Legal Support to Fukushima Municipality: 
Law School, Lawyers, and Nuclear Disaster Victims

Takao Suami*

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I. INTRODUCTION

The Tohoku Region of northern mainland Japan was heavily damaged by the unprecedented earthquake and subsequent tsunami on March 11, 2011. Almost four years later, people in the affected areas are still suffering and striving to regain their normal life back. Within the Tohoku region, Fukushima’s situation is the most serious. Unlike other parts of the region, Fukushima has been widely and terribly contaminated by high-level radioactive substances released into the air by the meltdown of the Fukushima Dai-Ichi Nuclear Power Plant (hereinafter “Fukushima Nuclear Plant”). Immediately after the meltdown, a group of Japanese professors from the Waseda Law School in Tokyo created the Waseda Project to provide legal assistance to victims. The group legally supports Namie, one of the local governments in the evacuation zone around the Fukushima Nuclear Power Plant. The Waseda project is a test case about how a Japanese law school can assist disaster victims. Through this project, these professors have found a couple of interesting phenomena about the role of law and lawyers in the Japanese society.

This article aims first to explain how Japanese law professors have become involved in assisting the evacuated local government in Fukushima. Secondly, this article examines the issue of damage compensation for nuclear victims. Third, this article analyzes such problems from the viewpoint of the role of lawyers as well as law. Finally, this article makes some general suggestions for professional law schools in Japan based on lessons from the Waseda Project’s. Examination in this article is empirical rather than theoretical, but it will provide insight into understanding the role of the law and lawyers dealing with nuclear disaster victims in Japan.

II. WASEDA UNIVERSITY LEGAL ASSISTANCE PROJECT FOR RESTORATION FROM THE GREAT EAST JAPAN EARTHQUAKE

A. The Birth of Waseda Project

1. Discussion among law professors and the Waseda University’s special fund

Just after the Great East Japan Earthquake hit the Tohoku region in March 2011, several law professors of Waseda Law School started discussing what they could do for victims of this disaster. At the same time, Waseda University decided to establish a special university fund for practical research projects aimed at restoring the damage from this
Earthquake, and encouraged all faculty members to apply to this fund. Those law professors applied to the fund in April 2011 and immediately started their legal support project with the financial support they received the next month. This project is very unique in Japan. It is unfortunate that no other Japanese law school has initiated a comparable project for the disaster.

2. Clinical Program in Waseda Law School

Why was such a project born only at Waseda Law School? The birth of the Waseda project was not an accident. It seems that clinical legal education in Waseda Law School has certain relevance to the birth of this project. Among Japanese law schools, Waseda Law School is featured as holding a U.S. style clinical legal education program. Before the start of professional law schools in Japan, it was quite rare that law professors did have opportunities to work for real clients, but the experiences of clinical legal education at Waseda Law School from 2004 has changed the mindset of Waseda professors. In fact, answering an appeal of one of the clinical professors, other non-clinical professors immediately made up their minds to actively tackle actual on-going problems in the society. Currently, more than ten law professors have been giving legal assistance mainly to one of the municipalities in Fukushima on various legal issues. Their specialties are very much diverse, such as constitutional law, tort law, administrative law, social security law, family law, agricultural law, sociology of law and international law. If an issue arises that is not within the expertise of current members, the project recruits a new member within the Waseda Law School faculty, who is specialized in a relevant field of law. Waseda Law School students also participate in this project, through making legal research on specific issues and conducting field surveys.

B. Where are Namie people living after the Fukushima Nuclear Plant’s accident?

The major objective of the project is to provide legal assistance to earthquake and/or tsunami victims. Originally, the project targeted all regions affected by the earthquake and the subsequent tsunami.2

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2 The Waseda project originally presumed that these victims were facing unknown legal problems after the unprecedented disaster, that such problems could not be solved by practicing attorneys, and that therefore, there was a chance that law professors could contribute to solving these problems due to their academic expertise. The project did not achieve this goal in the first year, however, due to the lack of
In March 2012, about a year later after its inception, the project happened to meet a town mayor of Namie at his temporary town hall in the city of Nihonmatsu, Fukushima. Just after the accident took place, the Japanese Government established the evacuation zone within a radius of 20-kilometers radius from the Fukushima Nuclear Plant, and prohibited any people from entering into that zone. Several towns and villages are included in this zone. According to the website of Namie\(^3\), among these local municipalities around the Fukushima Nuclear Plant, Namie has the largest population, with about 21,000 residents and occupies the land of 223 square kilometers. Namie is located in the eastern part of Fukushima which was underpopulated. The east end of the town faces the Pacific Ocean and the west end belongs to the Abukuma mountain areas. The eastern part of the town is generally flat, and both a railway line and a highway between Tokyo and Sendai pass through this area. Its major industry was agriculture and fishery, and it was also a center of commercial activities in this area. It takes about three hours to go to this area in Namie from Tokyo by a train or car. A majority of the town’s population also concentrated there. While the Fukushima Plant is situated in the towns of Okuma and Futaba, the nearest point of Namie is only 4 kilometers away from the Plant. Therefore, Namie has been seriously contaminated by radiation like Okuma and Futaba. After the nuclear accident, all people in the evacuation zone including Namie people were forced to move to other places throughout Japan in order to escape exposure to high-level radiation from the meltdown of the plant’s nuclear reactors. Many of them are still living in temporary houses in Fukushima and have not returned to their homes in four years. Their temporary houses are makeshift small houses or small apartments. Although the number of them is gradually decreasing, as of February 2015, about 3,800 people still lived in makeshift houses, and on the other hand, about 6,600 people lived in such apartments.\(^4\)

\(^3\) Information about the town of Namie is available at the town hall’s website, http://www.town.namie.fukushima.jp/ (last visited Feb. 27, 2015).

### Table 1: Location of Townspeople’s Temporary Residence

<table>
<thead>
<tr>
<th>Prefecture</th>
<th>Number of People</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fukushima</td>
<td>14,655</td>
</tr>
<tr>
<td>Ibaraki</td>
<td>951</td>
</tr>
<tr>
<td>Tokyo</td>
<td>921</td>
</tr>
<tr>
<td>Saitama</td>
<td>746</td>
</tr>
<tr>
<td>Miyagi</td>
<td>685</td>
</tr>
<tr>
<td>Chiba</td>
<td>551</td>
</tr>
<tr>
<td>Niigata</td>
<td>470</td>
</tr>
<tr>
<td>Tochigi</td>
<td>471</td>
</tr>
<tr>
<td>Kanagawa</td>
<td>457</td>
</tr>
<tr>
<td>Yamagata</td>
<td>193</td>
</tr>
</tbody>
</table>

(as of 30 November 2014)

C. **Contact with the Namie Town Hall**

1. **First Contact with the Town Hall of Namie**

   How did we first initiate contact with Namie? Before the Earthquake, Waseda Law School had no connection with Namie. The story on how the project reached this small town was very private and informal. The mayor of Namie, Mr. Tamotsu Baba, was a cousin of the author’s university classmate. As the project was looking for its counterpart in the Tohoku region, the author asked his classmate to introduce the project to Mr. Baba. On March 26, 2012, a friend of the author, three law school students and the author, visited Mr. Baba at his town hall in the city of Nihonmatsu, which is located approximately sixty kilometers inland from the center of Namie. At that moment, the town hall temporarily occupied a part of the Fukushima Gender Equality Centre, and the mayor’s office was very small and gloomy without windows. In the interview with him, the author explained to the mayor that the Waseda project would be able to provide legal assistance on a variety of issues and problems to his municipality. After several more conversations between Mr. Baba and the author, both finally agreed that they would soon hold a first preparatory meeting for cooperation.

