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2010

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ACCIDENTAL ACTIVISTS:
HOW VICTIM GROUPS HOLD THE GOVERNMENT ACCOUNTABLE
IN JAPAN AND SOUTH KOREA

By
Celeste Louise Arrington

A dissertation submitted in partial satisfaction of the
requirements for the degree of
Doctor of Philosophy
in
Political Science
in the
Graduate Division
of the
University of California, Berkeley

Committee in Charge:

Professor Steven K. Vogel, Chair
Professor T.J. Pempel
Professor Ron E. Hassner
Professor Kim Voss (sociology)

Fall 2010

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HOW VICTIM GROUPS HOLD THE GOVERNMENT ACCOUNTABLE
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ABSTRACT

Accidental Activists:
How Victim Groups Hold the Government Accountable in Japan and South Korea

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Doctor of Philosophy in Political Science
University of California, Berkeley

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Scholars suggest that we are experiencing an “age of apology,” as governments atone for past wrongs and citizens hold their leaders more accountable. Yet why would a government *ever* apologize and grant redress for harmful policies? Since policy-makers are usually loath to admit mistakes or wrongdoing, the people harmed sometimes must engage in collective action to obtain redress. Government responses to such victim groups range from comprehensive redress to negotiated settlements, in which the state disavows any responsibility for the victimization. Redress may come rapidly to some but take decades for others. What explains such differences in the extent and timing of state responsiveness to victim groups’ demands for redress?

Victim redress organizations lack the standard resources needed to influence policy-makers: money, access, and votes. Understanding why victims can be powerful requires determining when they are more or less powerful. This study finds that the *mode of conflict expansion*—the way in which marginalized victim groups gain support from the public and political elites—explains the *level of redress* that victims receive. Surprisingly, it is not when groups have access that they are most successful, but rather when they expand the arena of conflict by using their victimhood to shame the government and gain the public’s empathy. As “accidental activists,” therefore, victims’ very weakness is their strength.

This project uses paired in-depth case studies to examine how state responsiveness to victim movements differs cross-nationally and across issue areas. Japan and Korea represent interesting contexts in which to examine victim redress politics because these historically “strong states,” with insulated policy-making processes, seem unlikely to admit blame, especially to outsiders like victims. This study compares paired victim movements in three issue areas where similar victimization occurred in both Japan and Korea, related to a) the treatment of persons affected by Hansen’s disease (leprosy), b) hepatitis C infections from tainted blood products, and c) the abductions of Japanese and South Korean nationals by North Korea. The cross-national comparison reveals that victim groups in Japan generally receive more comprehensive redress than Korean victim groups. Filter groups, such as non-victim activists and the media, facilitate conflict expansion to a greater extent in Japan than in Korea. Across issue areas, conflict expansion dynamics also account for within-country variations in state responsiveness.

The study of victim redress politics suggests more broadly that politics is becoming more open in Japan and Korea, but in markedly different ways. These cases further indicate that the judicial route is more open to grievance groups in both countries, but that the resources to effectively utilize the judicial channel are more widely available in Japan than in Korea. The varying success of redress movements sheds light on accountability mechanisms and the balance of power in state-society relations in East Asia’s main democracies.

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ACKNOWLEDGEMENTS

I am extremely grateful to my committee members—Steve Vogel, T.J. Pempel, Ron Hassner, and Kim Voss. I am deeply indebted to Steve for his clear, incisive, and patient feedback throughout. I learned a tremendous amount from him and his unparalleled dedication to teaching and advising. No matter where in the world we met, T.J. was always supportive and challenged me to take my scholarship in fruitful directions. His big-picture view and deep knowledge of Japanese and Korean politics provided me with a welcome sounding board. I first approached the themes of redress and reconciliation under Ron's tutelage and greatly appreciate his enthusiasm and optimism throughout my graduate career. Kim's probing questions and encouragement at key stages of the process were invaluable, and I am thankful for her advice.

I also wish to thank the many scholars who influenced my own scholarly development in different ways. I owe my interest in Japan and Korea to them, but Gil Rozman and Kent Calder, my undergraduate advisors, also steered me in useful directions while I was in the field. Chris Ansell and Nick Ziegler provided insightful guidance in the formative stages of this project. I am grateful for the institutional homes and friendly advice that Hiwatari Nobuhiro gave me at Shaken in Japan and that Lee Sook-jong and Park Chung-hee provided in Seoul. My argument benefited from discussions with Steve Reed (and his zemi), John Campbell, Robert Dujarric, Robert Pekkanen, and the Ph.D. study group in Tokyo. Dick Samuels generously commented on two chapters in the final stages. I am grateful for funding from the FLAS program, the NSEP Boren Fellowship, UC Berkeley, IEAS and CJS, the Harvey Fellowship, and a Fulbright grant.

My research would not have been possible without the generosity of so many Japanese and Korean respondents. In particular, in Japan, I would like to thank Yamamoto Shimpei, Kitano Ryuichi, Sakaue Naoko, Kamiya Setsuko, Katahira Kiyohiko, Horie Masahiro, Esashi Masayoshi, Iwasawa Michihiko, Yamaguchi Michiko, and Yahiro Mitsuhide. In Korea, I would particularly like to thank Koo Byeong-sam, Kim Jae-hyung, Lim Seong-a, O Ha-na, Kim Yeong-ro, Choi Woo-young, U Heong-seon, Park Chan-un, Cho Yong-geol, and Kim Yong-hwan. All of these people and others shared much of their time to help me understand victim politics.

I thank my friends around the world and my colleagues in graduate school, who helped at many different points and kept me sane. I am indebted in countless ways to Margaret Boittin, Oh Seung-youn, Choi Shin-hye, Rosie Hsueh, Ken Haig, Rachel Stern, Jennifer Dixon, Kim Sunil, Kenji Kushida, Kristi Govella, Ivo Plesk, Matt Grossman, Sakaiya Shiro, and Christine Yong. Margaret and Sunil graciously commented on parts of my final draft. The kind hospitality of Seung-youn's family in Seoul meant that I learned a lot of Korean, had wonderful conversations, and had a friendly place to stay every time I went to Korea. My Japanese friends Ogahara Chihiro, Kaori, and Mei taught me more about Japan than anyone and were gracious hosts.

I particularly want to thank my dissertation writing group members, Danielle Lussier and Crystal Chang, who have read every word of this dissertation multiple times. Without their deadlines and comments, I could not have finished. Any remaining flaws are my responsibility.

My family inspired many parts of this dissertation and always reminded me that there is more to life than my studies. My father first introduced me to hemophilia and the suffering of that community, and answered all my medical queries. My grandfather inspired my research on Hansen's disease, since he had been a pathologist at Carville in the 1950s. My mother heroically proofread my entire dissertation. I thank the rest of my entire family for the unceasing support.

Most importantly, I wish to thank my husband, Nathan, who held me accountable at all times. Without his patient support this dissertation would never have been written. Ευχαριστώ!

