

- Circumstances of discovery of abuse: “noticing of the abuse by care managers themselves” (27.8%), “discovery of abuse by other staff at the same agency” (19.2%), “reported by the abused” (15.6%), “informed by another agency” (10.3%), “reported by family/relatives of the abused” (9.8%).
- Response to the abuse problems: “action being taken to improve situation” (51.8%), “abuse no longer observed” (22.0%), “no action being taken” (14.9%), “the abused died before the abuse being resolved” (6.1%).

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- The use of services to resolve the abuse problem (n=1,470): “no particular use of hospital or other facilities” (26.3%), “admitted to hospital” (14.6%), admission procedures in progress or on waiting-list” (12.9%), “admitted to healthcare facility for the elderly” (8.0%), “admitted to special nursing home” (5.6%).
- New or expanded use of home-based nursing care services (n=1,470): short-stay nursing care services (31.8%), visiting nursing care (home helpers) (29.8%), increase in visits by care managers (29.0%), day services (28.2%), no new or expanded use of services (10.1%).
- Use of local welfare rights protection programs or adult guardianship scheme (n=1,470): local welfare rights protection program (5.0%), adult guardianship scheme (2.5%), neither (89.7%).

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- **Difficulty in responding to abuse (n=1,470): no particular difficulty (9.3%), some difficulty (43.0%), extreme difficulty (45.0%).**
- **Problems encountered while providing assistance (n=1,293): refusal of intervention by abusers (38.2%), technical difficulties (lack of intervention skills) (33.6%), job position related difficulties (conflict of interest, etc) (30.3%), difficulty in increasing service use because of financial reasons (26.8%), no place for emergency refuge (15.2%), refusal of intervention by the abused (14.5%).**

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Summary of the Presentation

- **Among the professionals working with older people, care managers are the closest to victims of elder abuse, professionally. (Care managers are new nursing care professionals, created to work with Japan's Long-Term Care Insurance System.)**
- **More than two-thirds of the elder abuse victims are female in Japan, today.**

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Summary of the Presentation (Cont.)

- **Victim's son is most frequently cited as the abuser of the elderly. (Many previous studies said that victim's daughter-in-law was the most frequent abuser of older people.)**
- **Most abusers live with the abused, and the majority of them are the main caregivers.**
- **Psychological abuse, caregiver neglect, and physical abuse are the three most prevalent types of elder abuse in Japan.**

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Summary of the Presentation (Cont.)

- **Although most elder abuse cases do not place older people in a life-threatening situations, but about 10% of them do and this fact can not be ignored.**
- **The majority of abusers are not aware of the fact that they are committing elder abuse, nearly one-half of the victims are aware of being abused. Also, about one-half of the abused are sending some sort of sign of being abused. (These facts need to be included in the training curriculum of care managers.)**

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Summary of the Presentation (Cont.)

- Caregiving fatigue and confused behavior of older people with dementia each are responsible for more than one-third of the elder abuse case, and this fact can not be ignored.
- Nearly one-half of the elder abuse cases are discovered by care managers and their colleagues in the same agencies, but about one-fourth are reported by the abused and their family members/relatives. (New law must take these facts into account.)

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Summary of the Presentation (Cont.)

- Responding to abuse is difficult, and nearly one-half of the respondents experienced “extreme difficulty.” The refusal of intervention by abusers is the most frequent problem encountered by care managers while providing assistance. (The training curriculum should include appropriate contents on the handling of difficult cases.)
- Only a few people use the services of advocacy programs or adult guardianship programs in Japan for the purpose of solving the problems of elder abuse. (Social workers and care managers need to be trained more on these programs.)

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Summary of the Presentation (Cont.)

- **Short-stay nursing care services, visiting nursing care services, and day services are the three most popular nursing care services among the families that experience elder abuse in Japan.**
- **But, about one-fourth of the cases do not use any medical or other services at all, and only a very small number of cases result in the admission to special nursing homes.**

For questions and more information, please contact T.Tatara at ttatara@beige.ocn.ne.jp.

