

Special Issue: The Ontology of Memory and the Horizon of History, Part III

Emerging “Stories” Surrounding Sexual Abuse Lawsuits: Response to Dr. Haaken’s Keynote Lecture

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This study investigated recent case studies and their associated institutional frameworks in the context of trauma-related clinical practices in Japan. This study adopted a clinical psychology perspective, emphasizing family psychology and therapeutic interventions.

A case of particular interest, reported on October 26, 2022, involved a woman in her 40s in Hiroshima City who initiated a civil lawsuit against her biological father for childhood sexual abuse (NHK News, 2022). Although I have no direct involvement in this case, my analysis draws exclusively on comparable experiences and information from media sources.

Suffering from the enduring effects of repeated sexual abuse, the plaintiff sought accountability from the legal system. The Hiroshima District Court acknowledged the abuse but ruled the lawsuit untimely for legal action. The plaintiff reported abuse from kindergarten to junior high school that led to flashbacks and psychological trauma. Despite her father’s confessions, the court found that the statute of limitation for compensation claims had expired.

The plaintiffs’ dissatisfaction with the court’s decision highlights a critical issue: the inadequacy of the legal system in addressing the lifelong impact of sexual abuse. The plaintiff’s legal counsel underscored the lasting effects of sexual harm and the difficulties victims face in seeking justice, signaling an intent to appeal and advocate for revisions to the Criminal Code to better reflect the nature of sexual crimes.

The plaintiff’s recount of abuse includes exposure to adult content and inappropriate touching in kindergarten, escalating to coerced sexual acts by the fourth grade. Her

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inability to fully comprehend these events owing to her age, compounded by her mother's health issues and her inability to confide in anyone, allowed the abuse to continue.

In her 40s, the plaintiff experienced flashbacks that considerably affected her life and work and prompted her to file a lawsuit. She aimed to draw attention to the silent suffering of abuse victims and elicit genuine remorse from her father, thereby advocating for societal change.

Dr. Janice Haaken discusses the necessity for “new ways of searching and seeing” in the context of marginalized individuals recalling difficult pasts, citing Adrienne Rich: “Whatever is buried in the memory by the collapse of meaning under an inadequate or lying language—this will become, not merely unspoken, but unspeakable” (Rich, 1977), which bears relevance to the situation of the plaintiff in the case discussed.

The plaintiff asserted that she started experiencing flashbacks in 2017 and her post-traumatic stress disorder (PTSD) symptoms became evident in January 2018 (47News, 2022), after which she submitted a medical diagnosis to substantiate this claim. Nevertheless, Judge Ohama contended that there was “no objective, corroborating evidence” indicating the manifestation of symptoms at that time (47News, 2022). Although the father conceded to have engaged in sexual acts and the “recovered memory” of child sexual abuse was acknowledged, it was determined that the right to seek compensation for the ensuing mental health deterioration had expired (the claim amount was approximately 37 million yen). The primary focus is likely to be on the woman's trauma and “narratives” encompassing her symptoms. The woman maintained that she experienced symptoms such as recurring dreams involving the defendant's actions since her late teens, accompanied by pain and negative thoughts like “I am a bad person” (Nikkei, 2022), which fell within 20 years of the onset (TBS News, 2022).

During the trial, the father's attorney contended that the right to seek compensation had lapsed, as more than 20 years had elapsed since the last sexual assault, and urged the dismissal of the lawsuit. The woman's lawyer argued that the plaintiff could not sue her father, who was one of her legal guardians when she was a minor. Moreover, her lawyer claimed that the statute of limitations, which considered past precedents, had not expired, given that the aftereffects had surfaced only recently. The primary dispute pertained to the commencement of the statute of limitations, which stipulated a deadline beyond which compensation could not be sought. According to the pre-amended Civil Code, the right to claim compensation expires 20 years after an unlawful act. The ruling underscored that “the emergence of damage should serve as the starting point for a statute of limitations.” It can be posited that the woman experienced mental distress due to sexual abuse in her late teens, which suggests that the starting point should be around the time she turned 20 years, at the latest. Given that this period had elapsed before the filing of the lawsuit, the right to claim damages was considered expired (NHK News, 2022).