CHAPTER 1 INTRODUCTION: THE POWER OF VICTIMS

INTRODUCTION

Why would a government ever apologize and grant redress for past wrongs? Large organizations like governments, where individuals can pass along blame, tend to avoid accepting responsibility for bad outcomes. Also, governments can avoid blame because they are much more powerful than victims of state policies. Yet on occasion such victims have achieved apologies and even redress from their leaders. Germany's Holocaust reparations, South Africa's truth and reconciliation commission process, and Japan's provisions to Japanese atomic bomb survivors are familiar examples. In contrast, the U.S. government has not officially atoned for the Jim Crow laws, and the Turkish government's denial of any wrongdoing in the Armenian genocide attracted renewed attention recently. What accounts for such diverse outcomes for victims of state policies? For a government, admitting responsibility for earlier wrongs could be costly or even cause more trouble. Officials may also be oblivious to or actively downplay the negative consequences of their decisions. Sometimes, therefore, those personally harmed must rise up to hold their government accountable.

Although victim groups may seem politically marginalized and unlikely to be able to influence policy-makers, victim groups' very weakness is often their strength. As "accidental activists," victims can collectively turn their victimhood into a power resource. Yet not all victim groups are similarly able to use their victimhood to gain empathy from the general public and shame the government into admitting blame. State responses to victim groups vary based on the extent to which government officials feel obliged to explain themselves and on broader political factors. In fact, whether the government publicly recognizes the detrimental effects of its policies reveals much about the broader responsiveness of democratic institutions in that country.

This dissertation addresses the following questions. When, how, and why do governments accept blame for the negative consequences of their policy decisions? And what roles do victim groups play in righting past wrongs? I define *victim groups* as advocacy organizations comprised of people who identify themselves as innocent victims, blame the state (at least in part) for their suffering, and demand redress from the state. They seek to clarify the cause of their suffering, punish the responsible party, extract remorse, and elicit redress policies. State responsiveness to such demands ranges from blame avoidance to full restitution. We can understand variations in state responsiveness by studying the *conditions* under which victims successfully press for redress, and by comparing outcomes across issue areas and country cases.

In fact, studying what factors make redress movements more or less successful helps us to understand why governments *ever* accept responsibility for detrimental decisions. Hence, this project analyzes *variations in state responsiveness* to victim movements in three issue areas in Japan and South Korea (Republic of Korea, ROK). Japan and Korea represent hard cases because policy-making was historically relatively insulated from public scrutiny and pressure. Both governments tended to heed powerful business and interest groups more than the general public. Yet the recent and unexpected successes of victim movements in both countries suggest that these governments' responsiveness to challenger groups may be growing.

My findings arise from paired comparative qualitative analyses of three issue areas in both Japan and Korea where groups of victims recently sought to force their government to take responsibility for causing them harm. I focus on the Japanese and Korean redress movements related to a) the treatment of persons affected by Hansen's disease (leprosy), b) hepatitis C infections from tainted blood products, and c) the abductions of Japanese and South Korean

nationals by North Korean agents. Since policy-makers are usually loath to admit their mistakes or wrongdoing, convincing the government to take responsibility was not easy in any of these cases. Moreover, these political systems did not provide equally accessible channels for those seeking to hold an agent of the state accountable. These victims also had far fewer traditional power resources than their governmental interlocutors. Government responses to these victim groups ranged from comprehensive redress to negotiated settlements, in which the state disavowed any blame. Redress came rapidly for some victims and took decades for others.

How can we explain such differences in the content and timing of state responsiveness to victim groups' demands? One might expect Korean victim groups to have been more successful because activist groups play such a significant role in shaping policy in Korea. Yet I found that the Japanese victim groups were overall more successful than their Korean counterparts. Surprisingly, victim groups succeed not by using the resources that work best for other pressure groups—money, votes, access—but by deploying their distinctive resources as *victims*. I find that remaining an apolitical and pragmatic outsider and expanding *public* interest in one's battle for redress is the most effective strategy for a victim group. I argue that this process of expanding the conflict to attract the interest of non-victims enables a marginalized group to attract public sympathizers and political allies who exert pressure on the government to meet the victims' demands.¹ In general, filter groups, such as activist organizations and the media, facilitate conflict expansion to a greater extent in Japan than in Korea, but the patterns of conflict expansion also account for within-country variations in state responsiveness.

My project contributes to the established literatures on civil society and interest group politics in four ways. First, I propose a new typology of state responsiveness that captures the range of options that governments might pursue when granting redress. Second, while interest group scholars posit that access gives societal groups influence over policy outcomes, my research shows that this dynamic does not apply to victim groups. Gaining or having access to the state actually hampers victims' efforts to hold the state accountable. Third, I argue that victim groups illustrate how retaining outsider status and being apolitical is a rational decision because it is effective for realizing victims' demands. Thus, my dissertation challenges previous arguments that Japanese civil society groups are small, volunteer-based, and apolitical due to structural incentives created by the state.² Fourth, I demonstrate the distinctiveness of victim groups as a subcategory of activist civil society organizations. Victims are “accidental activists”, and their victimhood is curiously empowering.

As I will discuss in the concluding chapter, my comparisons of victim advocacy cross-nationally, over time, and across issue areas, suggest two insights for our understanding of Japanese and Korean politics. The first is that we should revise our statist models of policy-making to capture Japan and Korea's distinct but increasingly open politics. Second, my research

¹ Schattschneider contended that every conflict is contagious and that the extent to which the watching public becomes involved in a conflict as the attentive audience determines the outcome of the conflict. E. E. Schattschneider, *The Semisovereign People: a Realist's View of Democracy in America*, 1st ed. (New York: Holt, Rinehart and Winston, 1960). The concept of conflict expansion is also related to “scale shift,” which refers to a change in the number and level of coordinated contentious acts so as to engender a broader conflict involving a wider array of actors. See Doug McAdam, Sidney G. Tarrow, and Charles Tilly, eds., *Dynamics of Contention* (New York: Cambridge University Press, 2001), 331-335. Another similar concept is issue expansion, which can occur on a “waves of enthusiasm or criticism”. See Frank R. Baumgartner and Bryan D. Jones, *Agendas and Instability in American Politics* (Chicago: University of Chicago Press, 1993), chap. 5.

² For this position, see Robert Pekkanen, *Japan's Dual Civil Society: Members Without Advocates* (Stanford: Stanford University Press, 2006).

shows that the judicial route is more open to grievance groups in both countries. Yet the resources to effectively utilize the judicial channel are more widely available in Japan than in Korea. As such, these victim movements shed light on democratic accountability mechanisms and the power dynamics in state-society relations in two of Asia's main democracies.

This chapter proceeds by first discussing the mechanisms of democratic accountability. Second, I present a new conceptualization of levels of state responsiveness and specify the key dimensions of responsiveness related to victim redress. The third section details the explanatory framework of this dissertation and elucidates the causal mechanisms that link different modes of conflict expansion to various levels of state responsiveness. After a brief section that describes my research design, the fifth section explores the pitfalls and opportunities facing victims who seek to hold their government accountable.³ Finally, I summarize my six main case studies and preview the core arguments of Chapters 2 through 7.