2. **First Preparatory Meeting in April 2012**

   About a week later, in early April, the author returned to Nihonmatsu with five other professors in order to have the first brain-
storming discussion with the town mayor and other town staff. In this meeting, the mayor and his staff first explained their story of evacuation after the nuclear accident, their devastating situation at that time and their current problems, both legal or non-legal. In response to their explanation, the Waseda project members presented a lot of questions to them and then both groups identified the problems and discussed how to find solutions to those problems.

3. Regular Meetings, Legal Research and Feedback

The first meeting with the Waseda project did not give bad impression to both the mayor and his staff. After the initial meeting, the two groups continued to meet regularly in Nihonmatsu or Tokyo in order to discuss problems of the town and its people. Through questions and answers in the meeting, the project contributes to not only specifying Namie’s legal issues, but finding adequate solutions to those issues. If project members cannot provide an immediate solution to an issue, they return to Tokyo, and research the issue, and then present the outcome of their examination at the next meeting.

All evacuated local governments in Fukushima must deal with an enormous number of newly emerging problems which it had never faced before the nuclear accident. The ordinary task of local governments is to control their geographical territories, provide various administrative services and protect the life and property of their peoples. However, these evacuated governments have lost their territories provisionally at least and their peoples actually reside in other municipalities. Under such extraordinary situations, they are making efforts at returning to their original places, while they are supporting their peoples’ daily life. As a result, the Waseda project must address a variety of legal issues. The following issues are being currently examined by the project.

4. Nuclear Damage Compensation to Namie People

The main problem which the project has tackled so far is compensation for damages suffered by residents of Namie, in particular mental suffering caused by the nuclear accident. Details will be further elaborated on in the next part.

5. Nuclear Damage Compensation to the Town of Namie

In addition to its people, the local government itself suffered several types of effects such as radioactive contamination of land and buildings owned by the town and expenditures incurred during and after the evacuation process. It is expected that professors of tort law will

6 Besides the author, Professor Michitaro Urakawa, Professor Toru Nakajima, Professor Shigeki Suto, Professor Masayuki Otsuka, and Professor Masaharu Hioki joined in this first meeting.
examine issues on causation in order to determine what damages can be reasonably included in the town’s damage claims. The town staff are now preparing a first draft of its claims. After receiving that, the Project will initiate its examination.

6. Double Certificates of Residence

Like continental European countries, Japan keeps the system of residence certificate which is issued by a local government. Only a person registered with a particular government can be considered as its people. Under the Residential Basic Book Act (Article 22), every new resident has to register with the local government where he or she resides within fourteen days from his or her moving-in. A certificate of residence is an official document which shows the location of a person’s residence, and is linked to the system of national and local taxation and elections. As indicated before, all evacuated Namie people live in the geographical territories of another local government, but most of them still maintain their registration in Namie. Namely, as of the end of January 2015 the town still has a population of 19,057. It is not certain when they will become able to return to Namie because most of the town is still highly contaminated by radioactive substances. Therefore, many of them will be forced to settle down for their new lives somewhere outside the evacuation area.

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7. Jūmin kihon daichōhō [Residential Basic Book Act], Law No. 81 of 1967 (Japan). Article 22, paragraph 1 of the Act stipulates that "any person 'moving-in' (which means the setting up a new address in the territory of any city, town or village) must submit the following matters, within fourteen days from his or her moving in, to the mayor of any city, town or village; (1) Name, (2) Address, (3) Date of Moving In, (4) Former Address, (5) whether the person moving in is the head of a family or not, and if not, the name of a person’s family head and its relation with the family head, (6) Former Code of Certificate of Residence, and (7) In case of a person moving-in from the outside of Japan and others specified in a government ordinance, matters specified by a government ordinance. Jūmin kihon daichōhō [Residential Basic Book Act], Law No. 81 of 1967, art. 22, para.1 (Japan).

8. Despite a legal obligation imposed by Jūmin kihon daichōhō, this practice of no-transfer of the location of official residence is justified for evacuees by Higashi-Nihon Daishinsai ni okeru Genshiryoku-hatsudensho no jiko niyoru tameno hinan-jyumin ni kakaru jimusyori no tokurei oyobi jyusho-itensha ni kakaru sochi ni kansuru horitsu [Law on special measures concerning residents who evacuated from disasters caused by nuclear power plants' accidents caused by the Great East Japan Earthquake and measures for residents who transferred their places of residence], Law No. 98 of 2011 (Japan). Article 2, paragraph 3 of the Law stipulates that “evacuated residents in this Law are defined as people who are registered with designated municipalities and who take refuge in the outside of an area of designated municipalities”.

zone in the next few years. According to the recent opinion survey, 48.4% of the respondents show their intention not to return to Namie, but only 17.6% of them express their wish to return to Namie.\(^\text{10}\) It is likely that their purchase of new houses outside the territory of Namie will encourage the transfer of their residence registration from Namie to their new places, because they must be registered with another municipality in order to receive the same administrative services as ordinary residents. If this is the case, the town will finally lose most of its population in a near future, and its sustainability will be in jeopardy. There is another element in this issue, however. Whether residing anywhere, Namie people do not want to cut their ties with Namie because Namie is still their hometown In order to keep their identity as Namie’s people, they want to maintain a connection to Namie. Against such backdrop, the mayor and others such as Science Council of Japan, have proposed double certificates, where people are residents of both a host municipality and a home municipality, namely Namie.\(^\text{11}\) Several Waseda professors of administrative law and constitutional law recently started discussing some issues such as voting rights with the town staff to find a solution that meets the true needs of the Namie people.

7. Social Welfare Services for Evacuated People

Any municipality is responsible for distributing social welfare services to its people, but in case of Namie, as stated before, its people are dispersed throughout Japan. In addition, many people, especially elderly people are often isolated from their family and friends after their evacuation, and are forced to spend their daily life in poor housing conditions. According to our interviews on the spot as well as our questionnaire survey, these circumstances have had a significant impact on their mental health.\(^\text{12}\) At the request of the town staff, Professor Yoshimi

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\(^{12}\) The project made fact-finding surveys based on interviews with evacuated
Kikuchi, a professor of social security law occasionally visits elderly people living in makeshift small houses with his undergraduate law students. The young students have become good companions for these elderly people. The professor consults about social security law issues with town staff in charge of social welfare services based on the information obtained from interviews with elderly persons about their living conditions.

