Fighting Domestic Violence - Japan

3. Similarities and differences in terminology

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# 3.1 Domestic violence

The term "spousal violence" is defined under the Prevention of Spousal Violence Act as bodily harm caused by one spouse (illegal physical attacks that threaten the other spouse's life or body) or words and deeds by one spouse that cause the same level of psychological or physical harm to the other spouse.

# 3.2 Stalking

It is defined under the Anti-Stalking Act as repeated behavior to a particular person of stalking, telling he/she that he/she is being watched, requesting visits or companionship, using abusive words or behavior, making silent phone calls or sending continuous mails, etc., sending filthy matters, etc., damaging the reputation of the person or causing sexual shame.

# 3.3 Harassment

Although sexual or power harassment in the workplace is a common and well-known issue, spousal harassment is not a familiar concept in Japan. In addition, there are no specific regulations in relation to spousal harassment. However, in recent years, a growing number of divorce petitions have been filed on the grounds of mental abuse of a spouse, known as moral harassment.

# 3.4 Victim

"Victim" is defined under the Prevention of Spousal Violence Act as a person who has been subject to spousal violence. "Spousal violence" is interpreted to include violence against persons who are in a de facto state of marriage that has not been legally registered and persons who are already divorced or in the process of divorce.

# 3.5 Abuser

It is not defined as a specific term under Japanese laws and regulations, but it is simply interpreted as a person who commits spousal violence or stalking.

# 3.6 Civil protection order

As a protection order, the court may order an abuser:

to refrain from approaching the victim at the victim's residence, workplace, etc.

 to leave the residence that is the principal place where the abusing spouse and the victim are based together and to refrain from loitering in that vicinity

to refrain from "stalking"

to refrain from approaching the victim's child/children or relatives

# 3.7 Causes of action

Please see the question in Section 1 entitled "What are potential causes of action?" in Section 1.

# 3.8 Marital rape

It is not defined as a specific term under Japanese laws and regulations. Under the Penal Code, "rape" is defined as an act of committing sexual intercourse forcibly through assault or intimidation. A few cases have held that the crime of rape can be committed between the spouses in a married couple. In these cases, the defendants' argument that the crime of rape cannot be committed between the spouses in a married couple as long as they are married was rejected. The courts have held that although married couples have the right to ask each other for sexual intercourse, the crime of rape can be committed between the spouses of a married couple if the manner in which that right is realized exceeds the extent to which it is generally recognized as acceptable under social conventions.

Therefore, the crime of rape can be committed between the spouses in a married couple and there are no differences in terms of the requirements that constitute rape between marital rape and normal rape. A person who forcibly commits sexual intercourse with his/her spouse will be deemed to have committed rape as defined in the Penal Code.

# 3.9 Are there any other important domestic violence terms defined in relevant domestic violence statutes and codes?

No.

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