneys were dispatched to 35 rural areas and they provided both civil and criminal legal aid

services⁶.

Crime Victims Support Services

JLSC provides information about crime victim-supporting systems, including information on the participation in criminal procedures at courts and on damage claim through civil procedures. It also provides information about the systems and experienced attorneys supporting victims.

In 2011, JLSC provided such information for crime victims 22,876 occasions, and introduced 877 experienced attorneys.

4. Other Activities

Legal Needs Survey in 2008

In 2008, JLSC conducted a Legal Needs Survey concerning legal aid. Upon implementing the survey, we referred to the previous ones which had been conducted in other countries⁷. The survey conducted in Japan consisted of a general approach that targeted the general public, homeless people and legal aid users.

The results of the survey were as follows:

- 25.2% of the respondents (general public) have experienced some legal problems in the past 5 years, and the number of legal problems was an average of 1.8 per person. The most frequently experienced problems were related to workplace (4.4%), inheritance (4.3%) and neighborhood (3.4%).
- 25.2% of the respondents (general public) have experienced some welfare problems in the past 5 years. The most frequently experienced problems were related to pension (10.5%), medical insurance (8.7%) and the elderly problems (5.9%).
- 38.5% of the respondents (general public) have experienced either some legal or some welfare problems in the past 5 years.

⁶ Japan Federation of Bar Associations also has set up law offices so-called “public law office” in rural are at JFBA’s expenses to which it dispatches attorneys since 2000. By November 2011, JFBA has completed to set up 103 “public law offices” in rural areas.

⁷ Pascoe Pleasence(2004), *Causes of Action: Civil Law and Social Justice*, Legal Services Research Centre

- Homeless people experienced some legal or some welfare problems much frequently than Non-homeless people. 83.5% of them experienced some legal or some welfare problems in the past 5 years. And the number of problems was an average of 2.8 per person. The most frequently experienced problems were related to debt (44.2%), workplace (29.1%), family registration and/or resident registry problems (26.4%). And most frequently experienced welfare problems were social security (24.5%), medical insurance (18.5%) and pension (15.8%).

- 73.5% of the respondents (general public) who encountered some legal problem sought some kind of consultation, but only 29.7% actually received professional legal consultation and 43.8% received Non-professional legal consultation. And the remaining 26.5% didn't consult anyone.

The reasons for not consulting were mostly because they “want to resolve the problem on my own” (38.7%), “all efforts seemed meaningless” (31.1%), “it would take too long” (25.5%), “taking action seems difficult” (25.5%).

Moreover, the reasons given by younger generations were primarily “all efforts seemed meaningless” (33.3%), “don't know what to do”, “taking action is bothersome” and “taking action seems difficult” (22.2% respectively). The older generations added “want to resolve the problem on my own” (30.4%), “want to keep the problem to myself” (13.0%) as reasons, with increasing frequency as age went up. Furthermore, younger generations are characterized by their notably low rate of seeking professional legal consultation (7.7%).

- With regard to welfare problems, the professional consultation rate was very low (2.3%). Therefore, there is a need to establish a support for welfare problems as well as offer information and public legal education.

Based on the results, JLSC estimated the needs for legal consultation aid and representation aid. It is estimated that 580,000 to 830,000 cases need to be found out annually. This reveals that potential needs are 2.4 to 3.5 times the number of legal consultation aid cases handled in 2009. Legal representation aid needs are 160,000 to 300,000 cases annually, which is 1.5 to 2.8 times the number recorded in 2009. Looking at the types of legal consultation, consultations regarding inheritance and divorce are relatively satisfied, but more modern issues, such as bullying, child abuse, workplace problems, and environment-related problems involving noise and shaking, showed an

evident lack of fulfillment.

Public Legal Education (Law-Related Education)

As legal needs survey mentioned, a lot of people who are involved in law-related problems don't know how to deal with the problems. As the results, many problems remain unresolved. This seriously affects their lives and the social costs are on increase. Under the situations, medium-term goals applied to 2010-2013 prescribe that JLSC should work on public legal education (PLE) to help people deal with law-related problems effectively.

In 2011, law-related education (LRE) was introduced to the curriculum of elementary schools. Junior high schools and high schools are going to start LRE from 2012 to 2013. In Japan, JFBA, local bar associations and judicial scriveners associations have engaged in LRE as well as Ministry of Justice. It is said that the aim of LRE is to teach the basic value of law and legal approaches to students who lead future society. Although practitioners enthusiastically have engaged in LRE since 2002, the importance of LRE doesn't prevail among ordinary people. Now, JLSC tries to spread LRE nationwide in cooperation with other LRE practitioners. For example, JLSC dispatched staff attorneys to schools and they taught students the value of law, judicial systems and held the trial courts. In 2010, JLSC implemented 33 PLE programs at schools. JLSC also held the meeting of PLE practitioners at 4 district offices to discuss the future of PLE and how to cooperate in this area. Practitioners gathered from: bar associations; scriveners associations; teachers; members of board of education and others.

