

Analysis of Free Legal Counselling for the Great East Japan Earthquake and the Outlook for the Field of Disaster Recovery and Revitalization Law

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Abstract

Of the free legal counselling conducted by lawyers following the Great East Japan Earthquake, the results of analysis of approx. 40,000 cases have been disclosed by the Japan Federation of Bar Associations. These analysis results have been used as evidence serving as the basis for system revision and new legislation following the disaster, and have been of value to public policy, to a certain extent. In order to identify methods for realizing policy targets as know-how for public policy through the integration and analysis of legal needs in disaster areas, in FY2012 and thereafter, lectures on the “Disaster Recovery and Revitalization Law” were initiated by the Graduate School of Public Policy, Chuo University; Keio University Law School; and other institutions. Under the Disaster Recovery and Revitalization Law, new public policy education fusing various fields of government, policy, law, disaster prevention and crisis management, etc. has been implemented. By utilizing the database on free legal counselling, it may be possible to identify legal systems that need to be ironed out or problems related to public policy in preparation for a huge disaster such as an earthquake directly striking the Tokyo metropolitan area or an earthquake in the Nankai Trough. It is thought that intensifying study of relevant fields will result in the proposal of new designs in the fields of disaster prevention and crisis management.

Key words Disaster Recovery and Revitalization Law, Public policy, Disaster prevention education, Crisis management, Analysis of free legal counselling, Great East Japan Earthquake

Introduction

For victims of and business operators affected by the Great East Japan Earthquake and the Fukushima Daiichi Nuclear Power Plant Accident,¹ lawyers conducted a large number of free legal counselling sessions beginning just after the disaster in cooperation with the Japan Federation of Bar Associations (JFBA), the Bar Associations of various regions, the Japan Legal Support Center, other professionals with expert qualifications, companies, NPO corporations, and other private support groups, etc. At the suggestion of the Author, the results of this counselling

were tabulated by the JFBA, leading to the creation of a free legal counselling information database comprising approx. 40,000 cases. The results were summarized in the “Analytical Results of the Great East Japan Earthquake Free Legal Counselling”² and “Examples of Great East Japan Earthquake Free Legal Counselling.”³

This paper will add simple explanations about the respective trends in legal needs in each of the areas affected by the Great East Japan Earthquake and commentary thereon; the contribution of legal needs analysis results in the revision of laws or design of systems after the

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disaster; the proposal by the Author concerning a “Disaster Recovery and Revitalization Law as public policy study,” and the results thereof; and further activation methods, and the significance thereof, provided in the free legal counselling database (which has been made available to the public) that have been clarified in the reports related to free legal counselling mentioned above; and the process of preparing these reports, etc. Details are provided in “Promotion of the Disaster Recovery and Revitalization Law” (Okamoto, 2014).⁴

Results of Analysis of Information from Free Legal Counselling

The areas affected by the tsunami following the Great East Japan Earthquake extend along the Pacific Ocean coast from the Tohoku Region to the Kanto Region. In addition, there was earthquake damage—including that caused by the main shock and aftershocks—over a broad range of urban areas. Furthermore, the area to which residents were forced to evacuate due to the accident at the Fukushima Daiichi Nuclear Power Plant is vast. Therefore, depending on the form of the disaster and the form of the impact of the disaster on individuals and corporations, the needs of victims varied. In this section, I will analyze the disaster area of the Great East Japan Earthquake from the aspect of legal needs.

Methods of legal needs analysis

Here I will briefly describe legal needs analysis methods. For details, please see the references mentioned above (Okamoto, 2014).

First of all, as indicated in **Table 1**, I added some phenomena unique to the Great East Japan Earthquake to the types of legal counselling provided by lawyers under normal circumstances, creating 24 types, and then classified the subjects (issues) of the free legal counselling carried out at evacuation shelters or other counselling facilities in the disaster area, or via telephone counselling or other methods, into the relevant types. I then calculated the percentage of all counselling in each area that comprised a single type of counselling. This is the volume of “legal needs” in each area. As I decided to classify one free legal counselling subjects into three counselling types at a maximum, the total counselling ratio exceeds 100%. In addition, out of the indi-

vidual items, **Table 2** shows model cases of major legal counselling subjects that account for a large percentage of counselling in each area.

Legal needs differ for each area

(1) Trends in legal needs in Iwate Prefecture overall

Figure 1 shows the percentage of subjects (issues) of legal counselling received by consulters whose addresses at the time of experiencing the disaster were located in Iwate Prefecture out of the total number of legal counselling cases recorded in the database approx. one year after the disaster.

These results are characterized by large ratios for “16. Wills/inheritance” (25.6%), “12. Disaster laws and regulations” (24.5%), and “9. Loans or leases of houses, vehicles, ships, etc.” (11.3%). This trend can be analyzed in simple terms as a reflection of the devastating tsunami damage to cities and settlements in ria coastline areas of Iwate Prefecture and supports the fact that the form of disaster is deeply reflected in the problems of individuals and companies (that is, legal needs). However, it is possible to say that policies for rebuilding or revitalization that rely on not only the form of the natural disaster, but also revitalization policies and/or support methods covering the legal needs of individuals and companies and the kind of damage they experience are required.

(2) Trends in legal needs in Miyagi Prefecture overall

Figure 2 shows the percentage of subjects (issues) of legal counselling received by consulters whose addresses at the time of experiencing the disaster were located in Miyagi Prefecture out of the total number of legal counselling cases that were recorded in the database approx. one year after the disaster.

Trends that were not observed in Iwate Prefecture as shown in **Fig. 1** are large ratios for “5. Real property lease,” (20.8%), and “6. Liability of possessors and owners of structures and disputes” (9.1%). In simple terms, these trends can be considered to be a reflection of the urban area of Sendai City, which has a population of 1.03 million, experiencing damage in the earthquake and tsunami. In urban areas, there are more lease agreements for offices and houses, and in the maintenance of daily living—not only due to the devastating damage from the

Table 1 The 24 types of free legal counselling subjects (issues)