8. Restoration of Agricultural Sector

Namie is located in a rural area. Agriculture and fishing are major industries. One of the major issues for Namie is how the agricultural industry will be redeveloped. Though parts of Namie are still highly contaminated by radioactive substances, the level of radioactive contamination varies. The return to agriculture primarily depends upon whether or not decontamination of farmland is feasible. In April 2014, despite the contamination issues, a few farmers started cultivating rice in decontaminated rice fields in Namie. A professor specializing in agricultural law visited these fields with his students in August 2014, and he is now ready to consult with the town staff in charge of restoring agriculture.

9. Explanation to a Foreign Land Owner

In the framework of a new city planning in the original location of Namie, especially its coastal part where the level of radiation is relatively low and where it is possible to decontaminate radiation within a few years, the town hall plans to acquire a parcel of land for the construction of a new cemetery, because the old cemetery was washed away by the tsunami. Town staffs are negotiating with land owners for sales of land. For example, one of the landowners resides in Vancouver, Canada because her ancestors left Japan for Canada a long time ago. Since she does not speak Japanese, and the town staffs are unable to communicate in English, a professor of American law will explain legal procedures for the transfer of land ownership in Japan to the landowner and her lawyer on the phone on behalf of the town hall.

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D. Waseda Lawyer Working Within the Town Hall

An in-house lawyer, who is a graduate of Waseda Law School, has helped to facilitate strong communication between the town hall and the Waseda Project. After the Judicial Reform at the end of the 1990s, the number of lawyers increased considerably. Not a few lawyers entered jobs in the central government. However, there are still very few lawyers at the city, town, and village levels.\textsuperscript{13} Therefore, it was quite natural that at the beginning, the town hall did consider adding a lawyer to its staff, because the town of Namie had never hired an attorney in the past. In January 2013, the project suggested to the mayor that the town should employ an attorney on its staff, and he accepted the suggestion. At the request of the town hall, the project recommended one of our graduates, who worked for a local office of the Japan Legal Support Center in a small island, and he joined the town hall as a town staff in August 2013. His work is now highly appreciated by all staff as well as the mayor.

III. COLLECTIVE COMPLAINTS BEFORE THE DISPUTE SETTLEMENT CENTER

The next section will concentrate on compensation for nuclear damages affecting the Namie people. The Fukushima Nuclear Plant was operated by the Tokyo Electric Power Corporation (TEPCO) which was the biggest power company in Japan. Their damage claims against TEPCO has been the most important subject for the Waseda project.

A. Legal Framework of Compensation for Nuclear Damages

1. Nuclear Damage Compensation Act

The Japanese legal framework of compensation for nuclear damages was established in early 1960s before nuclear power plants started their operation in the middle of 1960s. Namely, the Nuclear Damage Compensation Act enacted in 1961 established such a framework and regulates compensation for nuclear damages which any people suffered from the operation of nuclear reactors.\textsuperscript{14} Under this Act,

\textsuperscript{13} As of June 1, 2013, only thirty-one attorneys worked as officials of local governments in Japan. Most of them worked for prefectures and cities, while only two worked for towns. Nihon Bengoshi Rengō Kai [The Japan Federation of Bar Associations], Bengoshi Hakusho 2013-nen ban [White Paper on Attorneys, 2013 Edition], 190 (2013).

irrespective of their evacuation, all victims, natural persons as well as legal persons such as business corporations and public entities, have the right to compensation for their damages. Claims are submitted only to TEPCO and TEPCO is responsible for the entire amount of damages. Therefore, all nuclear victims must submit their damage claims to TEPCO. If there are disputes about the amount of damages between TEPCO and nuclear victims, the present Japanese scheme provides two institutions for accelerating amicable solutions in the disputes. The two institutions are the Dispute Reconciliation Committee for Nuclear Damage Compensation and the Dispute Settlement Center for Nuclear Disaster Compensation.

2. Dispute Reconciliation Committee for Nuclear Damage Compensation

In April 2011, after the nuclear accident in Fukushima, the Japanese Government decided to establish the Dispute Reconciliation Committee for Nuclear Damage Compensation ("Dispute Reconciliation Committee") in accordance with the said Act. The Dispute Reconciliation Committee is responsible for both mediating any dispute arising from nuclear damages and preparing general instructions to reach a settlement of such disputes. In August 2011, the Committee published the Interim Guidelines for Determination of the Scope of Nuclear Damages. The Interim Guidelines broadly cover personal damages including mental damages and corporate damages, and regulates practice of compensation for nuclear damages. When receiving complaints from the victims, TEPCO usually makes payments to them in accordance with standards in the Interim Guidelines. However, according to the Dispute

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15 Genshiryoku songai baishōō, [Nuclear Damage Compensation Act], Law No. 147 of 1961 (Japan), at arts. 3 and 4.

16 Genshiryoku songai baishōō, [Nuclear Damage Compensation Act], Law No. 147 of 1961 (Japan), at art. 18, para.1.

17 Id.


19 Osaka, supra note 14, at 439-40.
Reconciliation Committee, the Guidelines are issued as only a reference point for settling a dispute and are not legally binding. Furthermore, it does not account for all elements that could impact the amount of nuclear damages, and there is much room to interpret them, since they includes abstract notions such as “necessary and reasonable”, “special circumstances” and “reasonable scope”. Therefore, it is unavoidable that many disputes will come about between TEPCO and victims.

3. Dispute Settlement Center for Nuclear Disaster Compensation

Secondly, in order to resolve such disputes, the Dispute Reconciliation Committee set up a special institution named the Dispute Settlement Center for Nuclear Disaster Compensation under its control at the end of August 2011. The Center is an alternative dispute resolution body and provides mediation services for each individual dispute on damage compensation. As of December 2013, about 450 lawyers worked as mediators or inspectors of the Center. The Center had seven offices in both Tokyo and Fukushima in 2013. By the end of 2013, it had received 9,154 complaints from 39,175 victims including corporations, and had solved 6,529 cases. TEPCO has publicly

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20 Funso Shinsakai, supra note 18, at 1-6.
21 Funso Shinsakai, supra note 18, at 3.
22 Id. at 14-16, 19, 23-24, 26, 28, 29-30, 32-33, 35, 38-41, 53-54, and 56.
23 Genshiryoku songai baisho funso kaiketsu senta no tebiki [Introduction to Dispute Settlement Center for Nuclear Disaster Compensation], http://www.mext.go.jp/component/a_menu/science/detail/__icsFiles/afieldfile/2013/07/10/1329118_001_1.pdf (last visited Feb. 28, 2015).
26 Id. at 1.
27 At the end of 2013, 2,625 cases were still pending, and among the 6,529 completed cases, 5,130 cases were amicably settled between the parties before the Center. Id. at 10.
expressed its full respect for proposals on amicable settlements presented by the Center, and has accepted most settlements, with very few exceptions. Accordingly, the Center’s proposals have played an important role in quickly solving disputes between TEPCO and Fukushima nuclear victims.