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Dr. Haaken asserted that belief in the inherent truthfulness of female victims risks infantilizing women and merits consideration. In this context, categorizing the plaintiff as “child-like” appears reductive. Her lawsuit and subsequent appeal, viewed through societal motivation and collective storytelling, could potentially catalyze broader movements. Dr. Haaken’s unique perspective as a film director and psychologist, particularly her clinical work, raises intriguing questions: How might she interpret the plaintiff’s narrative within the “beginning and ending of stories” and the “dilemmas that emerge in representing the past” in a legal setting? Dr. Haaken’s invaluable insights into the intersection of monetary compensation, healing, and forgiveness, mainly in terms of financial settlements, including consolation fees in divorce, are considered in the clinical context.

Addendum 1

During the 1990s, child abuse emerged as a significant social issue in Japan in the context of the so-called “memory wars.” Increased media coverage and prevention efforts by private organizations and the ratification of the Convention on the Rights of the Child in 1994 have contributed to this development. Consequently, the number of consultations regarding child abuse at child consultation centers increased from 1,101 cases in fiscal year 1990, when statistics were first collected, to 4,102 cases in fiscal year 1996 and 11,631 cases in fiscal year 1999 (escalating to 207,659 cases in fiscal year 2021). This has led to a growing demand by stakeholders and researchers for legal measures to address child abuse (NPO Child Abuse Prevention Network, 2022).

The designation of 1995 as the “Year of Mental Care,” “Year of Trauma,” and “Year of Volunteers,” considering events such as the January Great Hanshin-Awaji Earthquake and the March Tokyo Subway Sarin Attack, also played a significant role. Subsequently, a series of abuse prevention-related laws and regulations were established, beginning with the Act on the Prevention of Child Abuse (commonly known as the Child Abuse Prevention Act) and the Act on the Regulation of Stalking Acts in November 2000; the Act on the Prevention of Violence from Spouses, the Protection of Victims, and Prevention of Elder Abuse in October 2001; the Act on Support for Guardians of the Elderly in April 2006; and the Act on the Prevention of Abuse of Persons with Disabilities and Support for Guardians of Persons with Disabilities, among others, in October 2012 (Bajo, 2023).

Addendum 2

I would like to provide an update on the progress of this lawsuit. On March 6, 2023, the first oral argument for the appellate trial in this case took place in the Hiroshima High Court. The woman contended with the injustice of the first-instance decision of the

Hiroshima District Court, which dismissed her claims, while the father sought dismissal of the appeal. In its verdict in October 2022, the Hiroshima District Court acknowledged that sexual abuse had occurred. Nonetheless, it rejected the lawsuit, stating, “The damages claim is time-barred, as the harm occurred more than 20 years ago.” The woman appealed.

On November 22, 2023, the Hiroshima High Court rendered its appellate judgment, upholding the Hiroshima District Court’s initial decision to dismiss the woman’s claim. This decision was based on the Civil Code’s “statute of limitations,” leading to the rejection of her appeal. Despite acknowledging the father’s lewd acts, the court ruled that the right to claim was void if 20 years had passed since the unlawful act, mirroring the reasoning behind the first-instance judgment. In response to this decision, the plaintiff, during a press conference, declared her intent to file a further appeal and emphasized the importance of continuing her legal battle. Concurrently, a “Flower Demo” protest took place in Hondori Shopping Street, Naka Ward, Hiroshima City. This demonstration, which protested judicial decisions on sexual abuse, was part of a growing nationwide movement triggered by a spate of acquittals involving men accused of sexual violence. The Hiroshima City event marked the seventh event of its kind (Hiroshima Home Television Co., Ltd., 2023). This woman’s “story” is just the beginning, and it is starting to take on a collective dimension among us who bear witness to it.

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