No./Classification	Subject
1. Ownership of real property (including loss of ownership)	<ul style="list-style-type: none"> Primarily issues of ownership concerning loss or destruction of land and buildings, registration of loss of buildings, loss of registration certificates, etc. are classified in this category. Issues of loans for destroyed residences are placed in Item 9. Issues of damage compensation, rights of claim against owners of neighboring land, etc. to the elimination of obstructions, etc. caused by damaged property are classified under Item 6. Issues of government benefits for damaged residences, etc. are classified under Item 12. Issues concerning risk sharing due to destruction of objects after completion and before delivery of newly-built buildings, or after closing of real estate purchase agreements and before the delivery thereof, are classified under Item 20.
2. Ownership of vehicles, ships, etc. (including loss of ownership)	<ul style="list-style-type: none"> Primarily issues of ownership concerning loss or destruction of cars or ships, etc. and damage compensation issues, etc. concerning damage to cars in storage, etc. are classified under this category. Issues of loans and leases for destroyed cars or ships, etc. are classified under Item 9. Issues of non-life insurance of cars, etc. are classified under Item 11.
3. Current assets such as deposits and shares, etc.	<ul style="list-style-type: none"> Issues of loss, etc. of bankbooks and securities, etc. are classified under this category.
4. Real property lease (leased land)	<ul style="list-style-type: none"> Issues concerning land lease agreements are classified under this category.
5. Real property lease (leased houses)	<ul style="list-style-type: none"> Issues concerning building lease agreements are classified under this category.
6. Liability of possessors and owners of structures and disputes (obstruction elimination, prevention, damage compensation)	<ul style="list-style-type: none"> Issues of structural liability (damage compensation); issues due to destruction of land and buildings; damage compensation issues concerning water leaks, etc., of multi-occupancy housing; and other neighboring relationship-related issues are classified under this category.
7. Land boundaries	<ul style="list-style-type: none"> Issues of cost allocation concerning destruction of boundaries, determination of boundaries, etc., are classified under this category.
8. Debt collection (loans, accounts receivable, contracting, etc.)	<ul style="list-style-type: none"> Issues concerning collection of claimable assets are classified under this category.
9. Loan or lease of houses, vehicles, ships, etc.	<ul style="list-style-type: none"> Issues concerning loans and leases of houses, cars and ships are classified under this category.
10. Payment of other loans	<ul style="list-style-type: none"> Issues concerning borrowings other than those classified under Item 9 are classified under this category.
11. Insurance	<ul style="list-style-type: none"> Issues concerning nonlife insurance (fire insurance, earthquake insurance, automobile insurance), life insurance, and mutual-aid insurance, etc. are classified under this category.
12. Disaster laws and regulations (legal interpretations, etc. concerning accreditation by public benefit corporations or the government, etc.)	<ul style="list-style-type: none"> Application and legal interpretation of earthquake-related laws such as the Act on Support for Reconstructing Livelihoods of Disaster Victims or the Disaster Relief Act, receipt of livelihood protection, receipt of donations, temporary housing, and legal interpretation of various government accreditations are classified under this category.
13. Taxes	<ul style="list-style-type: none"> Tax-related issues are categorized under this category.
14. New loans	<ul style="list-style-type: none"> Issues concerning the new financing system and the application and interpretation, etc. of earthquake-related laws concerning loans are classified under this category.
15. Divorce/relatives	<ul style="list-style-type: none"> Issues between relatives and guardianships, etc. in relation to disasters are classified under this category.
16. Wills/inheritance	<ul style="list-style-type: none"> Issues concerning wills, inheritance, disappearance adjudication, and the legally presumed death system, etc. are classified under this category.
17. Consumer damage	<ul style="list-style-type: none"> Issues concerning consumer damage in relation to disasters are classified under this category.
18. Labor issues	<ul style="list-style-type: none"> Issues concerning employer-employee issues concerning employment agreements and unemployment insurance, etc. are classified under this category.
19. Foreign nationals	<ul style="list-style-type: none"> Issues unique to foreign nationals are classified under this category.
20. Risk-bearing, commercial or corporate issues	<ul style="list-style-type: none"> Issues unique to companies and business operators, and issues of risk sharing in relation to the destruction of objects, etc. in sale and purchase agreements, etc. are classified under this category.
21. Criminal issues	<ul style="list-style-type: none"> Issues concerning criminal matters are classified under this category.
22. Nuclear power plant accident, etc.	<ul style="list-style-type: none"> Issues concerning accidents at nuclear power plants, etc. are classified under this category.
23. Others	<ul style="list-style-type: none"> Contents of counselling that do not fall immediately under Item 1 to 22 are classified under this category.
24. Non-disaster issues	<ul style="list-style-type: none"> Contents of counselling that have no or little relationship to disaster are classified under this category.

Table 2 Major legal counselling subject model cases

Legal counselling subject	Model case
5. Real property lease (leased houses)	<ul style="list-style-type: none"> • A rental house was destroyed by the tsunami and became uninhabitable. Is it necessary to keep paying rent? • There are some cracks on the wall due to the earthquake. Who has the obligation to repair this, the landlord or the renter? Is there any financial support? • The house is still usable and livable, but since we do not have the money to rebuild, we have been asked to move out. Is this proper? • When we move out of the house due to the complete destruction of the building, can we get our deposit back? Or can we get forced removal compensation?
6. Liability of possessors and owners of structures and disputes (obstruction elimination, prevention, damage compensation)	<ul style="list-style-type: none"> • The roof tiles of my private house fell off due to the earthquake and damaged the neighboring house or walls of the neighboring house or the neighbor's automobile. Are we liable for the damage? • The walls of a store collapsed and automobiles parked in parking lot were damaged. Can we make a claim for damages against someone? • If there is water leakage from the upper floors of a condominium, who is liable?
9. Loans or leases of houses, vehicles, ships, etc.	<ul style="list-style-type: none"> • The land and buildings of my private house were washed away due to the tsunami. I also lost my workplace so I cannot pay my housing loan. Is there any support for rebuilding? Will the existing loans remain unless I declare bankruptcy? • Do we have to keep paying the housing loan on a house that is uninhabitable due to instructions to evacuate because of the nuclear power plant accident, etc.?
12. Disaster laws and regulations	<ul style="list-style-type: none"> • What kind of procedures are necessary to receive support money for reconstructing the livelihoods of disaster victims? In what cases is it possible to obtain a disaster-victim certificate? When and how can we obtain one? • Is it possible to obtain a disaster-victim certificate and receive support money for reconstructing the livelihoods of disaster victims even when the victims are living in rental housing? • I find it unacceptable that we are certified as being in the same household with my parents, who are on a separate household budget, based only on what is written on the resident certificates, and that we will only receive support money or donation amounts for a single household. • Although my brother, who was my only living relative and with whom I had been living for several decades years, is deceased due to the earthquake, disaster condolence money is not paid to siblings under the legal system [at that time]. I cannot understand this. • I received notification from the government that if I receive support money or a donation, livelihood protection will be cut. Is this true?
16. Wills/inheritance	<ul style="list-style-type: none"> • Many family members and relatives have died. Who will be the inheritor? If there are missing persons, what kind of procedures should we take? Opinions differ even within the family on whether or not to apply for death registration for missing family members. • I heard that if we do not do anything for three months after the death of a family member, we will inherit the loans as well, so we need to waive the inheritance. However, first of all, it is unclear what kinds of assets the deceased family member had, or what will happen with real estate in areas washed away by the tsunami, so we cannot decide on whether or not to waive inheritance. • There are likely to be disputes over the allocation ratio of support money or donations with inheritors living in distant areas. However, we lost everything in the tsunami and we do not even have a means of transport, so there is no way at all that we could appear in court.

