

## The Current Status and Issues in Crime Victim Support in Japan (2)

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**Abstract :** This study is based on a paper, *The Current Status and Issues in Crime Victim Support in Japan* (*Sophia University Studies in Social Services, No37, 31-41*) that was published in 2013, which was revised to include the recent state of affairs. Under the Basic Act on Crime Victims enacted in 2004, Japan has steadily implemented specific measures to meet the needs of crime victims, key among them being drawing up the Basic Plan for Crime Victims (referred to below as the "Basic Plan") of 2005, the Second Basic Plan of 2011, and the Third Basic Plan of 2016 (running from April 2016 to the end of fiscal 2020). This paper, based on the results of several surveys on crime victim support, discusses the progress that has been made in supporting crime victims, with special emphasis on the milestones that have been achieved and the challenges that remain unresolved.

**Key words :** Crime victims, Victimization, Victim support system, Private victim support organizations, Restorative justice, Restorative dialogue, Victims' feelings conveyance system

### **The Trends of Support Systems and Measures for Crime Victims**

In Japan, there were no formal support systems for crime victims and their families until 1967, when Asaichi Ichinose, a father whose son was murdered by a phantom killer, founded the Association of Families of Homicide Victims Promoting the Eradication of Homicide. When left-wing terrorists bombed the Mitsubishi Heavy Industries Building in Tokyo in 1974, causing 384 casualties, the need for national compensation for victims became highly recognized. After this attack, Ichinose's association joined an activist group led by Minoru Oya—a professor of law at Doshisha University—, victims, and surviving families to form the Association for the Promotion of a Victim Compensation System. This association's work facilitated the institutionalization of victim compensation and resulted in the enactment of the Act on Payment of Benefits for Crime Victims (Oya 1982). However, after this enactment, the movement to develop support measures for crime victims fell by the wayside while public interest waned (Segawa 2000).

In the 1990s, both private organizations and criminal justice institutions started building systems for victim support. The Symposium Commemorating the 10th Anniversary of the Implementation of the Benefit System for Crime Victims, which was held in 1991, led to an extensive fact-finding

survey on crime victimization being conducted in 1992. Also, a speech at the symposium by Emiko Okubo, a mother whose son was killed by a drunken driver, served as a catalyst for launching the Counseling Service for Crime Victim Assistance in 1992 (Yamagami 2008). This was the first service that specialized in victim support. This service was led by Dr. Akira Yamagami of the Tokyo Medical and Dental University. In 1996, the National Police Agency issued the Basic Policy Concerning the Measures for Supporting Crime Victims and sought to improve its systematic response by establishing the Office for Crime Victims. The Public Prosecutors Office also initiated the Victim Support Officers System and the Victim Notification System, which were implemented nationally. Bar associations also started offering legal support for victims. In the private sector, the Mito Victim Support Center (MVSC), which is the present Ibaraki Victim Assistance Center, was established in 1995. The MVSC provided victims with comprehensive services such as information services, referrals to related organizations, counseling, legal advice, and support for victims' self-help activities. It also established volunteer training programs (Nagai 2004). In 1998, eight private victim support organizations came together to form the National Network for Victim Support (NNVS) (Yamagami 2008). Meanwhile, the victims themselves founded grassroots advocacy organizations, developed mutual help activities, and campaigned for advancing the status of victims and improving the judicial system.