However, although these two frameworks help to provide relief to nuclear victims, there are still flaws with these systems. These flaws have resulted in complaints filed by Namie people to the Center. This will be explained in the next part.

B. Collective Complaints to the Dispute Settlement Center

1. Details Leading to Collective Complaints

In the fall of 2012, after a series of intensive discussion with town officials about what the town hall could assist its people on their damage claims to TEPCO, the Waseda project suggested as one of options that the municipality initiate a mediation procedure before the Dispute Settlement Center on behalf of its people. The procedure is referred to as collective complaints in this article.

Problems in the Interim Guidelines and on Access to Legal Services. The town of Namie finally decided to represent its residents because of the various issues still remaining with residents’ damage compensation claims.

First of all, the people in Namie are not fully satisfied with the compensation standards specified in the Interim Guidelines. The Guidelines holds several non-negligible defects. The major defect is essentially procedural, but such a procedural defect leads to substantive flaws in the end. To begin with, in order to be legitimate, such a guideline has to be established with effective participation of both victims and local governments, and must be based upon an objective survey. However, the Interim Guidelines lacked effective participation from both victims and local governments in the process of establishing the Interim Guidelines. For example, as regards a reference amount of mental sufferings, first of all, the Dispute Reconciliation Committee did not give both Fukushima municipalities and people opportunities to express their views, and secondly the Committee neither had any hearings nor any questionnaire

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28 In its new business program of December 2013, TEPCO expressed its intention to respect proposals on amicable settlements by the Dispute Settlement Center. Tokyo Denryoku [TEPCO], Shin sōgō tokubetsu jigyō keikaku [New Integrated Special Business Program] 36 (Dec. 2013), http://www.tepco.co.jp/cc/press/betu14_j/images/140115j0102.pdf.; In 2013, the Center finished its procedures of only ten cases by reason of TEPCO’s refusal to accept its proposals. (Funsōkaiketsu sentā, supra note 25, at 11.

29 Chōsahan, supra note 12, at 34.
It is understandable that the Dispute Reconciliation Committee could not meet these two conditions within a few months after the Fukushima nuclear accident. At that time, the situation was almost in chaos in Fukushima due to the lack or insufficiency of subsistence goods such as food, clothes and shelter. Most of evacuees were forced to stay in gymnasiums, schools and public halls, and could not afford to think about obtaining compensation for the damages that they suffered. However, their situations had generally become better in the spring of 2012. For example, during this period, many evacuees moved to makeshift-houses.

However, the Committee has not reached out to governments of evacuated populations except for a very short hearing with their mayors. The Committee also did not make any necessary fact-finding survey on the conditions of victims. The Guidelines were developed with the intention of tailoring the Guidelines to the reality. This intention is indicated by the fact that the Guidelines were initially determined to be “Interim” Guidelines. However, the core substance of the Guidelines have not been altered at all. In this respect, the Committee must be blamed. In April and May 2013, the Waseda project, in particular a professor of sociology of law, developed a questionnaire survey with practical assistance from the town hall. This survey was distributed to all citizens of Namie. Results clearly indicated that the level of mental suffering of Namie people is much higher than that assumed by the Committee. Namely, the reference amount of mental suffering in the Interim Guidelines was calculated on the basis of mental damage which victims of traffic accidents suffered from their injuries. But the Waseda project’s survey clarified that mental suffering of evacuees due to the nuclear accident was essentially different from and not comparable to that of traffic accident victims. Therefore, the compensation standards in the Guidelines do not fully reflect the victims’ real sufferings and damages.

30 Michitaro Urakawa, Genpatsu jiko niyori hinan seikatsu o yoginakusareteiru mono no isharyō ni kansuru mondaiten [Issues on Compensation for Mental Damages of Evacuated People by the Nuclear Power Plant Accident], 43 KANKYO TO KOGAI [Environment and Public Pollution] No. 2, 9, 9-14 (2013).


32 Thanks to the assistance of the town hall, the sociology professor collected more than 9,000 replies to his questionnaire out of a population of 21,000. Such a high return contributed to the reliability of his survey.

33 Funsō Shinsakai, supra note 18, at 21.

34 Chōsahan, supra note 12, at 7-34.

Secondly, although the Center has played an important role in accelerating reconciliation between TEPCO and the victims, its procedures are still troublesome. In order to submit a complaint, each victim has to complete documentation work and to prepare written evidence which justifies its complaint, although the amount of work is less than that for litigation before courts. Therefore, filing a complaint to the Center without assistance from attorneys is generally a tough and difficult job for the ordinary victims, in particular elderly ones, since preparing certain form of documents is necessary. In cases of complex legal issues, lawyers’ assistance is in fact a precondition for victims obtaining access to the Center, because victims are not able to prepare legal arguments justifying their claims to the Center as well as TEPCO.\textsuperscript{36} Even assuming that a victim succeeds in filing a complaint through his or her own efforts, presenting his or her arguments before the Center’s hearing is also tough. It is notable that Fukushima Prefecture is an area where not many attorneys do their business, however. The population of Fukushima is about two million, and the Fukushima local bar association has only 168 members as of March 2013.\textsuperscript{37} For example, there was no attorney having an office in the town of Namie before the Earthquake. Therefore, the townspeople in Namie had not been accustomed to asking attorneys for legal assistance. It was likely that many of them did not even consider seeking assistance from attorneys to obtain compensation for their nuclear damages.

Idea for Collective Complaints. By the fall of 2012, Namie residents’ frustrations had gradually become very high. In a rural area, a local government must be a guardian of its people.\textsuperscript{38} Therefore, the town hall was put under pressure to do something for its people in regards to damage claims against TEPCO. At the meeting with town staff in November 2012, a project member suggested that the town hall collectively file complaints to the Dispute Settlement Center on behalf of its citizens. Unlike court procedures, the Center allows non-lawyers to represent their clients before its conciliation procedures.\textsuperscript{39} There was

\textsuperscript{36} In 2013, 81% of all complaints were filed by the victims represented by attorneys. \textit{Funsōkaiketsu sentā, supra} note 25, at 3.

\textsuperscript{37} The Japan Federation of Bar Associations, \textit{supra} note 13, at 75.

\textsuperscript{38} In October and November 2012, the town hall held fourteen explanatory meetings on the restoration plan in and outside Fukushima. According to the mayor, many townspeople expressed their support for active involvement of the town hall in compensation for their damages.

\textsuperscript{39} According to the Center’s conciliation rules, not only a lawyer but any person who is accepted by the Center can become a representative of the victims. Rules of the Dispute Settlement Center, art. 5, \textit{available at} http://www.mext.go.jp/a_menu/genshi_baisho/jiko_baisho/detail/1329128.htm (last visited Dec. 31, 2014).
another issue was whether or not the town hall can represent its people under the Local Government Act regulating actions of local municipalities. A secretariat of the Fukushima Association of Local Governments sent a negative opinion to the Namie’s town hall on this issue. Namely, while the Act provides for the tasks of local municipalities such as prefectures, cities, towns and villages, in their view, the actions of the town overstepped the responsibilities of a local municipal government. Since there was no precedent, this could become an issue, but the Waseda project member, a professor of administrative law, made an counterargument and presented a positive opinion which pushed the town hall to carry out its collective complaints.