tsunami—people tend to have numerous issues in relation to such agreements. There were many cases of consultations concerning urban earthquake damage in Miyagi Prefecture overall. However, with regard to lease agreements and neighboring relationships, what should be noted here is that in actuality the voices of disaster

victims in coastal areas have been drowned out by the voices of consulters in urban areas. The coastline of Miyagi Prefecture has ria coasts in the north and broad plains in the south, and both regions were significantly affected by the tsunami. However, since the populations in these areas are not necessarily large, the legal needs of

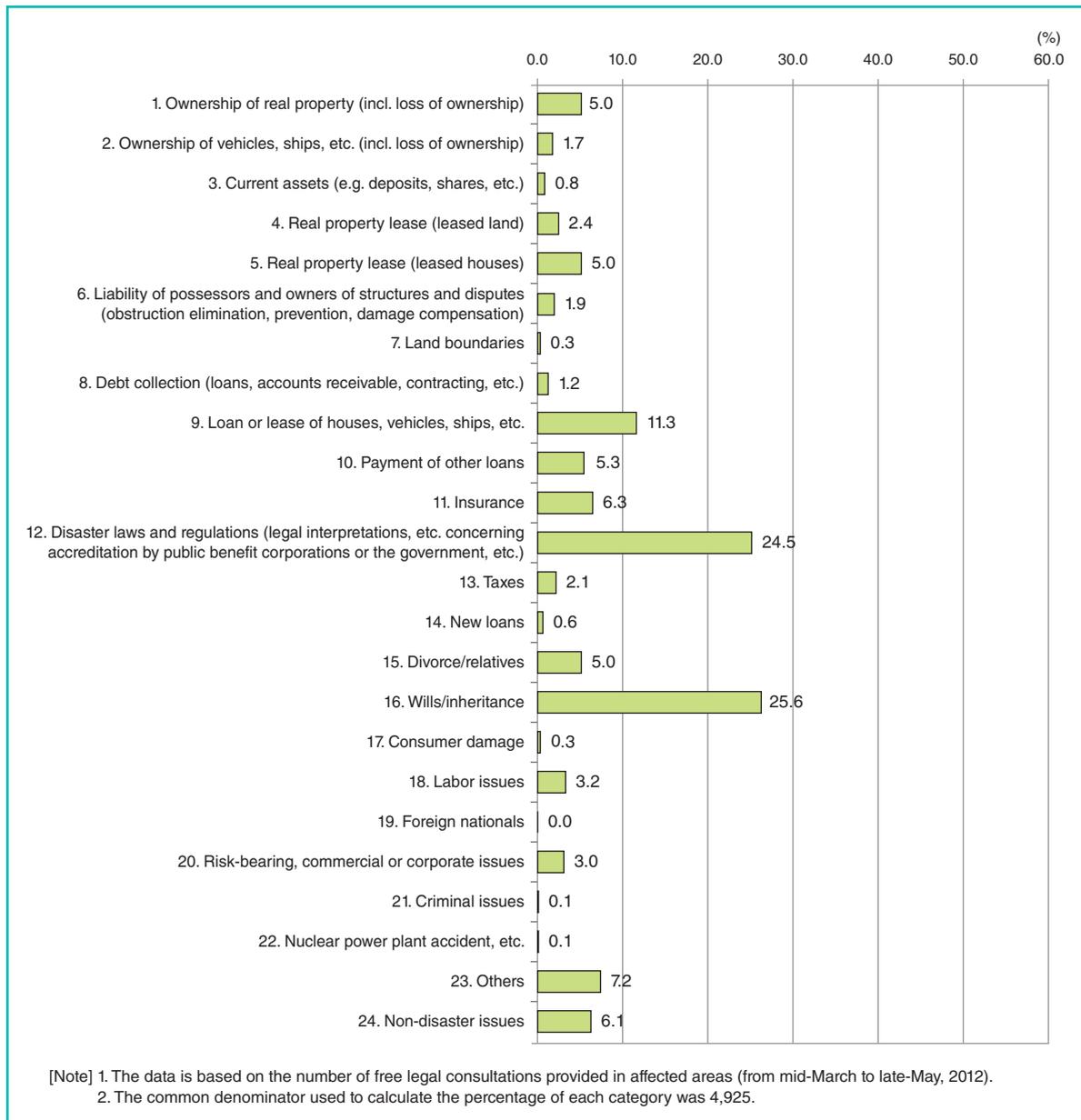


Fig. 1 Subjects of free legal counselling (Iwate Prefecture overall)

coastal areas are not apparent in the statistics for Miyagi Prefecture overall. Therefore, the coastal areas of Miyagi Prefecture must be separated from the urban areas (the areas without tsunami damage) in the analysis of legal needs. It is not possible to list all of the data on coastal areas in this paper due to space limitations, so please refer to the “The Encouragement of the Disaster Recovery and Revitalization Law” (Okamoto, 2014) for a complete list.

(3) Trends in legal needs in Fukushima Prefecture overall

Figure 3 shows the percentage of subjects (issues) of legal counselling received by consulters whose addresses at the time of experiencing the disaster were located in Fukushima Prefecture out of the total number of legal counselling cases that were recorded in the database approx. one year after the disaster.