Since 2000, various laws regarding crime victimization have been adopted. In 2000, various measures were undertaken to reduce the burden on victims and their families when giving testimony during trials. Key among them was the enactment of laws commonly known as "The Two Laws for the Protection of Victims of Crime." In addition, victims and their families were also allowed to express their feelings and opinions in court<sup>1)</sup>. As far as juveniles are concerned, the Juvenile Act was amended in 2000 and procedures were introduced in juvenile cases to allow victims and their families to inspect and photocopy juvenile offense case records, have their opinions on the cases heard in Family Courts, and be notified of the court's final decision. Among private victim support organizations, a system of the Prefectural Public Safety Commissions<sup>2)</sup>, which has the ability to designate a non-profit organization as an Early Assistance Organization for Crime Victims (EAO), was established in 2001. In this new system, the EAOs are allowed to access and acquire information about particular victims from police departments with the direct consent of the victims. As of 2009, private victim support organizations involved in the NNVS were established in all 47 prefectures. Additionally, these organizations were designated as EAOs as of 2015. In 2018, the Crime Victims Telephone Support Center was opened at the NNVS to facilitate telephone consultations during early mornings, evenings, and on public holidays.

Meanwhile, the number of victim advocacy organizations has continued to increase since 2000. The National Association of Crime Victims and Surviving Families (NACVSF) was founded by bereaved family members in 2000. It was led by Isao Okamura, a lawyer whose wife was killed by a person holding a grudge against him. Since Okamura belongs to judicial circles, the NACVSF led the

victims' movement that sought to establish the rights of crime victims in the criminal justice system. This movement involved gathering and collecting signatures in support of systemic reform around the country. As a result, it encouraged the enactment of the Basic Act on Crime Victims (BACV) in 2004. In 2005, based on the BACV, the Basic Plan for Crime Victims was formulated. This plan incorporated 258 concrete measures, which rapidly advanced the development of laws and institutions to protect the rights of crime victims. Some outstanding developments facilitated by this plan include the creation of National Crime Victims' Week (2006), the enforcement of the Offenders Rehabilitation Act (2007), and the enactment of the Act Related to the Support of Crime Victims by Payment of Benefits for Crime Victims (2008).

If the NACVSF had not been formed and Okamura had not been a lawyer, Japan's crime victims would have been left out of the criminal justice system. One of the benefits of the development of the crime victims' support system in Japan is that victims and bereaved family members themselves have made great efforts to call for their rights. In June 2018, the NACVSF achieved its original goals, which, on the basis of it having significantly improved the situation facing victims of crime, led to its dissolution (NACVSF 2018). In particular, the NACVSF played a significant role in securing the rights of victims in criminal proceedings. Therefore, its disbandment can be considered an end to one of the stages of the crime victims' movement.

In the recent past, local governments have also promoted support measures for crime victims by emphasizing the need to provide them with seamless support in the networks of different institutions and programs, which is one of the basic requirements of the BACV. Regarding victim participation in criminal procedures, which was pursued in the movement by victims themselves, the Victim Participation System and the Compensation of Damages Order System were initiated in 2008<sup>3)</sup>. A 2008 amendment to the Juvenile Act allows victims of certain crimes perpetrated by juveniles to sit in on judicial hearings<sup>4)</sup>. In 2010, the statute of limitations for the prosecution of crimes, including homicide and murder-robbery, was abolished while that of crimes such as forced sexual intercourse causing death, injury causing death, and dangerous driving causing death was extended. This change was greatly influenced by the movement of victims and their bereaved families. The progress of the Basic Plan for Crime Victims was examined and then the Second Basic Plan was developed in 2011<sup>5)</sup>.

In the process of developing the Second Basic Plan, victims and their supporters strongly advocated the enhancement of support for sexual assault victims (Cabinet Office 2012). The national government prepared a guide for starting and administering one-stop support centers for victims of sexual crimes and assaults in 2012. In 2018, one-stop support centers were established nationwide. For victims of sexual violence, the establishment of one-stop centers, where they could receive medical, psychological, legal, and livelihood support within the same location, was a major milestone in advancing and protecting their rights.