Organizing a Team of Lawyers for the Town Hall. In January 2013, the town hall initiated necessary preparations for the collective complaints. The town hall needed assistance from lawyers to represent its citizens before the Center. At the request of the town hall, the Waseda project organized a team of lawyers for the town hall. The team consists of about twenty attorneys, most of who are graduates of Waseda Law School. Two clinical professors also joined this team as its president and secretary general respectively. They are now working as re-representatives of the Namie people in the conciliation procedure before the Center. In February and March 2013, in cooperation with these lawyers and the town hall, the Waseda project developed several fact-findings surveys and conducted interviews with the townspeople in and outside Fukushima in order to clarify their sufferings after the nuclear accident.

Lastly, it is notable that the town assembly also justified the town hall’s decision. The town assembly issued a town regulation in March 2013, which constituted a legal basis for the town hall’s various activities for the collective complaint.

40 Chihō jichihō [Local Autonomy Law], Law No. 67 of 1947 (Japan).

41 Article 1 and article 2, paragraph1 of Chihō jichihō stipulates that “[t]he task of a local public body shall be to promote the welfare of its residents, for which purpose it shall carry out a wide range of tasks in the autonomous and comprehensive performance of local public administration”. Chiho jichihō [Local Autonomy Law], Law No. 67 of 1947, Arts. 1 & 2, para.1 (Japan).

42 Suami, supra note 2.

43 Namie-machi [Namie Town], Namie-machi genshiryoku songai baishō seikyū ni kakawaru shien ni kansuru jōrei [Namie Town Regulation Concerning Support for Nuclear Damage Compensation Claims], Jōrei [Town Regulation] No. 7 (Mar. 28, 2013), available at http://www.town.namie.fukushima.jp/reiki/act/frame/frame110000784.htm. Article 4, para.1 of this Regulation provides that in accordance with the basic idea in Article 3, the town shall decide and implement a policy on support to nuclear victims claiming damage compensation.
2. Complaints on Mental Suffering before the Dispute Settlement Center

75% of the Townspeople Joined the Collective Scheme. The town hall filed its collective complaints against TEPCO to the Center at the end of May 2013. As far as the author knows, this happened for the first time in the modern history of Japan. In response to the town hall’s announcement on the collective complaints in April 2013, a majority of the townspeople immediately decided to join this scheme. More than 11,000 Namie people submitted their proxies to the town hall before the first filing at the end of May 2013. After that, the number of proxies had constantly increased. Within about a year, this figure has further gone up to more than 15,000, which means that about 75% of the Namie’s population participated in this collective complaints scheme. This high figure suggests great success of this scheme, and the size of participation went much beyond expectation. Even the mayor was surprised by the unexpected number of people who joined the scheme. There is no doubt that the Namie people had been waiting for an opportunity to publicly express their dissatisfaction.

Focus on Mental Suffering. Damages are classified into two different categories, property damages and mental damages. The collective complaints scheme seeks compensation (250,000 Japanese Yen per month, more than $2,000 US Dollars) for mental damages of the victims.

There are a couple of reasons why complainants are only seeking mental and emotional damages. First, the amount of property damage varies among each inhabitant of the town, however mental suffering is more common among evacuees from Namie. In other words, it is more efficient for the town hall to seek damages for the mental suffering of the Namie residents.

Secondly, the townspeople are not convinced of the compensation standard on mental sufferings by the Interim Guidelines. The Guidelines stipulate that, each victim, despite their age, is entitled to receive 100,000 Yen (about 800 US dollars) per month as compensation for mental damages. The first issue is that the said Dispute Reconciliation Committee made use of the amount paid to victims of traffic accidents as a reference point. In Japan, the standards of compensation for such victims have been firmly established by accumulated case law and legal practice.

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46 Funsō Shinsakai, supra note 18, at 17-23.
from a long time ago. Then the Committee finally determined that similar amount should be paid to victims of nuclear accidents.\(^{47}\) The mental suffering experienced by the nuclear victims in Fukushima is quite different from those suffered by traffic accidents’ victims. Nuclear victims suffer from fear of exposure to radiation, health risks in future, poor life conditions in make-shift houses, grief from loss of their home and anxiety about life in future.\(^{48}\) It is difficult to find any analogy or similarity between these two types of victims. Due to such differences, the townspeople in Namie have been very unsatisfied with the use of the same standards to provide compensation.

The second issue concerns the insufficient and inadequate amount of compensation suggested by the Guidelines. The use of the standards for compensating traffic accident victims actually decreases the amount of compensation to the nuclear victims.\(^{49}\) Therefore, two civil law professors working on the Waseda project members formulated their legal opinions, which were submitted to the Center and publicized in a Japanese legal journal.\(^{50}\) These opinions harshly criticize both the decision making process in the Reconciliation Committee, and the application of the standard for traffic accidents by making clear how different these two circumstances are.\(^{51}\) These professors are theoretically supporting the team of lawyers.

3. Mediation Procedure in the Dispute Settlement Center

In the Center, a small panel consisting of three attorneys has been in charge of the collective complaints by the town hall. After several exchanges of briefs between both sides in the fall of 2013, the panel conducted a field study in the original location of Namie in January 2014.

\(^{47}\) Furthermore, there are other points to be questioned. First, this amount of 100,000 Yen is a little less than the standard applicable to victims of traffic accident. Secondly, according to the Interim Guidelines, the amount of 100,000 Yen applies to the period of the first six months after the accident. Thereafter, the amount becomes a half of that, namely 50,000 Yen. However, the Center adopted its own standard in February 2012 to fill the gap between the initial 100,000 Yen and the subsequent 50,000. As a result, the victims have continued to receive 100,000 Yen to date. This was a kind of trick. Urakawa, supra note 30, at 12.

\(^{48}\) Chōsahan, supra note 12, at 1-34 (original 28).


\(^{50}\) Takehisa Awaji, Fukushima genpatsu jiko no songai baishō no hōri o dō kangaeruka [How We Should Understand the Theory of Damage Compensation of the Fukushima Nuclear Plant Accident], 43 KANKYÔ TO KÔGAI [ENVIRONMENT AND PUBLIC POLLUTION], No.2, 2-7 (2013); Urakawa, supra note 31, at 9-16.