These results are characterized by the over-

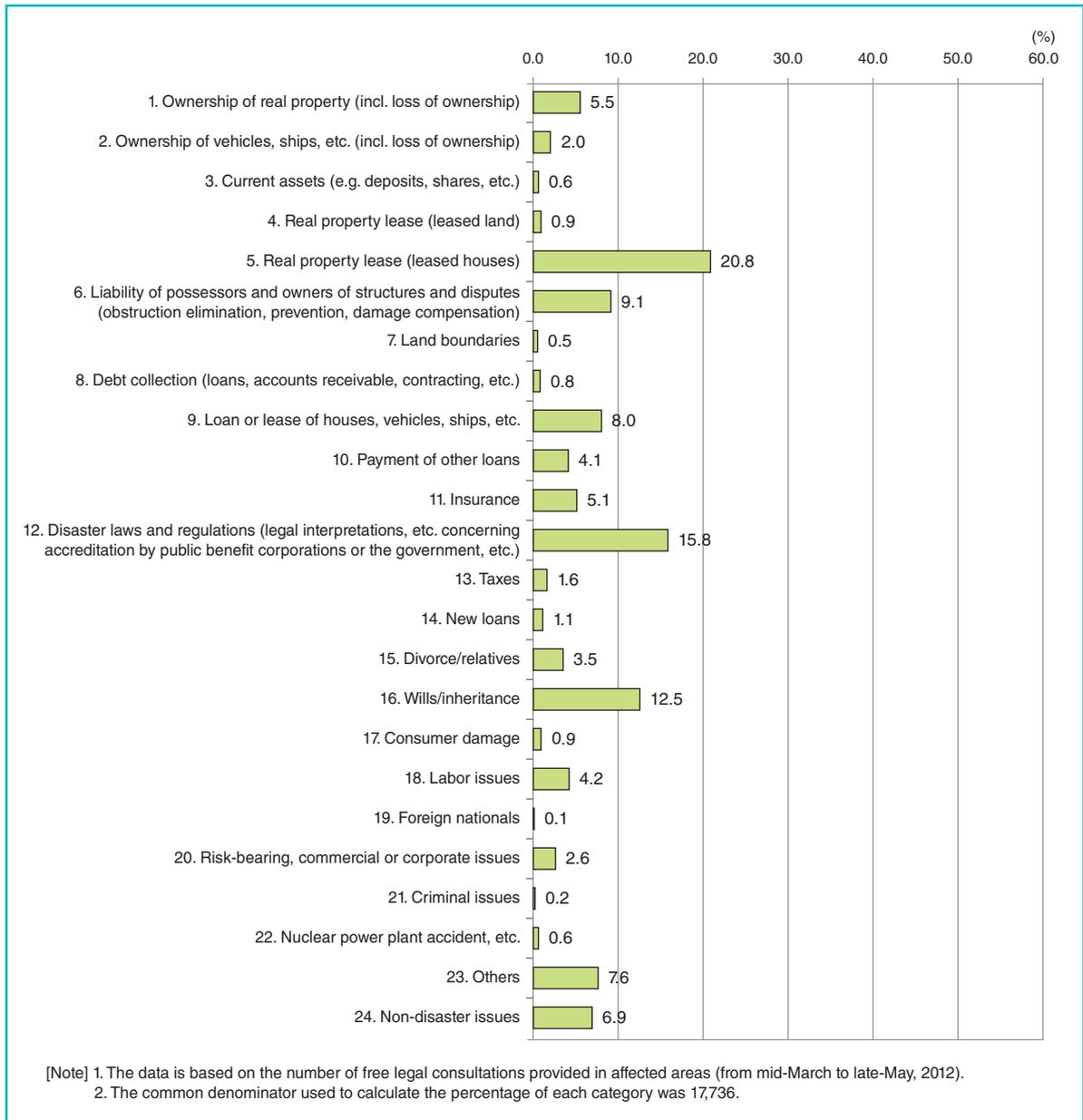


Fig. 2 Subjects of free legal counselling (Miyagi Prefecture overall)

whelmingly large ratio for “22. Nuclear power plant accident, etc.” (55.1%). This trend indicates the magnitude of the number of consulters who were affected by the accident at the Fukushima Daiichi Nuclear Power Plant. This number forces us to think deeply about the impact of the nuclear plant accident on Fukushima Prefecture. Although the analysis results strongly reflect the impact of the nuclear plant accident, percentages for “5. Real property lease” (7.5%), “Liability of

possessors and owners of structures and disputes” (6.3%), and “9. Loans or leases of houses, vehicles, ships, etc.” (7.0%) are not necessarily low, either. Of the large cities of Fukushima Prefecture, there was huge earthquake damage to buildings in Fukushima City and Koriyama City, and in coastal areas of Iwaki City, a significant degree of tsunami damage was also observed. Therefore, it is possible to conclude that there have been many problems related to lease agree-