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18th Congress of the International Association of Gerontology (IAG)
Rio de Janeiro, Brazil
June 26-30, 2005

**Events and Circumstances Leading up to
the Drafting of the Elder Abuse
Prevention Legislation in Japan**

in

**Roundtable, “Getting Elder Abuse and Neglect on
the International and National Agenda”**

Toshio Tatara, Ph.D.

Shukutoku University, Chiba, Japan 260-8701

1

**Legislative Action on Family
Violence in Japan**

- ❖ **Enactment of the Child Abuse Prevention Law**
- November 2000
- ❖ **Enactment of the Domestic Violence Law**
- April 2001
- ❖ **Elder Abuse**
 - Discovered in 1987, with Japan’s first book on elder abuse published in that year.
 - Very little was done in research and program until the end of the 1990s.

2

Some Signs of Change . . .

- ❖ **The Ministry of Health and Welfare began funding elder abuse research projects in 1998, under their distionary research grant program.**
- ❖ **The National Long-Term Care Insurance Program started in April 2000 —At intake, care managers must report signs of elder abuse in the Nursing care Needs Assessment Form.**
- ❖ **In March 2000, the Ministry of Health and Welfare issued a rule prohibiting the use of restraints in nursing homes.**

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- ❖ **The Japan Bar Association (JBA) and some of its local chapters began advocacy and data-gathering activities on elder abuse (2000-2003). JBA's committee on the rights of elder people and people with disabilities is in charge.**
- ❖ **An Elder Abuse Study Group within the Liberal Democratic Party began examining legislative options in April 2002. The group was charged by Upper House member Chieko Non-no (the Minister of Justice), who had made major contributions to the creation of Japan's DV Prevention Law.**

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- ❖ **Researchers and advocates established the Japan Academy for the Prevention of Elder Abuse (JAPEA) in August 2003.**
- ❖ **Mass media increased the coverage of elder abuse, e.g., special newspaper articles, TV programs, etc. (2002-2004).**
- ❖ **Municipalities began setting up coordinating committees to handle elder abuse cases (2003-2004).**

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Legislative Options for Elder Abuse

1. **Elder abuse law that would be like an APS law in the U.S. with strong “reporting and investigation features” (Law with regulatory features).**
2. **Elder abuse law that would more focus on the protection of elder rights than the handling of elder abuse cases (An advocacy law).**
3. **Elder abuse law that would more stress the provision of services to victims of abuse than the reporting and investigation of elder abuse cases (A social welfare law).**

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**Some Features of the Draft of the Proposed
Elder Abuse prevention Legislation by the
Majority Party (April 2005)**

- **“Regulatory” or “service-provision emphasis” to be determined.**
- **The definition of an older person — anyone who is 65 and older.**
- **The definitions of elder abuse — physical abuse, caregiver neglect, psychological abuse, sexual abuse, and financial abuse.**
- **Self-neglect should be discussed for inclusion.**

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- **The national as well as local governments should be responsible for developing and maintaining systems and programs designed to prevent elder abuse and to ensure the availability of personnel who engage in elder abuse prevention.**
- **The responsibilities of citizens are such that they must try to understand the importance of elder abuse prevention and must cooperate with the national and local governments in implementing elder abuse prevention programs.**

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- **The national and local governments must develop and implement public education programs designed to help citizens gain greater understanding of the meaning of elder abuse prevention.**
- **The national government must conduct research in elder abuse prevention.**
- **Discovery and reporting of elder abuse —**
People discovering older person that are being abused in domestic setting must “try to report” the incidence promptly to the local government (Reporting is not a requirement unless the older person’s life is in imminent danger.)

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- **The rights of professional personnel for entering and investigating are recognized and guaranteed only when the entering and investigations are done for older victims whose lives are in imminent danger. (Not like the Child Abuse prevention Law).**
- **Provision of services to victims —**
Local governments, depending on the needs of victims and abusers, must provide counseling, guidance, and advice, as well as placements in moving homes, to ensure the safety of older people.