CONCEPTUALIZING DEMOCRATIC ACCOUNTABILITY

Democratic accountability refers to the extent to which governmental agencies and officials must give a public account for failing to fulfill the obligations and duties of their office.⁴ Accountability also connotes the restraints placed on the exercise of power—political, administrative, professional, financial, moral, legal and constitutional.⁵ In democracies, policy-makers answer to constituents through the ballot box and by extension to the media and non-state groups, to varying degrees. Similarly, legislatures and other institutions of government can hold cabinets and the bureaucracy answerable, even if one's ability to check and impose sanctions on other power centers varies.⁶ In holding officials accountable, citizens or the relevant authorities determine the extent to which officials have performed their obligations and duties, according to laws, norms, and expectations. Accountability, therefore, is a contested concept because definitions of wrongdoing or failure can be politically manipulated or change over time.⁷ Indeed, the level of responsibility a state bears for the victimization is politically contested. Along with

³ In all the issue areas studied in this project, victim redress movements already exist. For each active victim group, numerous potential victim movements exist in theory. The critic might accuse me of examining only successful cases of victims' advocacy and therefore overstating or falsely identifying the key explanatory factors. However, the victim movements I studied elicited different *degrees of redress* from the state. I seek to explain this variation in state responsiveness and explore the hurdles to collective action for victims in chapter two. Within each issue area, there was a time when no victim groups had yet formed. As such, the insights that my qualitative interviews and research provided allow me to also analyze victim organizations *before* they mobilize.

⁴ Robert D. Behn, *Rethinking Democratic Accountability* (Washington: Brookings Institution Press, 2001), chap. 1.

⁵ Andreas Schedler, "Conceptualizing Accountability," in *The Self-Restraining State: Power and Accountability in New Democracies*, ed. Andreas Schedler, Larry J. Diamond, and Marc F. Plattner (Boulder: Lynne Rienner Publishers, 1999), 1, 22.

⁶ "Horizontal accountability" refers to the checks and balances among different power centers, while "vertical accountability" is what voters exercise over elected representatives. Guillermo O'Donnell, "Delegative Democracy," *Journal of Democracy* 5, no. 1 (January 1994): 61. See also Guillermo O'Donnell, "Horizontal Accountability in New Democracies," in Andreas Schedler, Larry J. Diamond, and Mark F. Plattner, eds., *The Self-Restraining State: Power and Accountability in New Democracies* (Boulder: Lynne Rienner Publishers, 1999), 29 ff.

⁷ For an extended discussion of the concept of democratic accountability, see Behn, *Rethinking Democratic Accountability*, chap. 1. And see Scott Mainwaring, "Introduction: Democratic Accountability in Latin America," in Scott Mainwaring and Christopher Welna, eds., *Democratic Accountability in Latin America* (New York: Oxford University Press, 2003), 4-31. The lack of democratic accountability among international organizations or multilateral institutions has sparked much attention. See, for example, David Held and Mathias Koenig-Archibugi, eds., *Taming Globalization: Frontiers of Governance* (Cambridge: Polity Press, 2003). David Held and Mathias Koenig-Archibugi, eds., *Global Governance and Public Accountability* (Malden: Blackwell, 2005).

citizen participation, transparency, and representativeness, accountability is a core aspect of democratic governance.⁸ We must look inside the dynamics of the state and its interactions with societal groups to understand when and why officials grant or deny redress to victims.

In democracies, a variety of societal voices compete for the attention of the authorities in order to hold the state accountable. The ballot box is not the only accountability mechanism. Between elections, a narrower set of groups holds the government accountable than the mass electorate. Studies of organized interests and pressure groups highlight the growing influence and monitoring role of such groups. Compared to individual citizens, organized interests have superior information, access to political elites, financial and organizational resources, and the clout with which to oversee and influence policy-making. Yet such pressure groups may privilege narrow interests over the welfare of the general public, especially disadvantaged groups.⁹ As such, their efforts to hold the government accountable may be unfair or may even harm less organized interests. Moreover, the number and accessibility of veto points varies among democratic systems. Some political systems have fewer institutional veto points, and policy-making occurs with relatively little public scrutiny, as in Japan and Korea. In such systems, powerful interest groups crowd out less organized citizens. Finally, in policy areas concerning technical matters or requiring specialized knowledge, decision-making authority is concentrated. Even powerful interests may not be able to hold the state accountable in such policy areas.

Public officials in a democracy have a duty to create and implement policies which reflect citizens' preferences. Yet, all governments, willfully or unintentionally, sometimes make policy decisions that negatively affect the lives of some citizens and violate their basic rights. A government's failure to perceive such adverse effects of its decisions and respond appropriately creates victims of state policy. In analyzing victim politics, I focus on the degree to which elected and non-elected state actors are held responsible specifically for the harmful effects of their decisions, non-decisions, and actions. Public accountability for harmful policies involves both the formal authority to monitor state actors and the informal power to shame government officials.¹⁰ Revelations of ill-conceived or negligent policies can damage public trust in their democratically elected government. Variations in the "patterns of political neglect and attentiveness" toward the harmful effects of some policies provide a useful vantage on the power dynamics in state-society relations.¹¹ They also allow us to evaluate the effectiveness of the mechanisms of democratic accountability in particularly hard cases—victim organizations that blame the state.

⁸ For a recent discussion of four key qualities of democracy (representation, accountability, pluralism, and competitiveness), see Gill Steel and Sherry L. Martin, "Introduction," Sherry L. Martin and Gill Steel, eds., *Democratic Reform in Japan: Assessing the Impact* (Boulder: Lynne Rienner Publishers, 2008), 4-5. Ellis S. Krauss and Robert Pekkanen, "Reforming the Liberal Democratic Party," *Ibid.*, 11-12.

⁹ See Michael A. Baer, "Interest Groups and Accountability: an Incompatible Pair," in James L. Gibson, Scott A. Greer, and Ronald D. Hedlund, eds., *Accountability in Urban Society: Public Agencies Under Fire* (Beverly Hills: Sage Publications, 1978).

¹⁰ Non-state actors use the following mechanisms to convince governments to change their positions: 1) mobilizing information, 2) providing interpretations of events to frame an issue, 3) leveraging other powerful groups against the government, and 4) holding governments to their word. Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca: Cornell University Press, 1998), 16-25.

¹¹ Matthew A. Crenson, *The Un-Politics of Air Pollution: A Study of Non-Decisionmaking in the Cities* (Baltimore: Johns Hopkins Press, 1971), 27.

Just as interest groups seek to influence the content and timing of policies that affect them, so victim groups mobilize to demand that the state publicly admit responsibility for their suffering and take concrete actions to restore their rights and welfare. Yet the mechanisms of democratic accountability work differently for victim groups. Compared to organized interests, groups of victims of state policy are those pressure groups one would *least* expect to successfully influence political decisions. Victim groups usually lack the electoral weight or blocking power of concentrated constituencies, the financial clout of business groups, and the organizational presence and regular access that established interest groups enjoy. Victim groups' weakness and outsider status is limiting because they must carve out public space for their voices.

The victim organizations that I study not only lack the resources that ordinary interest groups use to influence policy-making, victim groups also pursue accountability within hostile contexts. Policy-making in Japan and Korea has been relatively insulated from public pressure, and as such, these national contexts represent hard cases for democratic accountability.¹² Furthermore, policy related to infectious disease, drug regulation, the blood supply, policing, and national security embody particularly hard cases because decisions require expertise and involve few actors. In addition, victims face high hurdles to collective action and begin from positions of weakness when compared to the authorities they blame. Individual victims are often dispersed throughout society, face social stigmatization, and may suffer from disease, poverty, or trauma.