\(^{51}\) Awaji supra note 50, at 2-7; Urakawa, supra note 30, at 9-16.
and held two hearings to directly listen to voices of Namie people in January and February 2014.\textsuperscript{52} The Center then showed its proposal with detailed reasoning for an amicable settlement to both parties in March 2014. It should be noted that although the proposal did not completely accept claims by the town hall, it accepted the amount of compensation much exceeding the standard in the Interim Guidelines. According to the author’s provisional calculation, the proposal requires TEPCO to pay a total of about 20,000 million Japanese Yen (about 160 million US Dollars) to the complainants. According to the author’s provisional calculation, the proposal requires TEPCO to pay a total of about 20,000 million Japanese Yen (about 160 million US Dollars) to the complainants. Unlike the Dispute Conciliation Committee, the Center conducted oral hearings and on the spot investigations. Therefore, it is important that its findings focus on mental suffering. The reasoning attached to the proposal often referred to statements by Namie people at the time of oral hearings, and recognized that both prolonged evacuation and increasing uncertainty about their future return have made it difficult to restore their normal life and to design their life plan. Further, it concluded that as a result of such difficulty, their anxiety about the future has increased. The townspeople are very satisfied with the reasoning, which in fact cures or ameliorates the Namie people’s sufferings to certain extent. Therefore, almost all complainants in the collective complaints immediately agreed to accept this proposal (as of May 24, 2014, 15,358 complaints which are 98% of the whole had agreed to accept the proposal), and the town hall announced its acceptance in a press conference at the end of May 2014.\textsuperscript{53} Unfortunately, TEPCO refused to accept it at the end of June 2014.\textsuperscript{54} The panel is trying to persuade TEPCO to agree to the proposal. Thus, the panel sent its Supplementary Reasoning to TEPCO in August 2014.\textsuperscript{55}


\textsuperscript{54} Namie-machi [Namie town], Tōden kaitōsho ni taisuru Baba-chōchō no komen to [The Mayor, Mr. Baba’s Comment to Answer to TEPCO] (Jun. 26, 2014), http://www.town.namie.fukushima.jp/site/shinsai/7504.html.

further elaborated its reasoning again and explained that there were no reasonable grounds for TEPCO’s refusal. However, TEPCO has still not reversed its decision.

From April 2014, TEPCO had changed its attitude towards the Center’s proposals on amicable settlements. TEPCO now does not hesitate to refuse an unfavorable proposal.\textsuperscript{56} TEPCO has already refused to accept the proposals in several cases since April 2014.\textsuperscript{57} Among those cases, the Namie’s collective complaints case is the biggest one. The Namie case has become very well-known in Japan due to the mass media, and many people are following the status of the case. On the other hand, although no other municipality has not followed Namie’s collective scheme yet, many evacuees filed several group complaints to the Center in 2014, claiming compensation going beyond the Interim Guidelines.\textsuperscript{58} If the Center fails to resolve the Namie case, it will have a negative impact on its reputation, because such a failure is likely to show the ineffectiveness of the Center. Therefore, in the author’s view, the result of the Namie case will have certain impact upon the future of the Dispute Settlement Center.

IV. ROLE OF LAWYERS AND LAW FOR NUCLEAR DISASTER VICTIMS

The Waseda project’s legal support to Namie is still on-going, but its experience thus far has already revealed some important suggestions for ideas on the role of law and lawyers in the Japanese society.

A. Legal Population (the Number of Attorneys)

The first suggestion concerns the number of attorneys in Japan. The number of attorneys has been a controversial issue in Japan from a long time ago. The Judicial Reform that began at the end of the last


\textsuperscript{57} Funsō Shinsakai [The Dispute Conciliation Committee for Nuclear Damage Compensation], Gijiroku (Dai 40 kai) [The Minutes of the 40th Meeting], MINISTRY OF EDUC., CULTURE, SPORTS, SCI. & TECH. (Jan. 28, 2015), http://www.mext.go.jp/b_menu/shingi/chousa/kaihatu/016/gijiroku/1354948.htm.

\textsuperscript{58} For example, the village of Idate is also located in the evacuation zone and all local people have been evacuated. In November 2014, about half of them (2,837 people) jointly filed complaints to the Center. Their claims include the increase of compensation for mental damages Idate-mura-Kyusai-Moshitate-Dan [The Complaints Group for the Relief of Idate Village People], ADR Moshitate Kishakaiken and Hokokusyukai /Filing Complaints before the ADR, Press Conference and Report Meeting/ (Nov. 14, 2014), http://tyobotyobosiminn.cocolog-nifty.com/blog/files/idate_adrshidai.pdf.
century made increasing the amount of attorneys one of its top priorities.\textsuperscript{59} Therefore, in the last ten years (from 2005 to 2014), the number of attorneys has increased by more than 65\%.\textsuperscript{60} Currently, many attorneys are insisting that Japan has already had too many lawyers. As a result, the Japanese Government recently changed its policy orientation towards the restraint of bar examination passers.\textsuperscript{61} However, the circumstances in Fukushima show that there is still a need for attorneys and a strengthening of the legal system. In the author’s view, what is happening in Fukushima presents a strong counter-argument against the decrease of legal population.

The fact that about 75\% of the Namie residents joined the collective scheme clearly shows how much demand for legal service has not been met for the victims in Namie. As mentioned previously in this article, they were dissatisfied with the level of compensation for mental sufferings by the Interim Guideline, and felt that they were entitled to receive more compensation than the Guidelines provided for.\textsuperscript{62} However, they did not individually have access to legal services. It is supposed that among about 21,000 people in Namie, only hundreds had asked attorneys to represent them for their nuclear damages outside the collective scheme. There was likely a large demand for legal services among the Namie people before the town hall started the collective complaints. In other

\textsuperscript{59} The reform aimed at overhauling the justice system in Japan. In order to discuss how the justice system should be amended, the Justice System Reform Council composed of thirteen members from various backgrounds was established in July 1999 and had intensive discussion on many aspects of the system. Finally, it submitted its final report containing a number of recommendations to the government in June 2001. These recommendations were swiftly implemented. The Justice System Reform Council, \textit{Recommendations of the Justice System Reform Council – For a Justice System to Support Japan in the 21\textsuperscript{st} Century} (Jun. 12, 2001), http://japan.kantei.go.jp/policy/sihou/singikai/990612_e.html [hereinafter The Justice System Reform Council]; Setsuo Miyazawa, \textit{The Politics of Judicial Reform in Japan: The Rule of Law at Last?}, 2 A\textit{SIAN} -P\textit{OLY}’\textit{J.} 89-121 (2001); Dimitri Vanoverbeke and Takao Suami, \textit{Reforms of the Judiciary in Japan at the Start of the Twenty-First Century: Initial Assessment of an On-Going Process}, in \textit{THE CHANGING ROLE OF LAW IN JAPAN, EMPIRICAL STUDIES IN CULTURE, SOCIETY AND POLICY MAKING} 66-78 (Dimitri Vanoverbeke, et al., eds, 2014).

\textsuperscript{60} Nihon Bengoshi Rengokai [Japan Federation of Bar Associations], \textit{Bengoshisu (1950 nen ~ 2014 nen) [The Number of Attorneys (From 1950 to 2014)]} http://www.nichibenren.or.jp/library/ja/publication/books/data/2014/whitepaper_suii_2014.pdf. Is 1950 or 1960 correct?

