

Current Conditions of the Japanese Legal System and Issues Concerning “Violence against Women”

PSI Asia Pacific Region

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1. Introduction

- **“Violence against women” is a broad concept that ranges from sexual crimes and domestic violence to discrimination and harassment in a variety of areas of society. In Japan, there is no comprehensive legislation that seeks to eradicate “violence against women” rooted in such a concept.**
 - **In Japan, “violence against women” legislation consists of a patchwork of laws. They include the Domestic Violence Prevention Act, which prohibits violence from spouses; the Equal Employment Opportunity Act for Men and Women, which prohibits sexual harassment in the workplace; the Stalker Control Act, which prohibits stalking behaviours; and criminal laws against sexual crimes such as rape and molestation, which mete out punishment.**
- * The illustration on the cover page is the logo of the Japanese government’s “End Violence against Women” campaign.

2. Enactment of the Domestic Violence Prevention Act

- The centrepiece of Japan's legal system prohibiting "violence against women" is the "Act on the Prevention of Spousal Violence and the Protection of Victims" (in short, the "Domestic Violence Prevention Act").
- Following the United Nations-led international movement to abolish violence against women, this law was sponsored by a multi-party group of lawmakers and enacted in 2001.
- It was revised three times, in 2004, 2007, and 2013. The revisions sought to expand the range of victims who should be protected and strengthen measures to provide relief to victims.

3. Summary of the Domestic Violence Prevention Act

- **An official at a court that receives a complaint from the victim inquires about the situation. If necessary, a protective order is issued against the perpetrator.**
- **There are five types of protective orders, including prohibiting the perpetrator from approaching the victim and her* child(ren)/family members (for six months), and ordering the perpetrator to leave the abode (for two months). Violation of the order is subject to criminal punishment.**

* The text of the law in Japanese is gender-neutral. However, in the context of this presentation on “violence against women”, it is assumed that the victim is a woman. Pronouns and other word choices are used to reflect this premise.

(1) Defined Targets for Relief from “Spousal Violence”

- **To protect the victim, the Domestic Violence Prevention Act prohibits “bodily harm by one spouse” and “words and deeds of one spouse that cause equivalent psychological or physical harm to the other”.**
- **The “spouse” includes not only the partner from a legal marriage relationship, but also from a de facto marriage relationship. It also includes the partner in a “relationship where the victim and the spouse in question are still living together”. Situations of divorced partners and partners living separately are also included.**

(2) Responsibilities of the National and Local Governments

- **Besides preventing violence from spouses, the national and local governments have the responsibility of providing appropriate protection, including supporting the independence of victims.**
- **The national government has the duty of establishing “basic guidelines” needed for preventing domestic violence and protecting victims. (Legal duty)**
- **In accordance with the national basic guidelines, prefectures have the duty of establishing “basic plans” for preventing domestic violence and protecting victims. (Legal duty)**
- **In accordance with national basic guidelines and in consideration of the prefectural basic plan, municipalities strive to establish “specific plans” for protecting domestic violence and protecting victims. (Duty to carry out good faith effort)**

(3) Establishment and Functions of Spousal Violence Support Centres

- **Prefectures establish “Spousal Violence Support Centres”. (Legal duty)**
- **Municipalities strive to establish “Spousal Violence Support Centres”. (Duty to carry out good faith effort)**
- **“Spousal Violence Support Centres” carry out activities to protect victims, such as providing consultation, counselling, emergency safety, temporary protection, and assistance for independent living.**

(4) Protection of Victims

- **When domestic violence victims are found, attempts should be made to notify a “Spousal Violence Support Centre” or the police.**
- **When the police recognises a situation as domestic violence, they strive to protect the victim and prevent the occurrence of harm from domestic violence.**

(5) Protective Orders, Punishment of Perpetrators

- **Protection Orders**

When the victim files a complaint, the court issues an order against the perpetrator to prevent harm against the victim, for example, prohibiting the perpetrator from approaching the victim or her family members, prohibiting his requests for visitation, or expelling him from the abode.

- **Punishment of perpetrators**

Violators of protective orders face imprisonment with work for not more than one year or a fine of not more than 1 million yen.

4. Issues

(1) Need for comprehensive legislation prohibiting “violence against women”

(As pointed out in the beginning)

(2) Insufficient measures supporting the independence of victims

- ✓ **There are only 201 “Spousal Abuse Support Centres” nationwide as of April 2011. Relief for women victims and measures supporting their independence are insufficient.**
- ✓ **Rape crisis centers invariably are not publicly supported. Support for victims must rely on the activities of NPOs.**

(3) Insufficient protection of the rights of immigrant women

- ✓ **Rights protection of immigrant women, who are more likely to become victims of sexual violence, is insufficient.**
- ✓ **Immigrant women who are victims of domestic violence are often in precarious situations. For example, they may be afraid of deportation as a result of violating the terms of the status of residence as established by the Immigration Control Act, or as a result of illegal overstaying. Thus, it is difficult for them to seek legal protection.**

(4) Application of laws putting woman victims at a disadvantage

- ✓ **The Penal Code of Japan is established and implemented in a way that place victims at a disadvantage. For example, the victim of rape must make a formal complaint, spousal rape is not punishable, and the charge of rape requires that the “victim put up strong resistance” in order to be considered as a crime.**
- ✓ **The police tends to view domestic violence as “a private problem between a man and a woman”. There is insufficient recognition of it as a serious violation of human rights.**

5. Efforts of PSI-JC

- **To eradicate discrimination, harassment, and physical violence against women in all kinds of situations, we will strengthen our global movement together with the women of the world.**
- **To strengthen the efforts of PSI affiliates in Japan, the theme of the gender equality seminar to be held in November 2013 will be “End Violence against Women”.**