JLSC also works on PLE for adults. We believe that it's important to acquire law-related knowledge on the basis of comprehension of the value of law. From this point of view, it's crucially important to give legal knowledge to people in order to get them to act effectively in front of law-related problems. JLSC implemented 197 PLE programs for people who had already graduated schools or students who would graduate schools in a while. Staffs of local government who work at welfare offices attended the program too. JLSC gave them knowledge regarding: how to deal with the legal problems which people often face, judicial system, the operation of JLSC and so on.

VI Other Important Issues for Further Innovation

1. Argument over first Free Legal Consultation without Means Test

Suggestion from the “Development of a Universal Scheme for Short Legal Advice in Norway”

Professor Jon T. Johnsen released the article “Development of a universal scheme for short legal advice in Norway” at 8th Legal Service Research Centre International Research Conference 2010 Cambridge. The article took up the topic of a proposal of a free first line service as one of the most innovative and ambitious legal aid reform in Norway. In the article he described as follows.

- Early solutions of legal conflicts will reduce the costs and stress for the parties involved. A larger share of the money spent on legal aid should be allocated to advice and assistance at the pre trial stage.
- The scheme included all sorts of legal problems without any means or merit’s test.
- Most cases were solved within 30 minutes and two third were solved within the maximum frame of one hour without any need for further referrals.
- When a case cannot be solved within the one hour limit and the lawyer advises on further steps and the need for assistance connected, the lawyer is free to suggest that she or he carries on with the case on market terms or as a legal aid case if the client qualifies.

- The influence of the Norwegian Bar Association has been strong until now, and its attitudes will be crucial to the Ministry's decisions.

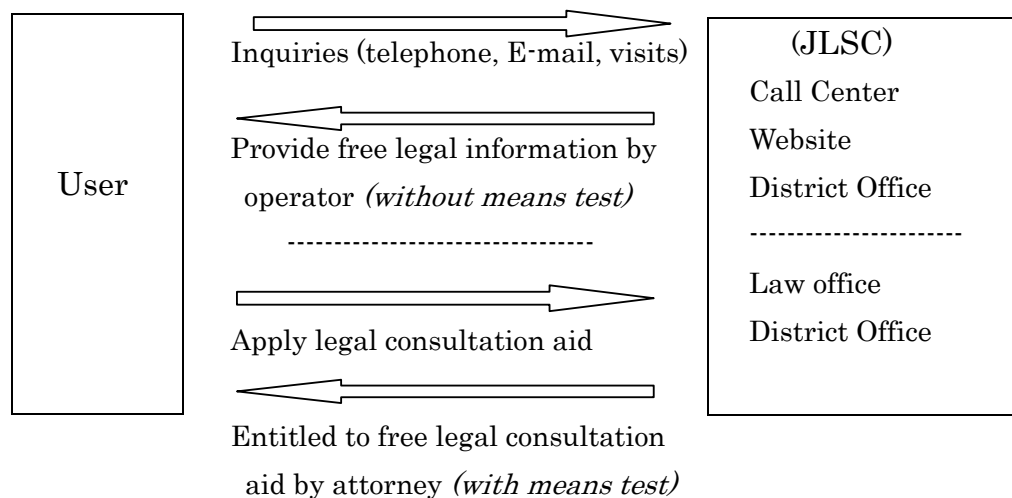
The same kind of proposal was raised in Japan in April 2010 and heated debate has been continued to date.

Overview of Bar Associations' Legal Consultation Services and Legal Aid in Japan

The current Japanese Practicing Attorney Law, enacted in 1949 after the establishment of the Constitution, transferred control of attorneys from the Minister of Justice to the Japan Federation of Bar Associations (JFBA) and local bar associations. Under the current Practicing Attorney Law, any person qualified to practice law including legal consultation have to become an attorney as well as a member of the JFBA by being listed on the JFBA's Roll of Attorneys through the bar associations which she or he belong to. Under the current scheme, local Bar Associations have established legal consultation centers so as to provide citizens with access to attorney consultation. More than 250 legal consultation centers have been established over the last 10 years, with a total of 305 in operation around Japan as of December 2007. Legal consultation fee is charged by local bar associations which differ from center to center. On average five thousand yen which is equivalent to 42 Euro is charged by bar associations per half an hour legal consultation. These legal consultation fees have contributed to the firm financial basis of local bar associations every fiscal year and each association gradually came to be dependent on revenue generated from legal consultation centers.