In 2016, the Third Basic Plan for Crime Victims was formulated. This plan aimed to encourage local governments and private support organizations to provide both medium- and long-term support for crime victims. It included a proposal to expand the crime victims' support system so that the cost of counseling services provided to the victims is borne by police through public funds. It also proposed the training of social workers, mental health workers, and clinical psychologists so as to equip them with specialized knowledge and skills relating to crime victims and making use of social workers to provide effective livelihood support in local governments. In the same year, the Act on the Payment of Condolence Money to the Victims of Crimes Overseas was established to protect citizens who fall victims to crimes overseas. This allowed the payment of condolence money to bereaved families and compensation to victims who suffer severe and lasting disabilities. In addition, the same year also saw the jurisdiction of the government's policy measures for crime victims transferred from the Cabinet Office to the National Public Safety Commission (National Police Agency).

In 2017, the penal code on sex crimes was revised for the first time in 110 years, allowing prosecutions without the need for victims to press charges, so as to reduce the mental burden on victims. The scope of the law was also expanded to include anal and oral intercourse while the crime of "rape" was revised to "forced sexual intercourse," with the gender of the victim becoming immaterial. The lower limit of the statutory punishment for forced sexual intercourse was increased from three years to five years in prison, and the lower limit of the statutory punishment for forced sexual intercourse causing death or injury was increased from five years to six years in prison. In addition, the crimes of indecency by person having custody of person under 18 and sexual intercourse by person having custody of person under 18 were newly established, allowing punishment for the sexual abuse of children under the age of 18 by custodians even if not accompanied by assault or intimidation or by situations where the victims are unable to resist. In addition, a supplementary resolution called on the government and courts to give more consideration to victims and to understand their actual situations. It also pointed out that the revisions would be examined further in 2020. These amendments emphasize the importance of the sexual violence survivors speaking out. For instance, Spring, which is made up of sexual assault survivors as its core members, is currently working to advance the following demands (General Incorporated Association Spring 2018), and it will pay attention to the kind of revisions that are likely to take place in 2020.

- (1) Eliminate the statute of limitations in prosecution for sexual offenses (10 years for forced sexual intercourse, 7 years for forced indecency)
- (2) Make non-consensual sexual intercourse (sexual activity not based on sincere consent in an equal relationship) a sexual offense<sup>6)</sup>
- (3) Increase the age of consent for sexual intercourse from 13 years to 16 years of age
- (4) Establish sex crime regulations that take into account social status relations, such as those relating to workplace superiors, teachers, religious leaders, or siblings and relatives of different ages.

## **Comprehensive Response Desks for Local Government Organizations**

Under the Second Basic Plan, local government organizations were requested to put in place a comprehensive response desk for victims, and these have now been established in every municipality in the country. In addition to providing information and consultations, the response desks, which have a support system in place, provide temporary housing, livelihood support, support funds and benefits, and assistance and accompaniment in various procedures. In recent years, the need for ordinances that form a legal basis for promoting this kind of victim support has increased, and such ordinances have been enacted at the prefectural and municipal levels. As of April 1st, 2019, 17 prefectures, six government-designated cities, and 272 municipalities (out of 47 prefectures, 20 government-designated cities, and 1,721 municipalities) had enacted ordinances to support victims (National Police Agency 2019). Further, Tokyo is prepared to enact another ordinance in April 2020. It is hoped that this will encourage support for livelihood, financial, mental, and physical issues that only local governments, as familiar presences to residents, can provide.

In this way, local governments have been working to support victims. However, there are still many issues that need to be addressed. According to a national survey conducted by Crime Victim Support Study Group in 2016, about 90% of the people working at the comprehensive response desks were doing so concurrently with other duties, most of the desks had one or two people assigned to them, and those with qualifications in interpersonal support work only made up about 10% of the total. In the past year, only about 20% of the desks had inquiries. A significant tendency for those desks with qualified interpersonal support professionals assigned to them to receive more inquiries was also observed. The results of the survey suggest that it is necessary for the support desks to have two or more members of staff who are qualified or have experience in consultation assistance.