\textsuperscript{61} The number of bar passers was about 2000 in 2013 and about 1800 in 2014. This was reduced by about 10\% from that in 2013. \textit{Heisei 26-nen shihōshiken no kekka [Result of Bar Examination in 2014]}, \textit{MINISTRY OF JUSTICE} http://www.moj.go.jp/content/000126773.pdf (last visited Jan. 1, 2015).

\textsuperscript{62} Chōsahan, \textit{supra} note 12, at 92-95.
words, this scheme effectively played a role in revealing a large hidden demand for legal services that Japanese attorneys overlooked.

It has been widely recognized from a long time ago that access to legal services are problematic in Japan.\textsuperscript{63} If these victims were ensured much easier access to lawyers, it is likely that more of them would be represented by their own lawyers. However, easy access will not solve all problems. The improvement of the estranged relationship between attorneys and people may be a complicated issue to be further explored.\textsuperscript{64}

B. \textit{Lack of Mechanism for Aggregation of Many Similar Private Claims}

The second suggestion concerns aggregation of private claims. The Japanese legal system does not have an effective mechanism to aggregate claims, such as class-action lawsuits in the United States. The Japanese Code of Civil Procedure originated in Germany. Like continental Europe, many in Japan emphasized the disadvantages of class-action lawsuits, which are considered a symbol of a litigation-oriented society. Around the year of 2000, the Justice System Reform Council considered the introduction of the American-style of class-action lawsuit into the Japanese legal system, but could not reach any definite conclusion on this subject.\textsuperscript{65} Even in Japan, certain change took place recently. In 2013, the Act on Special Provisions of Civil Court Procedures for Collective Recovery of Property Damage of Consumers was adopted and promulgated.\textsuperscript{66} This Act is often explained as a partial introduction of a class action system into the legal system in Japan.\textsuperscript{67} However, the Act is

\begin{itemize}
\item \textsuperscript{63} One of purposes of the judicial reform in the beginning of this century was to improve access to legal services in the Japanese society The Justice System Reform Council, \textit{supra} note 59.
\item \textsuperscript{64} The Japan Association of Access to Justice was founded in 2006, and is now tackling the issue of how to improve access to legal services in Japan. Japan Association of Access to Justice, \url{https://jaaj.jp/} (last visited Jan. 1, 2015); Professor Ryo Hamano concludes in his recent article that the pattern of access to attorneys in Japan is not only a result of the distinctive nature of legal services, but also produced in the context of Japanese politics and society and its institutional settings. Ryo Hamano, \textit{Access to Attorneys in Japan and Judicial Reform, in THE CHANGING ROLE OF LAW IN JAPAN, EMPIRICAL STUDIES IN CULTURE, SOCIETY AND POLICY MAKING} 157, 171 (Dimitri Vanoverbeke, et al., eds, 2014).
\item \textsuperscript{65} Shihō Seido Kaikaku Shingikai [The Justice System Reform Council], \textit{Chūkan hōkoku} [Interim Report], (Nov. 20, 2000), \url{http://www.kantei.go.jp/jp/shihouseido/report/naka_pdfdex.html}.
\item \textsuperscript{66} Shōshihōsha no zaisanteki songai no shūdantekina kaifuku no tameno minji no saibantetsuzuki no tokurei ni kansuru horitsu [The Act on Special Provisions of Civil Court Procedures for Collective Recovery of Property Damage of Consumers], Law No. 96 of 2013 (Japan).
\item \textsuperscript{67} \textit{A New Class Action System in Japan (New Act Enacted and Promulgated in
applicable to disputes arising from consumer contracts only. Even if a nuclear accident now happens, therefore, nuclear victims will not be able to rely upon this Act. In brief, the lack of a general mechanism constitutes an obstacle to achieve justice in the Japanese society.

In the absence of the class-action option, there is in fact no effective system of aggregating many similar private claims. Instead of the class-action suit, plaintiffs’ attorneys normally start their litigation in the form of the so-called “collective litigation or lawsuits”. The Japanese form of collective litigation is not a special category of litigation, but only a joinder of many lawsuits having the same or similar, legal or factual issues against the same defendant. Each lawsuit constituting a collective litigation are still considered be independent and must individually meet all necessary requirements under the Code of Civil Procedure. Accordingly, from the business point of view, a Japanese collective litigation is not so attractive for lawyers, and is actually conducted as a kind of pro-bono work.

After the nuclear accident in Fukushima, many collective lawsuits have already been brought before districts courts throughout Japan by many regional groups of attorneys.

<table>
<thead>
<tr>
<th>Prefecture</th>
<th>Number of Plaintiffs</th>
<th>Aggregate Amount of Claims (unit: 10,000 Yen)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Hokkaido Group</td>
<td>223</td>
<td>367,950</td>
</tr>
<tr>
<td>2. Miyagi Group</td>
<td>58</td>
<td>244,760</td>
</tr>
<tr>
<td>3. Yamagata Group</td>
<td>434</td>
<td>477,400</td>
</tr>
<tr>
<td>4. Fukushima Group I (a)</td>
<td>2,579</td>
<td>Unknown</td>
</tr>
<tr>
<td>(b)</td>
<td>26</td>
<td>77,034</td>
</tr>
<tr>
<td>5. Fukushima Group II (a)</td>
<td>473</td>
<td>2,217,252</td>
</tr>
<tr>
<td>(b)</td>
<td>1,393</td>
<td>Unknown</td>
</tr>
<tr>
<td>6. Gunma Group</td>
<td>125</td>
<td>137,500</td>
</tr>
<tr>
<td>7. Saitama Group</td>
<td>14</td>
<td>15,400</td>
</tr>
<tr>
<td>8. Chiba Group</td>
<td>47</td>
<td>239,373</td>
</tr>
<tr>
<td>9. Tokyo Group I</td>
<td>282</td>
<td>466,394</td>
</tr>
<tr>
<td>10. Tokyo Group II</td>
<td>44</td>
<td>132,204</td>
</tr>
<tr>
<td>11. Kanagawa Group</td>
<td>93</td>
<td>250,000</td>
</tr>
<tr>
<td>12. Niigata Group</td>
<td>453</td>
<td>498,300</td>
</tr>
<tr>
<td>13. Aichi Group</td>
<td>114</td>
<td>125,400</td>
</tr>
</tbody>
</table>


68 Minsohō (C. Civ. Pro.), arts. 38, 39 and 152.
Table 2: List of Collective Lawsuits in District Courts

Table 2 is the list of major collective lawsuits on nuclear damages against TEPCO throughout Japan. Table 2 clearly indicates that the number of plaintiffs in these lawsuits is much fewer than that in the Namie’s collective complaints. This means that due to several practical reasons, it is in fact very difficult for more than 10,000 people to start their collective litigation. These reasons include the observance of more strict procedural conditions in civil lawsuits than those in the Dispute Settlement Center, and the difficulty for each attorney to control many individual clients at the same time. Collective litigation is not a total substitute for the class-action lawsuit because it cannot adequately include a number of victims.

There is other interesting data that the Tokyo Lawyers Group for Alternative Dispute Resolution (“ADR”) made public in respect of the difficulty to control many clients.