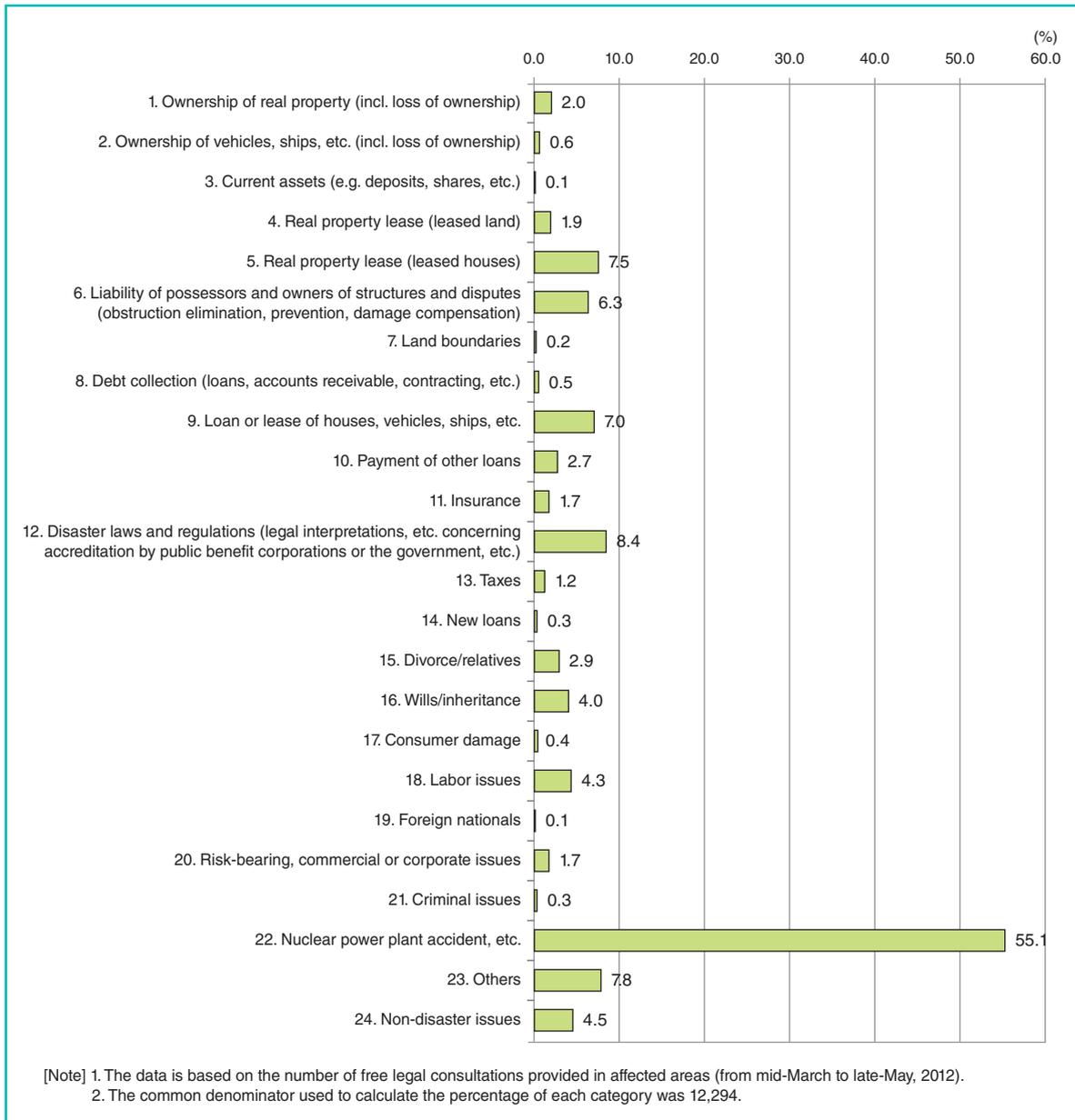


Fig. 3 Subjects of free legal counselling (Fukushima Prefecture overall)

ments or neighboring relations in urban areas.

It must also be noted that, amongst the consultations concerning housing loans, in addition to consultations on whether it is necessary to keep paying a housing loan on a house or business premises damaged by the tsunami, there were also many consultations regarding whether or not it is necessary to keep paying loans for houses that are uninhabitable due to instructions to evacuate because of the nuclear power plant

accident.

Legal needs change as time passes

Figures 1, 2, and 3 show the results of classification of free legal counselling cases collected during a period of approx. 1 year following the Great East Japan Earthquake disaster. However, the problems of victims and affected companies have been constantly changing since the disaster occurred. This is also reflected in changing legal

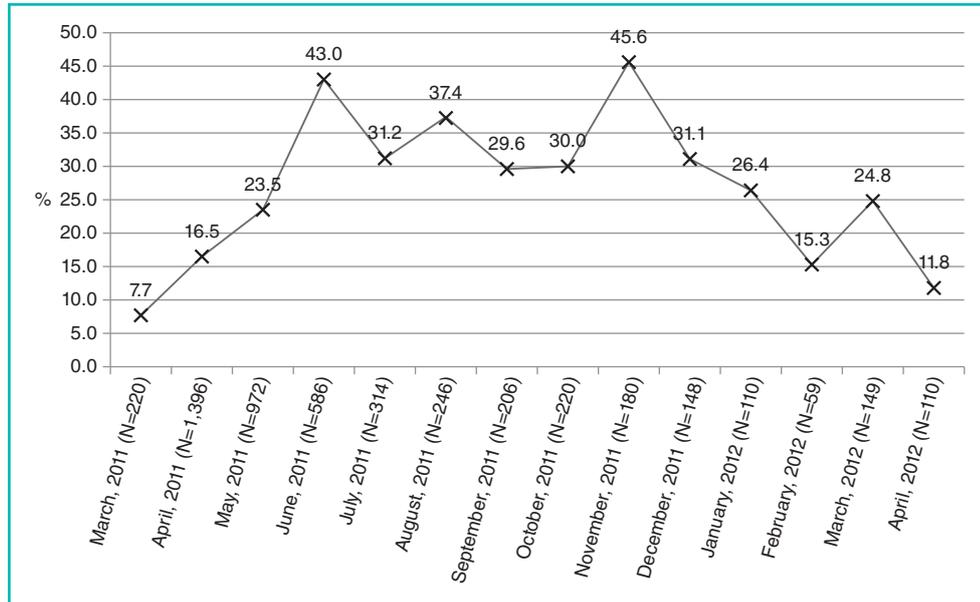


Fig. 4 Monthly changes in the ratio of consultations related to inheritance (Iwate Prefecture; “16. Wills and Inheritance”)

needs.

Figure 4 shows how the percentage of legal counselling received by consulters whose addresses at the time of experiencing the disaster were located in Iwate Prefecture changed on a monthly basis out of the consultation subjects classified under “16. Wills and inheritance.”

In March 2011—just after the earthquake—the percentage of consultations concerning inheritance was 7.7%, which is much smaller than the cumulative total of 25.6% for Iwate Prefecture overall (Fig. 1). However, this percentage increased rapidly, rising to 16.5% in April and 23.5% in May, and reaching as much as 43.0% in June. This is thought to reflect the psychological state of people whose family members had died or were missing (three months is generally regarded as the length of time needed to accept the death of intimate persons). Another factor was the tremendous impact of time limitations imposed on renouncing inheritance under the inheritance system set forth in the Civil Code, etc. Under the Civil Code, there is a system for renouncing inheritance (complete renunciation of the inheritance rights and obligations of the inheritor).

The period in which the renunciation of inheritance is possible is stipulated as being

within 3 months of becoming aware of the death of the inheritee (this period is called the cooling-off period). After this period has passed, renunciation of inheritance becomes impossible, and inheritors will inherit all of the rights and obligations of the inheritor. If the inheritee had a large amount of liabilities that exceed their assets and an inheritor desires to renounce the inheritance, it is necessary to carry out renunciation procedures during the cooling-off period, or apply for an extension of the period during the cooling-off period. If it is discovered that an inheritee died on March 11, the final date of the cooling-off period for the bereaved inheritors is June 11. Thus as June approached, legal needs involving the need to renounce inheritance rapidly increased.

Legal needs concerning the nuclear power plant accident, etc.