## **Services Provided by Private Victim Support Organizations**

The private victim support organizations affiliated to the NNVS provide support to victims and surviving families affected by crimes such as murder, assault, sexual offenses, and traffic incidents. The support consists of provision of information, consultation by telephone and in person, counseling by professional psychologists, direct support, and self-help groups. In addition, the organizations also conduct public awareness activities, counselor training, and research on victim support. Direct support also includes conducting home visits to victims as well as accompanying victims to police stations, public prosecutors, courts, lawyers, hospitals, and administrative offices. In direct support, the counselor promotes communication between the victim and the relevant organizations, provides mental support for procedures, and gives practical support such as securing spaces to take breaks in and confirming schedules. This kind of support ensures that victims are taken into consideration, given respect, and actively involved in the series of procedures.

More than 20 years have passed since the NNVS was founded, and the number of consultations handled by private support organizations across the country has also increased. The total number of consultations handled in 2010 was 16,244. This figure increased to 39,891 in 2018. Out of all the consultations handled in 2018, 32,783 were related to crime victimization. The number of direct support cases increased by about 1.4 times—from 5,931 in 2010 to 8,288 in 2018. Excluding 1,133 cases of coordinating contact with related organizations, the remaining 7,155 break down as follows: 37.2% court-related support (such as accompanying victims to trials or proxy hearings to take court records on behalf of victims), 18.3% accompaniment to legal consultations with lawyers, 7.8% public prosecutor-related support, 5.9% accompaniment to hospital, and 4.1% police-related support. These statistics imply that about two-thirds of the direct support is justice-related support.

Looking at the breakdown by type of the crime, out of the 32,783 crime victim consultations, sexual violence cases made up the majority, with 17,689 cases (53.9%), and that proportion is trending upward year-by-year. In addition, there were 4,317 cases relating to homicide and injury causing death, 2,808 relating to assault and injury, 2,469 relating to traffic deaths, 1,136 relating to traffic incidents, and 1,511 relating to domestic violence. As mentioned above, the Crime Victims Telephone Support Center was established in 2018, enabling telephone consultations during early mornings, evenings, and on public holidays. The number of telephone consultations in 2018 was 1,545, and the consultations between 16:00 to 22:00, outside of the consultation hours of regional private support organizations, made up 52.8% of these (NNVS 2019).

The advantages of private support organizations include the ability to provide both medium- and long-term support, convenience and flexibility, meticulous support, and in addition to free services, the ability for victims to regain trust in society and human relations in the context of an equal relationship with support staff (Ito 2016 : 143).

In terms of challenges, the first is the weakness of the financial foundation. The main sources of funding are local government subsidies and corporate and individual donations. Therefore, the operating funds are limited and increase at a slow pace. According to the NNVS, the total expenditure of its 48 member organizations nationwide in fiscal 2018 was about 1.3 billion yen, and 23 of those were running a deficit (Yomiuri Shimbun). With the increase in the number of consultations, public financial assistance is essential in facilitating appropriate support.

The second is the fact that private support organizations basically have only one location in each prefecture, making it difficult to provide wide-area support (Ito, 2018). In addition, the criterion for deciding the type of support to offer is based on the area where an incident occurred and the victim's place of residence. Notably, the criteria used to arrive at the decision on whether or not to provide support are not standardized between the organizations. When the location of the incident and the victim's place of residence span prefectural boundaries, it is not clear which organization will be in

charge of what, and as such it is necessary to enact rules providing for wide-area support.

There is also a shortage of full-time and part-time staff in most organizations. Moreover, the organizations are made up of ageing staff, with the NNVS's 2018 activity report showing that those over 60 make up over 62% of the total staff in the victim support organizations (NNVS 2019). Therefore, it is necessary to train young professional staff, secure expertise, and prepare the ground for the use of volunteers.

### **The Possibility of Restorative Justice Practice**

In order for the victim to "recover" from the damage they have suffered, it is often important to obtain information and apologies related to the incident directly from the perpetrator. Restorative justice can be given as a conceptual background for the practice of seeking a point of contact between the victim and perpetrator. Restorative justice began to attract attention in the 1970s and provides a complementary perspective to traditional retributive justice (Zehr 1995).