The distinctive moral authority of victims as people directly harmed is curiously empowering. Victim groups are comprised of "accidental activists" in the sense that their activism is "born of the immediate experience of social injustice, rather than as a consequence of a pre-existing ideological belief."¹³ Comprised of innocent sufferers, victim groups have unparalleled potential to elicit pity from the public with gripping accounts of their suffering and may be hard to publicly criticize, especially if they remain unified. Victim groups usually have a strong desire to see justice and reparations for their victimization, and these intense preferences help small victim groups overcome their disadvantages in size.¹⁴ Legislative solutions, rather than purely bureaucratic or legal means, provide the most comprehensive redress. But political resolutions depend on a victim group's ability to mobilize public empathy.¹⁵

At first glance, the Japanese and ROK governments, which are known for their relatively insular policy-making, appear unlikely to accept blame, especially from victims. Yet they have, to varying degrees. Highly visible conflicts between victim groups and the Japanese government have resulted in surprisingly comprehensive redress packages. Korea's groups have achieved comparatively less generous redress from their government, despite the growing influence of non-governmental organizations (NGOs) in Korean politics. In addition to this cross-national difference in state responsiveness, different victim organizations within each country have received differing levels of redress. Why do some victim groups achieve comprehensive redress while others must settle for a negotiated compromise, wherein the state avoids taking full responsibility for its decisions? If a democratic government is one that is responsive to citizens, then what do such varying levels of state responsiveness to aggrieved citizens speak to questions

¹² Chalmers A. Johnson, *MITI and the Japanese Miracle: The Growth of Industrial Policy, 1925-1975* (Stanford: Stanford University Press, 1982). Alice H. Amsden, *Asia's Next Giant: South Korea and Late Industrialization* (New York: Oxford University Press, 1989).

¹³ Monica McWilliams, "Struggling for Peace and Justice: Reflections on Women's Activism in Northern Ireland," *Journal of Women's History* 6, no. 4 (1995): 21 citing Susan Hyatt.

¹⁴ Mancur Olson, *The Logic of Collective Action* (Cambridge: Harvard University Press, 1965).

¹⁵ Michael Reich, *Toxic Politics* (Ithaca: Cornell University Press, 1991), 6-7.

of good governance in Japan and Korea? In order to answer these questions, the next section conceptualizes redress as a form of state responsiveness before proceeding to the core causal argument and explanatory framework of this dissertation.

CONCEPTUALIZING STATE RESPONSIVENESS

State responsiveness generally refers to the degree to which the political agenda and public policy outcomes reflect the demands of the public.¹⁶ The term has also been used to denote the perceptiveness of policy-makers to social problems and the overall effectiveness of policies.¹⁷ In many ways, such usage stretches the concept to the point where it is no longer useful. Steeped in the context of American politics, pluralists place high value on the separation of powers to constrain government officials and on the electoral accountability to ensure state responsiveness to the public's preferences as revealed by their political participation.¹⁸ In the pluralist view, a variety of claimants and groups compete with each other for the government's attention. Corporatist perspectives contend that the state will be more responsive to certain privileged, included groups.¹⁹ Scholars who study policy-making in Japan and Korea often employ variations on corporatism, which build on notions that both were developmental states that favored powerful business interests for the sake of economic growth.²⁰ Finally, statist scholarship focuses on the policy dominance of the state. It finds that a government may be highly responsive to social problems and able to rapidly enact effective measures *at times* but not necessarily responsive to societal voices. Clearly, the meaning of state responsiveness and its connotations is very different in each of these schools of thought.

In the face of this definitional muddle, I propose using the term state responsiveness to refer narrowly to the degree to which the government takes actions to meet victims' demands for redress. This conceptualization of state responsiveness highlights the dynamic interaction of claims-makers and government officials. Each level of state responsiveness corresponds to a degree of redress. Naturally, the specific content and prioritization of victim groups' goals may change, be hidden for strategic reasons, or be contested.²¹ Yet victim groups by definition seek to hold the state accountable for the harm they have suffered. As such, they generally seek redress, which can entail a) a clarification of how state policy caused harm, b) an official admission of guilt and remorse, c) some material or non-material assistance to the victims, and d) efforts to prevent future victimization. State actors must balance the twin goals of maintaining social order and avoiding blame. The government resists victim group demands in a variety of ways, leading to different levels of state responsiveness, which constitute different degrees of redress for the

¹⁶ For a discussion of the concept of responsiveness, see Paul D. Schumaker, "Policy Responsiveness to Protest-Group Demands," *The Journal of Politics* 37, no. 2 (1975): 493-495.

¹⁷ For a recent analysis of policy-makers' attention to issues, see Bryan D. Jones and Frank R. Baumgartner, *The Politics of Attention: How Government Prioritizes Problems* (Chicago: University of Chicago Press, 2005).

¹⁸ Robert Alan Dahl, *Who Governs?: Democracy and Power in an American City* (New Haven: Yale University Press, 1961).

¹⁹ Philippe C. Schmitter and Gerhard Lehmbruch, eds., *Trends toward Corporatist Intermediation* (Beverly Hills: Sage Publications, 1979).

²⁰ For a clear literature review on Japan, see Frank J. Schwartz, *Advice and Consent: The Politics of Consultation in Japan* (Cambridge: Cambridge University Press, 1998), chap. 1. In the Korean context, see Dennis L. McNamara, *Corporatism and Korean Capitalism* (London: Routledge, 1999).

²¹ Kenneth T. Andrews, "Social Movements and Policy Implementation: The Mississippi Civil Rights Movement and the War on Poverty, 1965 to 1971," *American Sociological Review* 66, no. 1 (2001): 72.

victims. The six main case studies and numerous comparative referents examined in this dissertation display the full range of levels of state responsiveness (see table 1.1).

Table 1.1: Levels of State Responsiveness

Level	Concessions Granted	Examples from my Cases
<i>Voice/ access</i>	- Acknowledgment of group's complaints without meeting them	All cases examined in this dissertation
<i>Negotiated settlement</i>	- Willingness to address claims without explicit recognition of blame	Korea - Hepatitis C
<i>Partial redress</i>	- Limited recognition of state responsibility - Expenditure of some resources - Some change of principles	Korea - Hansen's disease Japan - Abductions Korea - Abductions
<i>Comprehensive redress</i>	- Full recognition of blame - Expenditure of power and material resources - Change of principles	Japan - Hansen's disease Japan - Hepatitis C

While scholars posit that the permutations of redress the state can offer are myriad, I propose four levels of state responsiveness to victim groups' demands for redress. Most governments are reluctant to admit wrongdoing or negligence because it undermines their authority. Additionally, a state may share blame with another entity. In that case the state may not be able to or have much incentive to grant comprehensive redress. One can nonetheless distill three key dimensions of state responsiveness (see table 1.1).²² The first dimension relates to the amount of responsibility the government accepts for causing harm to a group of people. Does the state accept full blame, does it restrict the number of cases for which it will admit responsibility, or does the state refuse to show any remorse? The second dimension of redress concerns the costliness of the concessions that the government grants to victims. Does the form of redress require the state to expend many, some, or no material and/ or power resources? And the third dimension of redress concerns the *modus operandi* of policy-makers. Do the principles, actors, and power relations of policy-making in that issue area change? All the victim groups studied in this project eventually achieved the most basic response from the state—access and voice. Beyond that official acknowledgment of their suffering, some elicited more extensive concessions from the government than others did.