Figure 5 provides a more detailed breakdown of the percentage of legal counselling received by consulters whose addresses at the time of experiencing the disaster were located in Fukushima Prefecture out of the total number of legal counselling cases during the approx. 1 year following the disaster and that were classified under “22. Nuclear power plant accident, etc.” (No overlap-

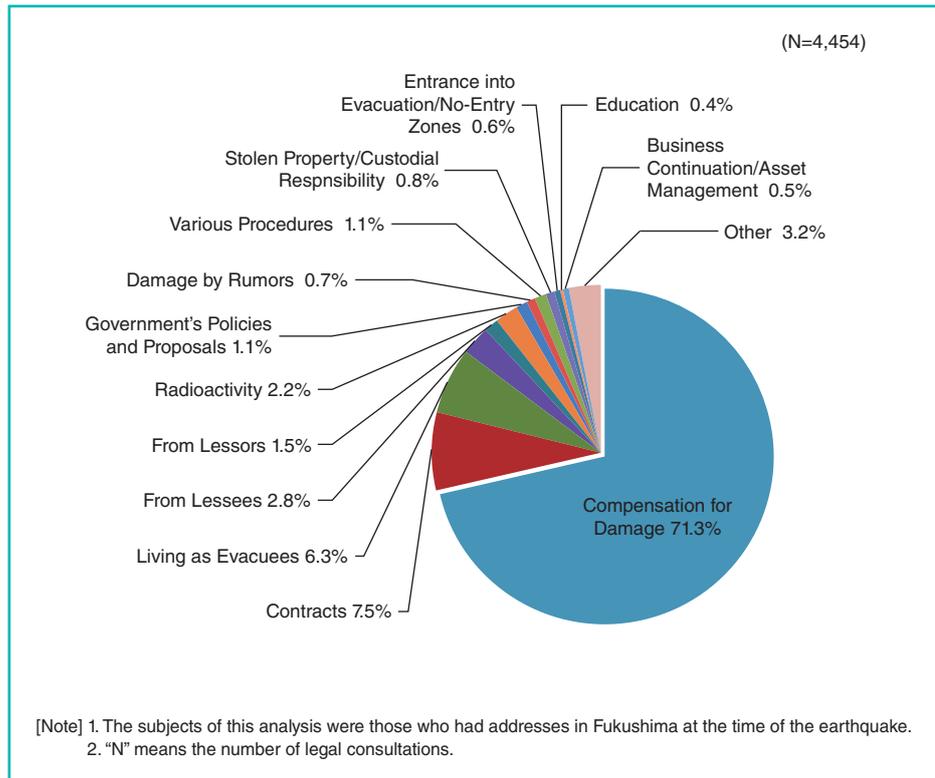


Fig. 5 Breakdown of consultation subjects concerning "22. Nuclear Power Plant Accident, etc." (Fukushima Prefecture)

ping classification results).

The percentage for "Damage compensation" (71.3%) is overwhelmingly large as a consultation category. This is thought to be due to the fact that, since the legal counselling was provided by lawyers, many people came for counselling with claims for nuclear damage in mind from the beginning. As the "Act on Compensation for Nuclear Damage" stipulates that business operators have liability at the time of the occurrence of a nuclear accident, it is thought that from the very start many victims of the nuclear power plant accident had a common understanding that damages could be recovered by claiming compensation against the obligor.

Reasonable rates were also observed for "Agreement-related" (7.5%), "Evacuation life" (6.3%), "Consultations from lessees" (2.8%), and "Consultations from lessors" (1.5%). Although it is impossible to tell from **Fig. 5**, in actual fact the percentages for the top three consultation subjects in April 2011 were "Damage compensation" (31.6%), "Agreement-related"

(21.4%) and "Evacuation life" (16.9%), and the combined total number of consultations for "Agreement-related" and "Evacuation life" was greater than the total for "Damage compensation."⁴ Legal needs for nuclear damage compensation did rise tremendously, even from the start; however, it is possible to conclude that the nuclear power plant accident inflicted various problems on victims in addition to damage compensation issues, including the consequences of various agreement relationships, problems related to dispute resolution, and matters arising as a result of evacuation life. This indicates that the resolution of damage compensation disputes alone cannot resolve the legal needs of victims, and rebuilding their lives or recovery and revitalization cannot be achieved.

Locus of the Realization of Policies and Contribution of Information Obtained from Free Legal Counselling (Value as a Database in Verifying the Existence of Legislative Facts)

Table 3 provides a list of records of system revisions or new legislation that have been achieved and that originated from proposals by the JFBA, Bar Associations of individual areas, and volunteer legal professionals, etc., based on the legal needs of victims and affected companies that were identified through free legal counselling following the Great East Japan Earthquake.⁵

The realization of various policies cannot be achieved through the power of lawyers alone. These are systems born out of cooperation and negotiations with many stakeholders. In order to realize policies, legal needs that have come to light through the results of analysis of free legal counselling provided by lawyers are thought to provide persuasive support for promoting the revision of systems for various types of stakeholders as “legislative facts” (social realities that serve as the basis for the justifiability of systems or laws).

Creation of Disaster Recovery and Revitalization Law as a Part of New Disaster Prevention Education

Significance of disaster recovery and revitalization law as university education

With regard to the work of gathering and analyzing information from free legal counselling conducted in disaster areas and formulating proposals for policies using the statistical data created therefrom, efforts to realize policies using bottom-up methods from the needs in the actual disaster zone constitute know-how that should be fully utilized at the time of a major disaster or crisis in the future.

Underlying that fact it was possible for this many policies to be realized in the Great East Japan Earthquake were the activities of lawyers in the Great Hanshin-Awaji Earthquake (1995) and the Niigata Chuetsu Earthquake (2004). In the Great Hanshin-Awaji Earthquake, too, solutions to double loan issues, improvement of the direct benefit system, and resolution of other issues were requested by lawyers; however, many of these requests ultimately were not formalized

into legal systems. Meanwhile, issues and know-how from the times of these respective disasters remained with the lawyers and government administrative officers who had gained experience in policymaking at those times. This fact enabled swift and accurate formulation of proposals and policies at the time of the Great East Japan Earthquake.

As a disaster-prone country, Japan must face the risk of the occurrence of huge disasters—even after experiencing the Great East Japan Earthquake. The probability of the occurrence of an earthquake directly striking the Tokyo metropolitan area, or an earthquake in the Nankai Trough, has been increasing each year. In preparation for such disasters, it is considered necessary for us to receive the legacy of know-how for realizing policies by summarizing, focusing on the opinions of victims and affected companies after the occurrence of a gigantic disaster.

The Author feels that research institutions such as universities, etc. are appropriate vessels for transmitting wisdom over the medium-to-long term. At the Keio University Law School, a course on the Disaster Recovery and Revitalization Law was newly instituted and commenced in April 2012. In addition, the university’s Faculty of Law also introduced a course entitled “Disaster Recovery and Revitalization Studies I and II” in April 2013. Moreover, policy formulation know-how is well-suited to the field of public policy, and lectures on disaster recovery and revitalization law were initiated in April 2013 at the Graduate School of Public Policy, Chuo University.⁶

“Disaster Recovery and Revitalization Law” has not been systematically organized as an academic field, and it is incomplete. I anticipate that research on public policy approaches originating from legal needs will become more extensive in the future.