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- **Local governments must develop and maintain coordinating mechanisms with in-home nursing care centers, local comprehensive support centers, and other programs for the purpose of prevention, early discovery, and early intervention of elder abuse cases.**
- **Elder abuse occurring in institutions —
Not covered by the proposed law but should be discussed as to how we should address it.**

Only a portion of the proposed law is presented for discussion.

11-15-2005

The 58th Scientific Meeting of the Gerontological Society
of America (GSA)

Orlando, Florida, U.S.A.

T.Tatara, MSW, Ph.D.

Shukutoku University College and Graduate School of Integrated Human
and Social Welfare Studies

The Law for Preventing the Abuse of Older People and Providing
Assistance to Caregivers

A Summary of the Major Provisions

- Established during the 163rd Special Session of the Japanese Diet.
- Promulgated on November 9th 2005
- Will come into effect on April 1st 2006

The Purposes

- Specify the roles and responsibilities of the national and local governments (including prefectural and municipal governments), as well as private citizens of the country, for preventing the abuse of older people, for protecting the victims of abuse, and for assisting caregivers in reducing the burden of caregiving for the overall purpose of achieving elder abuse prevention and elder rights protection (Article 1).

The Definition of an Older Person under This Law

- Any person who is 65 years of age and older (Article 2, Section 1).

The Definitions of Elder Abuse

- The law covers five different types of abusive and neglectful acts of caregivers in domestic settings and personnel of nursing care institutions and nursing care service providers. These five types are: (1) physical abuse; (2) caregiver neglect; (3) psychological abuse; (4.) sexual abuse; and (5) financial abuse (Article 2, Sections 2 through 4).

- The law covers three different types of elder abuse, as follows: (1) the abuse of older people committed by caregivers in domestic settings (Article 2, Section 4); (2) the abuse of older people residing in nursing care institutions committed by personnel of these institutions (Article 2, Section 5); and (3) the abuse of older people who are users of services of nursing care service providers committed by personnel of these service providers (Article 2, Section 5).

Responsibilities of the National and Local Governments

- The national and local governments must help to strengthen the coordination among public and private agencies, assist private agencies, and must maintain a system of services for the ultimate purposes of preventing elder abuse, providing victims of abuse with prompt and effective protective services, and providing caregivers with necessary assistance (Article 3, Section 1).
- The national and local governments must secure, and regularly train, professional personnel to ensure that the prevention of elder abuse, the protection of victims of abuse, and the provision of assistance to caregivers will all be carried out appropriately in accordance with the highest level of professional protocols (Article 3, Section 2).

Responsibilities of Citizens

- Citizens of Japan must improve their understanding of the importance of preventing elder abuse and assisting caregivers in reducing the burden of caregiving and must make an effort to cooperate with programs and activities for elder abuse prevention and caregiver's burden reduction conducted by the national and local governments (Article 4).

Early Discovery of Elder Abuse

- Personnel of nursing care institutions, hospitals, community health centers, and other organizations concerned with the welfare of older people, along with medical doctors, nurses, and attorneys, must recognize the fact that they are in a better position than other people to discover elder abuse and must make an effort to make an early

discovery of elder abuse (Article 5, Section 1).

- The afore-mentioned people must cooperate with public education activities on elder abuse and programs for protecting victims of elder abuse carried out by the national and local governments (Article 5, Section 2).

Reporting Requirements for Elder Abuse in Domestic Settings

- Anyone who discovered an older person who is believed to have been abused by his/her caregiver must promptly report the incidence to the municipal government, if the older person's life or health is in great danger (Article 7, Section 1).
- Anyone who discovered an older person who is believed to have been abused by his/her caregiver must make an effort to report the incidence to the municipal government (Article 7, Section 2).

Self Reports of Elder Abuse in Domestic Settings

- An older person who was abused by his/her caregiver could report the incidence to the municipal government on his/her own (Article 9, Section 1).