As seen in table 1.1, the government can grant various degrees of redress in response to victims' demands. Policy responses that involve no remorse and limited expenditure of resources constitute a *negotiated settlement*. This level of responsiveness requires fewer concessions from the state. From the victims' perspective, the welfare or medical aid they negotiate may be an acceptable compromise, but the authorities' lack of remorse inhibits victims' full recovery. In a negotiated settlement, the government could investigate the victimization or offer condolence money without explicitly accepting blame. The government thereby grants more than voice and access, which would involve a mention in an official press conference or an invitation for victims to meet a high-level official. But a negotiated settlement entails fewer concessions than partial or comprehensive redress, which both involve a public acknowledgement of government blame.

In cases of *partial redress*, the authorities acknowledge having contributed to some specific instances of victimization but seek to curtail the number of people they recognize as

²² Brooks discusses three forms of redress: 1) remorseful or not, 2) monetary or not, and 3) compensatory or rehabilitative. Roy L. Brooks, ed., *When Sorry Isn't Enough: The Controversy Over Apologies and Reparations for Human Injustice* (New York: New York University Press, 1999), 8-9.

actual victims. For example, the government may apologize only to victims who can prove their suffering in court or who were harmed between certain dates. Granting some concessions, even if limited, helps the government to deflate the victims' challenge by dividing the victims, citing legal technicalities, or even focusing the blame elsewhere. Doing so gives the government room to maneuver.

Only those groups of victims that the state compensates for damages, apologizes to, and incorporates into future policy-making receive *comprehensive redress*. In such rare cases, overwhelming evidence of injustice and widespread public outrage leave the government few alternatives but to fully rectify the problem and prevent future recurrences. Comprehensive redress usually entails a public apology, compensation, welfare provisions and rehabilitation programs, the construction of a memorial, the inclusion of victims in decision-making, and preventative policy changes. Among my cases, Japanese victim groups generally tend to elicit more extensive concessions from the state than do their Korean counterparts, but some victims of authoritarian excesses in Korea have achieved comprehensive redress. For example, the victims of the Kwangju Incident in 1980²³ as well as former ROK spies abandoned in North Korea²⁴ have received compensation and had their honor restored through government policies.

RESEARCH DESIGN

Examples of all three categories of state responsiveness can be found worldwide among cases of the victimized seeking to hold their governments accountable. Yet, as two East Asian democracies undergoing political and social adjustments in the face of economic, demographic, and external challenges since the early 1990s, Japan and Korea present ideal contexts—indeed, hard cases—in which to study democratic accountability and state responsiveness. This dissertation utilizes multiple levels of comparison and a variety of data sources to better understand the dynamic interaction of victim group claimants and government officials.

First is the cross-national level of analysis. Japan and Korea are socio-culturally quite homogeneous democracies that have insulated decision-making patterns and similar levels of economic development. As a result, I can hold these factors constant to rule out competing explanations of the variations in state responsiveness or redress. My cross-national comparison indicates that victim groups in Japan generally tend to receive more comprehensive redress than Korean victim groups. This cross-national variation in state responsiveness cannot be explained by one government being more insulated from public pressures than the other. Both countries

²³ In May 1980, General Chun Doo-hwan's imposition of martial law and the arrest of democratic activist Kim Dae-jung sparked a student-led citizen uprising in the city of Kwangju. ROK security and military forces brutally suppressed the demonstrations over the next ten days. In all, 144 civilians died and 127 were injured. Twenty-six soldiers and policemen died and 263 were injured. Some civilians died later due to injuries sustained in the violence, so the exact number of casualties remains unclear. The Kwangju uprising has been renamed the 5-18 Kwangju democratization movement (*5-18 minjuhwa undong*). Although the government granted victims medical subsidies in 1990, the National Assembly passed the 5-18 Special Law in 1995 and a law to restore the honor of victims in 2000. Two former ROK presidents were also indicted in 1996 for their involvement in the Kwangju incident.

²⁴ Between 1953 and 1972, about 10,000 South Korean agents were dispatched to the DPRK as spies by the ROK military. The ROK government denied their existence until 2005 because these spies violated the armistice agreement with the North. As a result, many bereaved families or returned agents suffered stigma and discrimination. Ex-spies started campaigning for recognition in order to gain veterans' benefits and compensation after democratization in 1987 but it became a social issue after 2000, when the ROK repatriated 63 DPRK agents. Several organizations of former spies protested violently, pursued litigation, and negotiated with the government. Consequently, a Special Law for Compensation and Financial Assistance for Former Agents was passed in 2004 and then revised in March 2006 due to victim pressure.

have historically been considered strong or autonomous states, which most importantly refers to the relative insularity of decision-making.²⁵ As they seek to hold these strong states accountable, victim groups are those organizations with the fewest resources, access points, or tools of leverage for influencing policy-making in either country. Nevertheless, victim groups in both countries manage to elicit varying degrees of redress.

Pairing Japan and Korea for analysis also helps me to control for institutional and socio-cultural differences. Japan and Korea share many institutions and laws, due to the Japanese colonial legacy. Institutional differences, however, cannot explain the variation in state responsiveness either. Despite the fact that Japan is a parliamentary system and Korea a presidential system, both countries have legislatures with similar powers.²⁶ Officially, both legislatures can replace the prime minister, investigate the administration and summon officials for questioning, initiate legislation, and have a say over budgeting matters. Cultural differences also cannot account for the cross-national variation in state responsiveness to victim groups. Both countries' predominant philosophies of Buddhism and Confucianism value self-sacrifice and bearing one's burden stoically.²⁷

The cross-national comparison reveals that Japanese groups are overall more successful than Korean groups due to the felicitous aspects of the Japanese national context—relatively homogeneous media content and consumption patterns along with the prevalence of small, volunteer-based activist groups. These features of the media and activist civil society groups facilitate conflict expansion in Japan, as I will show in Chapter 3. These two similar and yet distinctive national settings enable me to clarify subtle cross-national differences and their effects on victim politics.

As a complement to this cross-national analysis, therefore, I selected three issue areas in which I could study pairs of cases in both Japan and Korea. To enhance the generalizability of my findings, I employed the diverse case method to select three different issue areas that exhibited the full range of variation in conflict expansion and state responsiveness.²⁸ I sought instances of victimization that occurred in both countries in the past twenty years (since democratization in South Korea), were at least partially caused by state policy, and sparked an identifiable victim organization. Thus, my research focused on: 1) policies toward persons affected by Hansen's disease (leprosy), 2) hepatitis C infections from tainted blood products, and 3) the abductions of Japanese and ROK nationals by North Korea.

Since the issue areas in Japan and Korea mirror each other, I could control for perceived differences in the severity of suffering. The specifics of victimization, such as whether children suffered or whether the stigmatized disease was genetic, represent another potential confounding

²⁵ See, for example, Johnson, *MITI and the Japanese Miracle*. Amsden, *Asia's Next Giant*. Meredith Woo-Cumings, ed., *The Developmental State* (Ithaca: Cornell University Press, 1999).

²⁶ M. Steven Fish and Matthew Kroenig, *The Handbook of National Legislatures a Global Survey* (Cambridge: Cambridge University Press, 2009), 348-352, 370-373.