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Table 3: Tokyo Lawyers Group for ADR

<table>
<thead>
<tr>
<th>Number of Attorneys</th>
<th>408</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Telephone Consultations</td>
<td>1,951</td>
</tr>
<tr>
<td>Number of Clients</td>
<td>7,393 individuals and 107 companies</td>
</tr>
<tr>
<td>Number of Applications to ADR</td>
<td>589</td>
</tr>
</tbody>
</table>

(as of January 22, 2015)

In Table 3, the ratio of applicants to attorneys is interesting. This Group is the biggest group of attorneys that specializes in conciliation before the Dispute Settlement Center. As Table 3 reveals, about 400 lawyers belong to this group. Nevertheless the number of their clients remains about less than a half of the Namie’s collective complaints. Furthermore, the small Namie team of attorneys having less than only 20 attorneys is able to take care of more than 15,000 individuals. There are differences between the Namie team and the Tokyo Lawyers Group in two respects. First, the Tokyo Lawyers Group deals with clients who have both property and mental damages claims while the Namie team focuses only on mental damages claims. Secondly, several town staff work closely with the Namie team, but the Tokyo Group does not have such assistance from municipality staffs. However, even if one takes account of these differences, the collective complaints of Namie proves to be very efficient in terms of human resources, because the small number of lawyers actually represent more than 15,000 complaints through the medium of the town hall. In contrast, due to the lack of aggregation, ordinary practice before the Center is much less efficient. Since the class action lawsuit is not available in Japan, a number of victims have a serious problem with accessing judicial remedies. The collective complaints under which the town hall represents its residents serves an important role of filling in a shortcoming resulting from the lack of aggregation of claims in case of nuclear victims.

C. Class-Action Lawsuit against the US Company in the United States

The third suggestion concerns judicial remedies in the globalized world. Generally speaking, any victims will usually seek remedies in their home

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70 Tō bengō-dan no juninkensū tō nittsu (Heisei 27-nen 1-gatsu 22-nichi genzai) [The Number of Cases Which the Group has Handled (as of January 22, 2015)], GENPATSU HISAIWA BENGO-DAN [LAWYERS’ GROUP FOR NUCLEAR VICTIMS] (Jan. 22, 2015), http://ghb-law.net/?p=593.

71 To the author’s knowledge, less than twenty attorneys have worked for the collective complaints. On the other hand, the number of Namie people who joined the collective complaint reached more than 15,000. Namie-machi, supra note 45.
country, but if they cannot get the adequate level of compensation there because of defects in the legal system of their home country, what should they do? In case the Fukushima nuclear victims are not able to receive sufficient and speedy remedy for their nuclear damages in Japan, why should they have to rely only upon the legal system of Japan? If they can be effectively remedied in another jurisdiction outside Japan, why not will they make use of such a better jurisdiction? The nuclear reactors at the Fukushima nuclear plants were manufactured by both Japanese companies and US company. Above all, all reactors were designed by General Electric (GE), and some insist that GE’s design has serious flaws in terms of safety.\textsuperscript{72} As the aforesaid, the Fukushima nuclear victims are not able to pursue responsibility of companies other than TEPCO, because the Nuclear Damage Compensation Act allows victims to pursue the nuclear operator such as TEPCO only.\textsuperscript{73} Although this limitation was a result of policy choice in Japan, however, it is still an issue to be discussed whether or not the designer of reactors must be totally exempted from any responsibility. It is not unfair to say that nuclear victims must be given an opportunity to claim against a reactor designer, because total immunity does not give any motivation to improve safety of reactors to their designer. According to the media, a class-action lawsuit was filed by the U.S. Navy sailors who participated in the rescue operation near the Japanese coast after the Earthquake, and the federal court in California decided to move forward the case in October 2014.\textsuperscript{74} However, the subject of this article is whether or not it is possible for the Japanese victims to claim damage compensation against such builders before any U.S. court. This subject is currently examined by attorneys on both sides of the Pacific Ocean. The main legal hurdles for the Japanese victims are (1) jurisdiction of a U.S. court, (2) a choice of applicable law and (3) a statute of limitation. Assuming that these hurdles are cleared, the U.S. court can be considered a better option, because victims will be able to file a class-action lawsuit. In any case, nuclear victims may be able to find another option for compensation through lawsuits in other jurisdictions outside Japan.

\textsuperscript{72} Osaka, \textit{supra} note 16, at 451-53.

\textsuperscript{73} Genshiryoku songai baishōhō, [Nuclear Damage Compensation Act], Law No. 147 of 1961 (Japan) (as amended by Law No. 19 of 2009) arts. 3 and 4.

V. CONCLUDING REMARKS

In Japan, nuclear victims still have to overcome high hurdles to make use of judicial remedies. Japanese lawyers must assist them to overcome them for the achievement of social justice.\footnote{Article 1, para.1 of the Attorney Act provides that “[a]n attorney is entrusted with the mission of protecting fundamental human rights and achieving social justice.” Bengoshihō [Act Governing Attorneys], Law No. 205 of 1949, art. 1, para.1 (Japan).} Japanese lawyers also assume the duty of improving the legal system.\footnote{Id. at art. 1, para. 2.} However, where the legal system is deficient, lawyers should develop other options for their clients under the present legal framework. The creation of the collective complaints for Namie people is one such example. When the Waseda project discussed the idea of the collective scheme with the town hall, the author consulted several attorneys who had already had a great deal of experience representing clients before the Dispute Settlement Center. It was surprising that all of them expressed negative views about the project’s idea on collective complaints. Those attorneys believed that it would be impossible to obtain a proposal from the Center that did not comply with the Interim Guidelines. This is because in their previous cases, the Center had adhered to the compensation standard in the Guidelines.

The town hall and the people of Namie both sought a proposal from the Center in which the amount of compensation exceeded the standard in the Guidelines. However, there were differences between the previous cases and the Namie case. In the Namie case, because of the initiative of the town mayor, it was easily expected that a majority of the townspeople would take part in the collective scheme as complainants. The big size of the collective complaints likely caused the Center to apply the Interim Guidelines in a different way, as shown by the proposal issued by the Center in March 2014. Those attorneys were not able to understand the dynamics which would lead to the development of new legal practices.

In brief, Japanese lawyers are generally conservative about their way of practice. They are very intelligent, sincere, well-trained for litigation and highly motivated, but they have not been educated to produce something new within their practice. We, the Japanese law schools, are to be blamed partly, because some of those attorneys graduates of our law school. Law school education should not focus only on teaching existing laws and legal systems, but also cover a subject on how lawyers should achieve social justice in various different contexts.

The Waseda project has succeeded in demonstrating the new role of law schools in the Japanese society. The main task of law schools is to produce good practitioners by giving excellent education to their students. However, this is not the sole task of law schools. The experience of the
Waseda project shows that law schools can directly contribute to the improvement of an actual society in Japan. It is unfortunate that other law schools have not yet engaged in a project similar to the Waseda’s. However, the author is optimistic that other law schools will eventually follow suit and take a much larger role in fighting social justice in Japan in a future.