Responsibilities of Municipal Governments

- Municipal governments must provide older people and their caregivers with consultation, direction and advice regarding the prevention of elder abuse and the protection of elder victims of abuse (Article 6, Section 1).
- Municipal governments must first ensure the safety of the older person, whose abuse was reported by a reporter or who made a report of abuse by himself /herself, must promptly investigate the report for the purpose of substantiating, or denying, its validity, and must discuss ways to respond to the problem of abuse with "elder abuse responding cooperators" in the community (Article 9, Section 1).

- Municipal governments must make appropriate arrangements to securely hold an older person, whose life or health is in great danger as a result of being abused, in a short-stay facility on a temporary basis (Article 9, Section 2).
- Municipal governments must make appropriate arrangements to secure rooms to hold victims of elder abuse in domestic settings (Article 10).
- Municipal governments could authorize personnel of the comprehensive community nursing care assistance centers and other appropriate social welfare personnel to enter the premises of older persons, whose abuse was reported, for the purpose of investigating the reported abuse (Article 11, Section 1). For the afore-mentioned purpose, if necessary, municipal governments could seek the assistance of the chief of the police that has jurisdiction over the community in which the abuse in question was reported (Article 12, Section 1). Nevertheless, if necessary, municipal governments must promptly seek the assistance of the chief of the police in the community for the purpose of ensuring the safety of the older person whose abuse was reported (Article 12, Section 2).
- Municipal governments must make an effort to secure professional personnel for the purpose of implementing programs to prevent elder abuse in domestic settings, to protect victims of domestic elder abuse, and to provide assistance to caregivers (Article 15).
- Municipal governments must develop a system of agencies involving the comprehensive community nursing care assistance center and other appropriate agencies in public and private auspices, which would be coordinated with one another for the purposes of preventing elder abuse in domestic settings, protecting elder victims of abuse, and of providing caregivers with assistance to reduce the extent of caregiving burden. This system must be ready to respond to problems of elder abuse in domestic settings at all times (Article 16).

Subcontracting of Governmental Tasks

- Municipal governments are allowed to subcontract all or a portion of their tasks that are specified by this law with an agency (or agencies) that is a member of the “elder abuse responding cooperators” in the community. The tasks that municipal governments could subcontract with an appropriate agency (or agencies) include: (1) the provision of consultation, direction, and advice; (2) the receipt of reports of elder abuse and of self reports of abuse; (3) ensuring the safety of older people after the receipt of reports of abuse; (4) the investigation of reports of elder abuse in domestic settings; and (5) the provision of assistance to caregivers to reduce the burden of caregiving (Article 17 Section 1).

Roles of Prefectural Governments

- Prefectural governments must provide municipal governments with assistance and information in helping them to achieve greater level of coordination and in implementing the afore-mentioned measures that municipal governments intend to implement in order to meet the requirements of the law. (Article 19, Section 1).
-
- If needed, prefectural governments could provide municipal governments with advice regarding the implementation of the measures that the latter plans to implement to meet the requirements of the law (Article 19, Section 2).

Measures for Preventing Elder Abuse Committed by Personnel of Nursing Care Institutions

- Founders of nursing care institutions or operators of nursing care service providers must provide their personnel with training sessions on elder abuse, develop a system to effectively respond to complaints from users of their services and their families, and implement measures to prevent the abuse of older people by personnel of their institutions and businesses (Article 20).

Reporting Requirements for Elder Abuse in Institutional Settings

- Personnel of nursing care institutions and nursing care service

providers who discovered an older person who is believed to have been abused by someone working for any of these institutions or service providers must promptly report the incidence to the municipal government (Article 21, Section 1).