²⁷ According to Confucian social hierarchy principles, Japanese aggrieved could only demand that higher-ups show benevolence (their duty), and could *not* hold higher-ups accountable for mistreatment. See Eric A. Feldman, *The Ritual of Rights in Japan: Law, Society, and Health Policy* (Cambridge: Cambridge University Press, 2000), 23.

²⁸ The diverse case method uses cases that are representative of the full range of variation along relevant dimensions within the population. Gerring describes the diverse case method as a “mixture of J.S. Mill's most-similar and most-different analysis” and points out that this method has not yet developed a recognizable name (p. 98, n. 10). Gerring, therefore, calls it the diverse case method. John Gerring, *Case Study Research: Principles and Practices* (New York: Cambridge University Press, 2007), 97-101.

factor for which paired case studies help control.²⁹ Yet among these six case studies, I found instances in which dissimilar victim movements in different issue areas nevertheless achieve similarly extensive redress. Thus, I find that the level of redress is not a result of something endogenous to the type of victimization.

Unlike case studies within just one issue area or large-N studies of undifferentiated advocacy groups, my process-tracing among paired case studies elucidates the mechanisms that enable outsiders like victim groups to shape political outcomes in several issue areas. Through cross-issue analysis, I can hold constant the national level factors and test whether the dynamics I observed cross-nationally apply within country and across time as well. Chapter 5, in particular, elucidates that conflict expansion patterns explain not only cross-national differences but also cross-issue differences in state responsiveness in the Korean context. My heterogeneous set of issue areas will be complemented by brief comparisons among victim redress movements without parallels in the other country, such as the victims of political persecution under Korea's authoritarian regimes.

Finally, my interviews took me to the individual level of analysis because I was able to gather information about the processes through which individual victims and their supporters or opponents engaged in redress politics. Through in-depth interviews, I uncovered variation across time within each movement. Specifically, I heard testimonies about the hurdles to victims' collective action without resorting to counterfactuals about victim groups that have not yet organized. Each of the movements that I studied had overcome hurdles to collective action and government stonewalling, and their struggles elucidate the conditions under which victim groups emerge and demand redress. I also identified linkages among different victim organizations, as my informants provided examples of how they learned from previous redress movements and used precedents to gain leverage. The victim redress movements studied in this dissertation do interact. This reality enables me to uncover specific evidence of cross-issue linkages, diffusion, and learning among victim movements and governmental elites. To account for such variations in state responsiveness, the next section presents my causal argument about how different modes of conflict expansion produce different degrees of redress.

CONFLICT EXPANSION: A MODEL OF VICTIM REDRESS POLITICS

I argue that the mode of conflict expansion—the way in which marginalized victim groups gain attention from the public and political elites—explains the level of redress that victims receive. Victim groups seek to expand their issue's "scope of contagion," or the extent to which a political conflict involves the public, while their opponents seek to restrict it.³⁰ For excluded groups such as victims of state policy, "socializing" a conflict becomes a powerful tool for gaining leverage over the timing and content of a policy innovation, particularly one related to their victimization.³¹ Almond and Verba find that citizens often rely on informal grassroots support when articulating grievances against the state, by "arousing their neighbors, getting friends and acquaintances to support their position, or circulating a petition."³² One can invite the

²⁹ Clifford Bob, "Marketing Rebellion: Insurgent Groups, International Media, and NGO Support," *International Politics* 38, no. 3 (2001): 311–334.

³⁰ Schattschneider, *The Semisovereign People*. Roger Cobb, Jennie-Keith Ross, and Marc Howard Ross, "Agenda Building as a Comparative Political Process," *The American Political Science Review* 70, no. 1 (1976): 127.

³¹ Schattschneider, *The Semisovereign People*.

³² Gabriel A. Almond and Sidney Verba, *The Civic Culture: Political Attitudes and Democracy in Five Nations* (Princeton: Princeton University Press, 1963), 150.

ordinary public to participate in a conflict by appealing to universal human rights, a sense of justice, notions of liberty or freedom, and other principles.³³ An issue on the public agenda has aroused widespread awareness and, in the eyes of the public, requires action by a particular governmental unit.³⁴ Lipsky also advocates “activating third parties,” whose involvement in a conflict alters the balance of power among the main contestants, when seeking to shape the timing and content of policy changes.³⁵

Scholars have argued that periods of political crisis tend to spark policy innovations.³⁶ Conflict expansion is one way of creating such a political crisis. Publicizing an instance of victimization undermines the public’s trust in the government and creates a crisis of legitimacy for the political establishment. The way in which conflict expansion occurs, however, depends on the power relations among the actors involved in a particular policy area. In other words, the sequencing of conflict expansion gives us clues as to which actors will most influence the timing and content of the policy innovations that occur in response to the political crisis. The issue areas studied here all constitute specialized policy domains in which a closed group of experts and specialist policy-makers formulate policy. To change policy in such specialized sub-arenas in particular, expanding the range of actors involved is crucial.³⁷ The explanatory framework I present below, therefore, addresses Campbell’s question of “Why *any* policy change occurred, why then, and why that one?” with regards to redress for the victims of state policies.³⁸

Fostering public concern from the bottom-up, in particular, creates opportunities for political gain for enterprising politician allies who see a chance to answer public dissatisfaction with the government.³⁹ Catalyzed by public outrage, the solutions such political allies forge in relatively altruistic ways tend to produce the most pressure on the state. Therefore, they engender the most comprehensive state responsiveness, involving substantial redress and an official apology for prior state behavior, as opposed to simply welfare assistance. One might assume that all victim redress movements would want to pursue this winning strategy, but my cases show that not all victim groups are able to and some even choose not to pursue bottom-up conflict expansion. Like other pressure politics strategies, each mode of conflict expansion has its challenges and costs, as I will discuss below.

First, however, what modes of conflict expansion are available to victim redress organizations and how do they shape state responsiveness? Depending on who initiates an issue, conflict expansion can be 1) bottom-up, whereby victims first attract public support, which then draws politicians to their cause; 2) top-down, whereby victims garner the support of some politicians who in turn strive to increase public awareness of the issue as part of some political

³³ Schattschneider, *The Semisovereign People*, 7.

³⁴ Cobb, Ross, and Ross, “Agenda Building as a Comparative Political Process,” 127.

³⁵ Michael Lipsky, “Protest as a Political Resource,” *The American Political Science Review* 62, no. 4 (1968): 1145.

³⁶ Nelson W. Polsby, *Political Innovation in America: The Politics of Policy Initiation* (New Haven: Yale University Press, 1984). Hugh Hecl, *Modern Social Politics in Britain and Sweden: from Relief to Income Maintenance* (New Haven: Yale University Press, 1974). John W. Kingdon, *Agendas, Alternatives, and Public Policies* (Boston: Little, Brown, 1984). Peter Alexis Gourevitch, *Politics in Hard Times: Comparative Responses to International Economic Crises* (Ithaca: Cornell University Press, 1986).

³⁷ John Creighton Campbell and Ethan E. Scheiner, “Fragmentation and Power: Reconceptualizing Policy Making under Japan’s 1955 System,” *Japanese Journal of Political Science* 9, no. 01 (2008): 89–113.

³⁸ John Creighton Campbell, *How Policies Change* (Princeton University Press, 1992), 5.