The Comprehensive Legal Support Act was enacted in 2004 and Japan Legal Support Center (JLSC) was established in 2006 under the law as a quasi-incorporated administrative agency. JLSC provides a wide range of legal services and one of its main activities is to provide free legal information services without means test and free legal consultation service with means test (the image are described in Figure 6.1). However, JLSC cannot provide free legal consultation service without means test under the current rule.

(Figure 6.1) The image of JLSC's free legal information services without means test and free legal consultation services with means test



Since JLSC was established, bar associations and JLSC came to play each role as follows.

- First, JLSC and bar associations provide free legal information service.
- Second, bar associations provide legal consultation service charged five thousand yen per half an hour consultation on average.
- Third, JLSC provide free legal consultation services with means test, but cannot provide them without means test.

However, as stated above, there is no nationwide organization to be able to provide free legal consultation without means test in Japan.

JLSC's Announcement and Opposition of the Bar

In April 2010, former president of JLSC announced the plan of a free legal consultation service without means test in collaboration with bar associations as one of the most innovative and ambitious legal aid reform in Japan. The new scheme plans to include all sorts of legal problems without any means test and first consultation gets free. When a case cannot be solved within first consultation, second free legal consultation is provided with means test. Or attorney can accept the case on market terms if the user doesn't meet the means test.

After new plan was announced, local bar associations widely opposed to it. The bar argued that if JLSC introduces such a free legal consultation service without means test, all citizens would apply to not bar associations' legal consultation centers but JLSC offices, which infringes on the realm of bar associations and weaken their financial basis. Bar associations also challenged to JLSC that the bar plays the fundamental role

of protecting human rights and JLSC's new scheme will be a step towards the socialization of the legal profession. Bar associations' concern is based on political, philosophical and historical background that they had been under the strong control of government before the Second World War, while JLSC aims to introduce the scheme based on practical reason that free legal consultation without means test will help socially excluded persons solve legal conflicts and reduce the costs and stress for the parties involved. It seems that both organizations sought points of agreement but remained on different tracks. The influence of the Japanese Bar Association has been strong until now, and its attitudes will be crucial to the JLSC and Ministry's future decisions.

2. Investigating the Role of Salaried Staff Attorney

Friction between Traditional Legal Profession (Judicare) and Salaried Staff Attorney

JLSC has hired 220 staff attorneys as of March 2012. Staff attorneys have made much of community-based holistic approach and organic use of local networking, which has improved the access to justice in both city and rural area⁸.

However the introduction of staff attorney has been causing the conflict among traditional legal professions (judicare) for fear of losing their job.

Setting up a Pilot Office

Joint committee of JLSC and Japan Federation of Bar Associations (JFBA) reached the conclusion that JLSC sets up staff attorneys' pilot office in Tokyo to survey how staff attorneys can collaborate with judicare and relevant organizations in long term and how they can bring potential unmet legal needs before the public.

Staff attorneys' pilot office in Tokyo was established in 2012 and research has been conducted to date.

3. Activities to Support East Japan Earthquake Victims

The unprecedented earthquake hit east Japan on 11 March 2011. Disaster areas contain

⁸ Tomoki Ikenaga and Keita Abe(2010), *Asian Access to Justice and Reflection on Four years of Innovation in Japan p.14-22*, paper to 8th Legal Service Research Centre International Research Conference 2010 Cambridge

many rural areas suffering from shortages of attorneys and it is hard for residents and many evacuees to access to legal aid. JLSC set up an Emergency Headquarters immediately together with Japan Federation of Bar Associations, local bar associations and other bodies.

JLSC reviewed the rule and forwarding following activities.

- Providing free legal information for the victims of the disaster through Call Center
- Providing free publications and legal education
- Radio broadcast for disaster areas
- Providing free legal consultation aid without means test
In Japan, users are entitled to free legal consultation aid under means test. However users living in disaster areas are entitled without means test
- Outreach visits at evacuation center to provide free legal consultation and minor assistance
- Setting up temporary legal consultation center at evacuation sites
- Setting up JLSC offices at disaster areas
- Arranging mobile legal consultation center using vehicles
- Suspension from repayment in the form of legal representation aid
In Japan, users have to repay the assisted legal representation cost in principle, which JLSC paid for them, except those who receive social security. However users living in disaster areas are able to be suspended from repayment.

VII Reference Data in English Web Site

- Japan Legal Support Center (<http://www.houterasu.or.jp/en/>)
- Japan Federation of Bar Associations (<http://www.nichibenren.or.jp/en/>)
- Japan Federation of Shiho-Shoshi Lawyer's Associations
(<http://www.shiho-shoshi.or.jp/english/>)
- Supreme Court of Japan (<http://www.courts.go.jp/english/>)
- The ministry of Justice (<http://www.moj.go.jp/ENGLISH/index.html>)
- Japanese Law Translation (<http://www.japaneselawtranslation.go.jp/?re=01>)