Its basic principle is to involve all parties and the community in the process of: (1) focusing on the needs of victims and meeting them, (2) making perpetrators take responsibility, and (3) improving the situation. It is characterized by taking up the needs of victims that cannot be met by traditional retributive justice and involving the community in trying to correct the situation. It is characterized by direct dialogue between the injured party and the perpetrator, a conference in which families and supporters also participate, and circles in which even more stakeholders are involved (Ito 2015).

For instance, in the United States, dialogue between inmates and victims is conducted in correctional facilities, not only for minor cases but also for serious crimes such as murder and manslaughter. Prior to the dialogue, both the victim and the perpetrator conduct careful preparations and clarify their needs. This approach has achieved a certain level of success, including a high level of satisfaction from the participants. There are many practicing organizations, not only public institutions but also private organizations, which are involved in developing various programs for each case and community. Well-trained community volunteers are often involved as facilitators in such dialogues.

In Japan, professionals in the legal field have shown a high level of interest in restorative justice and theoretical discussions are ongoing. However, in terms of practice, restorative justice is still insufficient. One of the pioneering organizations in restorative justice is Chiba's *Taiwa no Kai* ("Dialogue Association"). *Taiwa no Kai* was founded in 2001 and it conducts dialogues between victims and perpetrators in juvenile cases. Through face-to-face discussions between the parties, it provides a platform to talk about how victims can recover and how perpetrators can reform. By 2019, *Taiwa no Kai* had received 86 applications, out of which 32 dialogue meetings took place. The breakdown of cases spans from serious cases, such as attempted murder and manslaughter, to relatively light cases, such as theft, and also crimes such as indecent assault. Even in cases where a dialogue meeting between

the parties does not take place, there are instances where, indirectly, the perpetrators' apologies are conveyed to the victim and facts about the injury that the victim suffered conveyed to the perpetrator (Yamada 2015).

In addition, *Taiwa no Kai* is also involved in "education that incorporates victims' viewpoints" at juvenile detention centers. Through group work, the boys think about the feelings of the victims and their experience of injury, strengthen their resolve to apologize, and are given guidance so that they can work on their own rehabilitation. These efforts can also be described as restorative justice practices.

One of the restorative justice practices by undertaken by the public sector is the establishment of Japan's Victims' Feelings Conveyance System (one of the four measures undertaken to support crime victims in facilitating offenders' rehabilitation). This system was introduced in 2007 as an expansion of victims' involvement in criminal proceedings, which is one of the priority issues of the Basic Plan for Crime Victims. This system is positioned as the final point of contact for crime victims within the criminal justice process; i.e., it enables victims to communicate their feelings to perpetrators on probation and to acquire information on the results of this notification.

The results of a 2014 questionnaire survey given to the probation officers in charge of this system showed that in order to make this system more effective, further investigation is necessary to better grasp the victims' satisfaction and needs, to incorporate the perpetrators' probationary treatment, and to assess the necessary methods of cooperation of the organizations concerned (Ito 2016). In addition, the continuous development of the system as a practical exercise in restorative justice will require close cooperation with the correctional sector in the future.

Participation in the practice of restorative justice is entirely at the discretion of the victim, and the availability of such an option contributes to comprehensive victim support. It is hoped that a full-fledged path to the practice of restorative justice will be established as an aid to victims' "recovery."

## **A New Direction in Victim Support**

Victims of crime have long been a "forgotten" presence in terms of human rights and social justice. While for perpetrators, the costs of being arrested, detained, tried, and punished are covered by public funds, the costs incurred by victims as a result of the crime, including medical and nursing care expenses, moving expenses, and living expenses, are all borne by the victims themselves. Within the judicial process, their only role was to provide "evidence" so as to facilitate the conviction of the perpetrators.