³⁹ Schattschneider, *The Semisovereign People*. Lipsky, “Protest as a Political Resource.” For a discussion of Schattschneider-style conflict expansion in American cases, see Baumgartner and Jones, *Agendas and Instability*, chap. 5. See also the cross-cultural comparative framework of Cobb, Ross, and Ross, “Agenda Building as a Comparative Political Process.”

strategy; or 3) limited, whereby the scope of conflict does not expand as collective bargaining occurs among victims, politicians, and officials far from public scrutiny.⁴⁰ The terms “bottom-up” and “top-down” reference the gap in political power between government officials at the top and the general public and even marginalized victim groups at the bottom. Table 1.2 lays out the most common causal linkages between modes of conflict expansion and levels of state responsiveness (redress).

Table 1.2: Modes of Conflict Expansion and the State Responsiveness they tend to Induce

Mode	Expansion Process	Why the state responds...	How the state responds...
<i>Bottom-up</i>	victim group → public → politicians	To answer public opinion supporting victim group	Comprehensive redress
<i>Top-down</i>	victim group → politicians → public	To balance against politicians and reassert state power	Partial redress
<i>Limited</i>	victim group ↔ bureaucrats and ministers	To minimize the impact of the victims' challenge	Negotiated settlement

In general, victims who successfully pursue bottom-up or grassroots conflict expansion achieve more comprehensive redress than either a) victims who become dependent on politician-allies to help them expand the conflict from the top-down or b) victims who gain institutionalized access to the state without any conflict expansion and negotiate a settlement from the state. The main reason for this variation in state responsiveness is that the victim groups which amass the most public attention will attract the most reformist political allies. Public interest and outrage mobilize political entrepreneurs and put pressure on the state. The political solutions forged in this process tend to constitute the most comprehensive redress policies.

Surprisingly, those victim groups that expand the arena of conflict are most successful, not those groups that have or seek direct access to the state. Studies of interest groups and social movements suggest that groups with regular channels of access to public officials can best elicit state responses to their demands. This should be particularly true in Japan and Korea, where corporatist policy-making has historically been most responsive to organized interests and *resistant* to new claimants. However, when it comes to *redress* demands, I find that institutionalized access to the state may actually hamper efforts to hold the government accountable. Thus, victim redress organizations succeed by deploying the distinctive strategies they have as victims—including shock, shaming, and contestation—to expand the scope of their conflict with the state.

By inciting public indignation and sympathy to pressure the government, victim groups engaged in *bottom-up conflict expansion* tend to receive the most comprehensive redress.

⁴⁰ The bottom-up mode of conflict expansion closely resembles Cobb et al.’s “outside initiative model,” while the top-down mode of conflict expansion resembles their “mobilization model.” The outside initiative model begins with an outsider group raising an issue, expanding it to get public attention, and thereby attracting government attention. The mobilization model refers to the process by which the government announces a policy and then mobilizes public support through campaigns and other programs to ensure effective implementation. My top-down mode of conflict expansion, however, does not assume that the political elites initiating an issue already decided the details of a policy before promoting the issue to the public. Cobb et al.’s “inside initiative model” overlaps with my limited mode of conflict expansion, in that the general public plays virtually no role. *Ibid.*, 127-136.

Litigation is a particularly effective tool for linking up a particularistic set of demands with universal principles the public understands and for publicizing redress efforts to expand the conflict parameters.⁴¹ The Japanese Hansen's disease and hepatitis C movements demonstrate how plaintiffs that challenge the state in court can mobilize substantial pressure against the state as they amass public sympathy and political allies by boldly "coming out" as victims, by protesting and lobbying, and by demanding a fair hearing with high-level officials. However, scholars have hypothesized that successful redress is most likely engineered by legislators. Lawmakers can do more than the judiciary, which is usually the weakest branch of government, even if the courts can "interpret and enforce existing rights and laws" and issue indictments of the government's actions.⁴² As such, the primary aim of litigation is often to expand public involvement in a conflict in order to attract politician allies to one's side.

As can be seen from the Korean hepatitis C victims, in contrast, collective bargaining with the state with *limited expansion of the conflict* tends to lock claimants into a working relationship with the state, to cement the particularistic nature of a set of redress demands, and to allow state actors to dominate any publicity.⁴³ Ordinary grievance articulation channels rarely permit victim redress organizations to wrest the political agenda from elite control and thereby realize their demands in full. Calder describes conservative Japanese politicians' accommodation of opponents as "compensation."⁴⁴ Such tactics help the political establishment to defuse challenges and may benefit victims somewhat. Yet, such settlements do not actually hold state actors accountable in any meaningful way.⁴⁵ Moreover, the massive power differential between the elite and often expert decision-makers and the victims constrains victims' ability to hold the state accountable. Bringing in either politicians or the public as backers helps victims to "de-routinize" policy-making and open the policy conflict to diverse voices.⁴⁶

In between bottom-up and limited conflict expansion, *top-down conflict expansion* usually results in partial redress, because the state can curtail the concessions it makes. In top-down conflict expansion, a victim group convinces sympathetic politicians to help raise public awareness of a victimization issue. Short-term realignments or fissures in the configuration of the dominant coalition might lead a politician to see an opportunity for personal advancement by taking up a victim group's cause.⁴⁷ Alternatively, personal political strategy might motivate a politician to become an issue entrepreneur for a victim movement in exchange for something

⁴¹ Frank K. Upham, *Law and Social Change in Postwar Japan* (Cambridge: Harvard University Press, 1987), 27.

⁴² Victimization often occurred due to legal policies or negligence, so proving and sanctioning state actors legally in court can be difficult. Brooks, *When Sorry Isn't Enough*, 6.

⁴³ Upham, *Law and Social Change in Postwar Japan*.

⁴⁴ Kent E. Calder, *Crisis and Compensation: Public Policy and Political Stability in Japan, 1949-1986* (Princeton: Princeton University Press, 1988), 25.

⁴⁵ Upham and Pharr also describe the Japanese government's propensity to privatize or manage conflict whenever possible so as to maintain authority and sustain conservative LDP rule. See Upham, *Law and Social Change in Postwar Japan*. Susan J. Pharr, *Losing Face* (Berkeley: University of California Press, 1990). The authoritarian regimes in South Korea practiced repression to contain social conflict. Since democratization, however, the political establishment in Korea utilizes tactics similar to Japan's to minimize certain societal challenges. Influential and politically connected NGOs and advocacy groups have made it impossible for the state to privatize some conflicts, but there are issues that these activist groups ignore, as we shall see in chapter 2.

⁴⁶ Calder, *Crisis and Compensation*, 18. Citing Richard Rose, *Do Parties Make a Difference?* (London: Macmillan, 1980), 152.

⁴⁷ For a similar hypothesis, see Patricia L. Maclachlan, *Consumer Politics in Postwar Japan* (Columbia University Press, 2002), 29.

from the group.⁴⁸ In top-down conflict expansion, the political allies on which victims depend often compromise away important components of redress in order to more rapidly achieve some settlement for personal political gain. Since politicians' interest in a victim movement precedes widespread public interest, the political entrepreneur plays a more dominant role in framing and steering the conflict than bottom-up conflict expansion. Therefore, victims using top-down conflict expansion risk being hijacked by politicians' other goals, as the abductees in both countries and Korea's Hansen's disease community experienced. In short, the way in which a conflict is socialized has important implications for the leverage victims have over the government and therefore the redress they receive.