- Anyone who discovered an older person who is believed to have been abused by someone working for any of the nursing care institutions or nursing care service providers must report the incidence to the municipal government, if the older person's life or health is in great danger (Article 21, Section 2).
- Anyone who discovered an older person who is believed have been abused by someone working for any of the nursing care institutions or nursing care service providers must make an effort to report the incidence to the municipal government (Article 21, Section 3).
- Personnel of nursing care institutions or nursing care service providers shall not be treated unfairly (e.g., dismissal from the place of employment without any justifiable cause) because of their filing of reports of institutional elder abuse to the municipal government (Article 21, Section 7).

Self-Reports of Elder Abuse in Institutional Settings

- An older person who was abused by someone working for any of the nursing care institutions or nursing care service providers could report the incidence to the municipal government on his /her own (Article 21, Section 4).

Disclosure of Information about Institutional Elder Abuse

- Governors of prefectures must make public each year information about the extent of elder abuse committed by personnel of nursing care institutions in their prefectures and about how each case of institutional elder abuse was handled (Article 25).

Investigations and Research

- The national government must analyze cases of elder abuse and

conduct studies of appropriate methods of effectively responding to abusive acts, of caring for vulnerable elders, of preventing different types of elder abuse, of protecting victims of elder abuse, and of providing caregivers with assistance (Article 26).

Encouragement of the Use of Guardianship Programs

- The national government and local governments must encourage people concerned with the welfare of older people to use guardianship programs more extensively to better protect older people from financial and other forms of elder abuse (Article 28).

Penalties

- Any subcontractor with municipal governments, who has the obligation to keep official secrets but violates the provisions of Article 17, Section 2 of the law and lets out a secret, shall be punished by an imprisonment of less than one year or by a fine of less than one million yen (Article 29).
- Anyone who, without any justifiable reason, refuses to accept, interferes with the execution of, or avoid the lawful entrance of an elder abuse investigator into his/ her premises, and who refuses to answer questions, provides false information, refuses to permit the older person to testify, or forces the older person to submit false information shall be punished by a fine of less than 300,000 yen (Article 30).

This English version of the Japanese Elder Abuse Prevention Law is not the official document of the Japanese Government but was created only for the purpose of discussing the content of the law in the elder abuse discussion group (chaired by T. Tatara of Shukutoku University in Chiba, Japan) during the 58th Scientific Meeting of the Gerontological Society of America (GSA) in Orlando, Florida. The official English version of the law does not exist, and for any question of this document, please contact ttatara@beige.ocn.ne.jp

*The 58th Annual Scientific Meeting
of the Gerontological Society of America (GSA)
Orlando, Florida, U.S.A.*

**Results of an Additional Detailed
Analysis of the Data Generated by
Japan's First Nationwide Study of
Domestic Elder Abuse**

A Paper Presentation

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Chiba 260-8701, Japan

November 21, 2005 (3:15PM – 4:45PM)

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**Japan's First Nationwide Study of
Domestic Elder Abuse**

Purpose

- **To examine the mechanism of how elder abuse in domestic settings would occur.**
- **To find out the types and extent of services for victims and their families that are available through local agencies.**

The organizations that conducted the study

- **Institute for Health Economics and Policy in Tokyo**
- **UFJ Institute in Tokyo (subcontractor)**
- **Advisory committee of 12 experts (chaired by T.Tatara), appointed by the Ministry of Health, Labour and Welfare**

2

Response Rates

- **National survey (agency survey): 6,698 agencies responded; the valid response rate was 39.9%.**
- **Of these agencies, 2,865 (42.8%) completed individual case information forms that covered a total of 4,877 cases of elder abuse.**
- **All agencies survey: Site 1 (23.4%), Site 2 (55.4%) and Site 3 (44.6%).**
- **Local governments survey: 2,589 responded, making the response rate at 80.1%.**

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Data for This Study

- **The individual case information forms (N=1,991) completed by care managers.**
- **These case information forms represented 40.8% of the total number of elder abuse cases (N=4,877), gathered by the national survey.**
- **Examined what happened to victims and abusers when multiple types of abuse/neglect occurred together.**
- **The data and analyses are included in the final report of the national study prepared in March 2004, by the Institute for Health Economics and Policy in Tokyo, Japan.**

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