Significance of disaster recovery and revitalization law as disaster prevention education, general knowledge, and corporate training

Disaster recovery and revitalization law does not comprise research or illustration (elucidation) of any special field at times of emergency. To use an abstraction, it can almost be said to be a mere repositioning of the normal policy formulation process in order to analyze the needs of indi-

Table 3 Primary system revisions and new legislation originating from proposals by legal professionals**Building of a system for the reduction of or exemption from disaster loans**

In order to solve the problem of “double loans,” we asserted that a disaster loans purchase and reduction or exemption system must be newly established; consequently, the “Guidelines for Individual Debtor Out-of-Court Workouts” (a system for the reduction of or exemption from disaster loans for individuals) and the “Act on the Incorporated Organization for Supporting the Turnaround of Businesses Damaged by the Great East Japan Earthquake” (a business rehabilitation system for business operators that includes the purchase of debts) were established. In addition, we requested thorough familiarization with the disaster loan reduction or exemption systems, and the Financial Services Agency issued notification to financial institutions requesting thorough familiarization therewith, following which financial institutions familiarized victims via notification postcards.

Extension of the cooling-off period for renunciation of inheritance, etc.

As the “within 3 months” set forth in the Civil Code is too short, we requested an extension of up to one year for the cooling-off period for renouncing inheritance. Consequently, the “Act on Special Exceptions to the Civil Code Pertaining to the Period in which Inheritance Acceptance or Renunciation must be Performed Resulting from the Great East Japan Earthquake” was enacted as a bill sponsored by lawmakers, and it was determined that the cooling-off period would be extended to November 30, 2011. In the disaster-affected areas, cases of renunciation of inheritance or application for extension of the cooling-off period increased drastically.

Inclusion of siblings among the eligible recipients of disaster condolence money and donations

Siblings were not included amongst eligible recipients for disaster condolence money; however, the Act to Revise a Part of the Act on Provision of Disaster Condolence Grant—which includes siblings who lived with or were under the same household budget with the victim—was subsequently enacted. In addition, some municipalities in the disaster-affected areas changed their bylaws in response to the enactment of this law. With regard to the distribution of donations also, siblings were formerly excluded as eligible recipients for grants; however, at the prefectural level there was a response to enactment of the law to expand the framework to include siblings.

Disaster condolence money to be classified as credit for which attachment is prohibited

Since it was formally possible for creditors to attach disaster condolence money, we requested that disaster condolence money be classified outside the target for attachment, and a law prohibiting attachment was enacted as a bill sponsored by lawmakers.

Act on Support for Reconstructing Livelihoods of Disaster Victims

With regard to the support system for reconstructing the livelihoods of disaster victims, which provides grants of up to 3 million yen to the households of victims, we asserted that the 50% assistance ratio set by the government should be increased drastically; subsequently a special measures law was enacted to increase the government assistance rate to 80%.

Non-application of the Act on Temporary Treatment of Rental Land and Housing in Cities Damaged by War

Considering the actual situation of consultations concerning lease agreements, setting of preferential land lease rights and so on by application of the Act on Temporary Treatment of Rental Land and Housing in Cities Damaged by War might possibly interfere with town building. As a result of discussions with the Ministry of Justice and the Ministry of Internal Affairs and Communications, which had been considering application of the Act, it was ultimately decided that the Act did not apply to the Great East Japan Earthquake.

Nuclear Accident Child Victims’ Support Act

By summarizing various needs arising from the nuclear power plant accident, we contributed to the enactment of the Act Concerning the Promotion of Measures to Provide Living Support to Victims, Including Children Who Were Affected by the TEPCO Nuclear Accident in order to Protect and Support Their Everyday Lives. Proposing concrete measures based on this support act has become a new mission for legal professionals.

Basic Act on Disaster Control Measures 2013 Revision

Based on the present situation in which rescue and support for people in need of support in times of disaster or people evacuated from larger areas becomes difficult due to supporters non sharing personal information on victims from municipalities, the Japan Federation of Bar Associations submitted related opinions and formulated guidelines for sharing personal information, also holding a symposium on “proper handling of personal information at times of disaster” for familiarization and putting together a nationwide campaign that was linked to a major revision of the Basic Act on Disaster Control Measures. This had a major impact on the personal information measures of municipalities, such as systemization of their “List of people in need of support in conducting evacuations,” “Safety information,” and “Victims’ ledger.”

Extension of extinctive prescription for right of claim for compensation for damages relating to nuclear damage

This is an epoch-making special measures law that is potentially applicable on a million-person scale. The “Act on Measures to Realize Early and Definite Compensation Pertaining to Nuclear Damage Arising from the Accident at the Nuclear Power Plant in the Great East Japan Earthquake and Special Exceptions on Extinctive Prescriptions, etc. of the Right of Claim of Compensation Pertaining to Nuclear Damage” extends an extinctive prescription (which is set at “3 years” under the right of claim for damages due to tort) to “10 years” and the statute of limitations (which is set at “20 years from the time of the tort”) to “20 years from the time of occurrence of damages.”

Realization of deregulation to promote land expropriation for revitalization sites

The Act to Revise a Part of Act on Special Zones for Reconstruction in Response to the Great East Japan Earthquake came into effect on May 1, 2014. In the disaster area of the Great East Japan Earthquake, there are many land sites targeted for revitalization projects whose acquisition has not proceeded smoothly due to the disappearance of the owner, unprocessed inheritance, or land sharing by a large number of persons, and swift acquisition thereof has become an urgent task. Through this Act, relaxation of the requirements for land expropriation judgment procedures, or the requirements for disaster prevention group transfer projects, etc., were recognized as a legal system.

viduals and companies in the actual disaster zone and use this analysis for policy proposals for the actual disaster zone. Devising how to create a new system with what kind of ideas is not necessarily a field where only law-related specialists excel, and can extend beyond the limit of legal interpretations. Therefore, disaster recovery and revitalization law is regarded as a field with a sufficient number of additional uses as a topic for training or workshops, or simply general knowledge.