Although Japan has seen great progress in systems and policies for crime victims since the enactment of the BACV in 2004, there are still many victims who have not benefitted from the support offered or who are struggling to rebuild their lives.

The approach to crime victims' support mainly focuses on mental care after the damage suffered and securing the victims' rights in criminal procedures. Currently, in the lead-up to the formulation of the

Fourth Basic Plan for Crime Victims, which will be implemented in April 2021, both medium- and long-term livelihood support is attracting attention.

Consequently, the following points are important in this livelihood support:

- ① It is essential to have a system that enables collaboration among multiple organizations in various fields of service, such as finance, housing, medical care, employment, and education. In order to achieve this, it is necessary to establish a victim support council, hold regular meetings, and clarify and confirm the role of each organization on a daily basis.
- ② It is also desirable that the comprehensive response desk for victims in local governments forms the center of this multi-organizational cooperation. Specialists in the field of health and welfare should be assigned to this desk and the services (social resources) of each institution be coordinated and monitored using care management methods.
- ③ In the future, it is hoped that these response desks will be developed as a one-stop service that allows victims to seek various consultations and coordinate their services in a single place.

There are many difficulties and absurdities that crime victims face. We should aim to create a system that allows victims to receive prompt and appropriate support and rebuild their lives regardless of where they live within the country.

## Footnotes

- 1) Previously, victims in Japan were not allowed to express their feelings and opinions in court.
- 2) Japan is divided into 47 prefectures which encompass municipalities. Each prefecture has an assembly as a legislative organ, a governor as an executive agency, and officials as subsidiary organs. The Prefectural Public Safety Commission is an agency which directs the prefectural police.
- 3) The Victim Participation System applies only to certain crimes such as homicide, injury causing death, forced sexual intercourse, forcible indecency, negligence in vehicle driving causing death or injury, unlawful capture and confinement, and kidnapping and buying or selling of human beings. The Compensation of Damages Order System applies only to certain crimes such as homicide, injury causing death, forced sexual intercourse, forcible indecency, unlawful capture and confinement, and kidnapping and buying or selling of human beings.
- 4) This amendment applies only to certain serious crimes such as homicide, traffic case causing death or injury, and injury causing a significant danger of a victim's life.
- 5) The revision of the Basic Plan was scheduled for 2011 because the planning period was set to five years. However, victims and their supporters had demanded that the national government promote more measures for victims before the revision of the Basic Plan because there were some measures that had not yet been realized or thoroughly implemented.

- 6) Currently, even if a victim over 13 years of age did not consent to a sexual intercourse, the perpetrator cannot be charged without proving the existence of sufficient assault or threats that made the victim incapable of resisting.

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## 日本における犯罪被害者支援の現状と課題 (2)

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要旨：本稿は2013年に発表した論文 *The Current Status and Issues in Crime Victim Support in Japan* (*Sophia University Studies in Social Services, No37, 31-41*) をもとに、近年の状況を加え構成し直したものである。わが国では2004年制定の犯罪被害者等基本法に基づき、2005年には第1次犯罪被害者等基本計画（以下、基本計画）、2011年に第2次基本計画、2016年に第3次基本計画（2016年4月から2020年度末）が策定され、被害者のニーズに応えるための具体的施策が官民挙げて着実に実施されてきている。本稿では被害者支援においてどのような進展があり、改善されてきているか、また現在どのような課題があるか等について調査結果も踏まえ論じている。

(前回2013年の論文は、わが国の犯罪被害者支援に関する英語論文がほとんどなかったこともあり、海外の研究者を含め問い合わせが多く活用していただいた。それから7年近くが経過し、内容をアップデートする必要性を感じていた。不十分な箇所もあるかと思うが、ご指摘いただければ幸いである。)

キーワード：犯罪被害者, 被害, 被害者支援システム, 民間被害者支援団体, 修復的司法(正義), 修復的対話, 心情等伝達制度, 更生保護における犯罪被害者等施策