Moreover, disaster recovery and revitalization law can also be described as “disaster prevention education.” Normally in “disaster prevention education,” training to protect people immediately after the occurrence of an earthquake, or education to foster judgment ability regarding tsunami evacuation presuming the occurrence of a tsunami, are regarded as the mainstream fields (workshops for creating hazard maps are conducted in these fields). The aim of both fields is learning techniques to protect people from the vast forces of nature.⁷⁸

However, the threat of disaster is not limited to the instant when natural forces strike cities or people. When a person’s life is saved and the person moves to an evacuation site, the phases of “staying alive,” “rebuilding lives,” and “carrying out revitalization” begin. When a person experiences damage or the loss of many assets or even family members, in some cases they will have a greatly increased need to request systematic support information on how to make the first step forward. If a person has no knowledge about support systems, the lack of knowledge itself may cause the person to lose assets or their health. Psychologically as well, the person may be in a state of mind close to despair.

Under disaster recovery and revitalization law programs, methods for providing information to transform the despair of disaster victims into hope is also considered to be an important issue requiring examination, and results have been observed to a certain extent. To acquire the knowledge necessary for a person to get back on their feet immediately after suffering and surviving a disaster is regarded as a type of “disaster prevention education.”

Remaining Legal Needs Analysis Problems and Significance

Analysis at the municipality level

The results of the analysis of legal needs (Figs. 1-4) presented in this paper are simple graphs created against the large framework of prefectural results for free legal counselling. Of course, it is possible to glean a great deal of information from these results; however, I am not exempt from criticism that they lack precision to some extent with regard to accurately comprehending legal needs with a focus on individual persons and corporations. For the “Analytical Results of the Great East Japan Earthquake Free Legal Counselling”² report mentioned above, analysis was carried out as far as possible at the level of the municipalities in which the addresses of the consulters at the time of experiencing the disaster were located. It is easy to surmise that legal needs will differ depending on whether the address is in a coastal area with a low population or a heavily populated area, or an urban area that experienced the earthquake and not the tsunami. It is indispensable to evaluate data broken down to at least the municipality level.

It is also indispensable to examine the relevant analysis results at the municipality level together with time lapse changes. Analyzing how legal needs change with the elapse of time and comparing the differences that have arisen depending on the individual municipality could present an opportunity to identify policies that are inadequate for a particular municipality. Moreover, it is possible to examine whether or not the impact of information provision by the central government or the revision of systems reflects the legal needs that were recorded through the free legal counselling.

Plot analysis of public and administrative agency data and legal needs

When the characteristics of legal needs at the municipality level have been identified, it is then useful to perform analysis examining the correlation of these results with other statistical data. This means forming hypotheses regarding the correlation between such factors such as population density, damage prediction, age composition, and industry composition and legal needs that become apparent through free legal counselling at times of huge disasters, and to examine

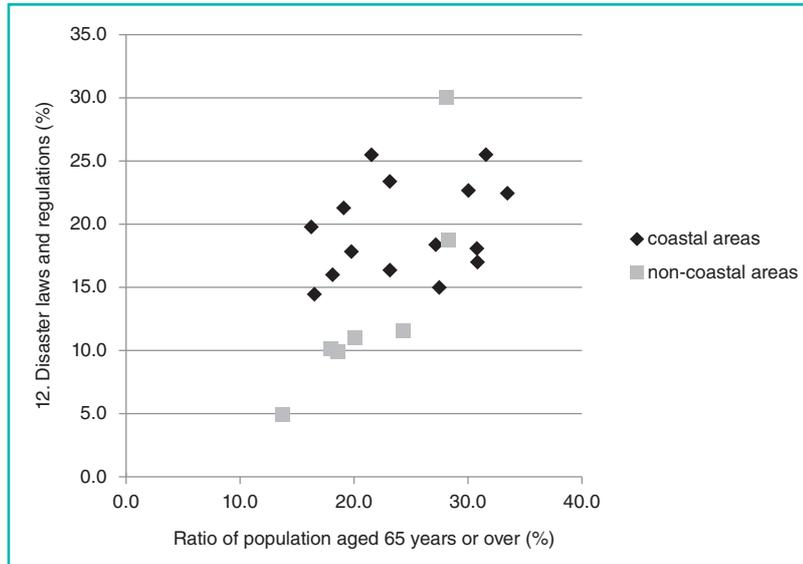


Fig. 6 Correlation between percentage of consultations for “12. Disaster laws and regulations” and “Ratio of population aged 65 years or over”



Photo 1 Lecture on disaster recovery and revitalization law (Keio University Law School, 2014)

these.^{9,10}

Figure 6 plots individual municipalities in Miyagi Prefecture, with the percentage of consultations for “12. Disaster laws and regulations” for each municipality (which was calculated from the results of analysis of information from the free legal counselling conducted after the Great East Japan Earthquake) on the vertical axis and the corresponding “Ratio of population

aged 65 years or over” for municipalities in Miyagi Prefecture (coastal areas (◆), and non-coastal areas (■); data based on the 2010 Census by the Ministry of Internal Affairs and Communications) on the horizontal axis.

From Fig. 6, it can be seen that in municipalities where the percentage of the population aged 65 years or over is higher, the percentage of consultations concerning “12. Earthquake-related

laws” is higher. It can also be seen that this trend does not depend on whether or not the municipality experienced the tsunami. Consultations concerning “12. Disaster laws and regulations” are, simply put, administrative consultations concerning various support systems for which procedures must be carried out at the municipal office in each municipality (support money for reconstructing livelihoods of disaster victims, disaster condolence money, donations, livelihood protection, temporary housing, etc.). It is probable that, since it is difficult to communicate such information to elderly persons, the provision of support information by lawyers increased as the elderly population percentage increased.

As seen here, by plotting the percentage of consultations with other statistical data, it is possible to visualize correlations that could not be perceived before. If these correlations are applied to municipalities where a huge disaster is predicted to occur, it may be possible to “predict legal needs (damage),” leading to proposals for support systems to be constructed. It is the Author’s hope that these results will be used as guidelines for addressing various issues that should be dealt with immediately after a disaster where crisis management measures are being formulated, including disaster prevention planning by government institutions or corporate BCP.*1

Conclusion

In this paper, I discussed the process and results of analysis of information from free legal counselling that was carried out after the Great East Japan Earthquake and the locus for using these results in reforming the disaster revitalization law system. In order to convey this information as know-how for public policy, an academic field called “disaster recovery and revitalization law” is in the process of being established, although the field is still in its early days (**Photo 1**). Analysis of free legal counselling information and positioning of disaster recovery and revitalization

law as an academic field are still in the process of development, and work has yet to start on a large number of problems. As people living in the present era, we have the responsibility to safe-guard the precious data obtained from the individual voices of victims and lessons learned from the disaster as memories for all of humanity in later generations. I hope that there will be greater recognition of the necessity for further analysis and systematic organization of “disaster recovery and revitalization law” as an academic field.

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*1 BCP: Business Continuity Plan.