THE COSTS AND CHALLENGES OF CONFLICT EXPANSION

Victim redress organizations face multifaceted challenges and costs in the process of expanding the scope of their conflict with the state. Internally, victims may disagree with each other about the appropriate strategies and targets of activism. In his study of the activism of victims of chemical disasters, Reich points out that "for the victims, paradoxically, the politics of contamination can become as poisonous as the chemicals themselves. Hence, toxic politics."⁴⁹ Externally, members of the general public may criticize victims' activism as motivated by greed or ingratitude. Schattschneider also warned that, as the scope of a conflict grows, "the original participants are apt to lose control of the conflict altogether."⁵⁰ In addition, conflict expansion is by no means a linear or guaranteed process. Crenson rightly points out that something is more of an issue if it has caught the attention of a civic leader than if it has merely captured the attention of ordinary people.⁵¹ As such, victims pursuing bottom-up conflict expansion must successfully attract politicians to their side once they amass public sympathy. Yet, victim groups must also navigate party politics carefully since partisanship can undermine their identity as innocent victims seeking justice. Despite being fraught with challenges, all three modes of conflict expansion have telltale markers that enable the careful process tracer to identify which mode is operating in each case. Thus, I triangulate among interviews, primary sources, and secondary accounts to trace and analyze the effects of each mode of conflict expansion in my six cases.

In the main empirical chapters, I analyze state responsiveness to victims' demands for redress across five phases because different aspects of redress are fulfilled at each phase in the process. Holding the government accountable is usually an extended sequence of small steps.⁵² First, the government recognizes the victimization by conducting an official inquiry or even abolishing the harmful policy. In so doing, the government acknowledges the victims' suffering and clarifies some of the facts about the victimization but takes no actions to remedy the situation. Second, agreeing to meetings between the victims and high-level officials gives the victim group voice, and recognizes the organization as the legitimate representative of the victims. Third, if the government or an elected official calls for redress legislation, then the victims' issue has been placed on the political agenda.⁵³ Often such agenda setting entails more

⁴⁸ Robert H. Salisbury, "An Exchange Theory of Interest Groups," *Midwest Journal of Political Science* 13, no. 1 (February 1969): 1-32. Kingdon, *Agendas, Alternatives, and Public Policies*, 129-130.

⁴⁹ Reich, *Toxic Politics*, 1-2.

⁵⁰ Schattschneider, *The Semisovereign People*, 4.

⁵¹ Crenson, *The Un-Politics of Air Pollution*, 30.

⁵² These phases have been adapted from Schumaker, "Policy Responsiveness to Protest-Group Demands," 494-495.

⁵³ Peter Bachrach and Morton S. Baratz, "Two Faces of Power," *The American Political Science Review* 56, no. 4 (1962): 947-952. Crenson, *The Un-Politics of Air Pollution*. Roger W. Cobb and Charles D. Elder, *Participation in*

clarification of the government’s blame and some expressions of remorse. Fourth, the policy change phase is self-explanatory, but the content of the redress legislation varies greatly. The government can provide material or non-material reparations or benefits, admit blame, commission fact-finding activities, or enact policies to prevent future victimization. Fifth, the way the government implements policies can constitute redress in that symbolic gestures and the inclusion of the victims in the implementation process help the victims heal.

These phases do not directly correspond with the levels of redress outcomes depicted in table 1.1 above. In some cases, the government may begin by merely granting voice and access to a particular group of victims and then delay for years before conceding anything further. Increased public pressure often pushes a reluctant government to grant more comprehensive redress later. A change in government can also spur movement to the next phase of responsiveness and encourage more extensive concessions to victims’ demands. In other cases, movement from one phase to the next can happen rapidly once the political will to respond exists.

The timing and the nature of concessions granted at each phase vary greatly among my cases, as will become clear in Chapters 4, 5, and 6. I find that focusing on these phases of state responsiveness and comparing the content and tone of the government’s concessions in each phase to be a more precise way of determining the overall level of redress a victim movement achieves. Thus, I analyze how the problem of victimization was first acknowledged, how those involved formulated policy options to rectify the situation, how the stakeholders cooperated and competed to hammer out a solution, and how the political momentum to redress an instance of victimization developed.⁵⁴

I argue that the mode of conflict expansion best explains the evident variations in state responsiveness to victims’ demands for redress. Features of the national context—the structures of the advocacy sector and the media—facilitate conflict expansion by Japanese victim groups but frustrate conflict expansion by Korean groups. This explains why Japanese groups are overall more successful at eliciting redress than their Korean counterparts (see table 1.3). Yet, the different modes of conflict expansion also account for within-country variations in state responsiveness to victims’ demands for redress.

Table 1.3: Summary of Overall Findings (from most to least successful movements)

Main Conflict Expansion Mode	State Response	Examples from Cases
<i>Bottom-up</i>	Comprehensive redress	Japan - Hansen’s disease
		Japan - Hepatitis C
<i>Top-down</i>	Partial redress	Korea - Abductions
		Japan - Abductions
		Korea - Hansen’s disease
<i>Limited</i>	Negotiated settlement	Korea - Hepatitis C

In sum, victim movements that deploy their victimhood to mobilize public empathy and shame the government—thereby expanding the arena of conflict—tend to compel the most extensive state responsiveness. This is because victims backed by public sympathy attract political allies behind the victims’ cause. These allies seek electoral support, but to win it they must align themselves with the victims. Politicians can also become involved in victim redress

American Politics: the Dynamics of Agenda-Building (Boston: Allyn and Bacon, 1972). Baumgartner and Jones, *Agendas and Instability*. Cobb, Ross, and Ross, “Agenda Building as a Comparative Political Process.”

⁵⁴ For an earlier study that examines these questions, see Campbell, *How Policies Change*.

movements if victims seek out politicians to help expand the scope of their conflict to the public. In such cases, the politician has greater say over the framing of the issue because the victims depend on his or her assistance in the top-down process of conflict expansion. State actors have maximal leeway in how they respond to victims' demands in cases where conflict expansion is limited. The case studies described in the next section illustrate these dynamics at work.

THE CASE STUDIES

The victim movements examined here are hard cases in that conflict expansion should be difficult. Policy-making in Japan and Korea has historically been relatively insulated from societal pressures, especially from small, weak, and marginalized groups like victim groups. Moreover, these are issue areas in which decisions normally occurred far from public scrutiny, being the domains of specialists. As such, the closed set of officials and interest groups normally involved in policy-making in each issue area developed standard operating procedures, relatively fixed notions of the problems and possible solutions, and vested interests in the extant decision-making processes. These closed "policy paradigms" helped those in positions of influence to discourage or contain challenges from victim groups and to minimize public interest in the issue.⁵⁵ Since these were closed policy domains, expanding the scope of their conflict to bring in new actors and new ideas was difficult but essential to the victim groups' success. This section provides overviews of the six victim redress movements studied here.

My research utilizes several different data sources. From 2007 to 2009, I conducted extensive open-ended interviews in Japanese and Korean with over 225 victim activists, non-victim supporters, lawyers, journalists, politicians, bureaucrats, and other observers to trace the course of victim redress movements in the three issue areas in each country. Interview subjects were mainly identified through a snowball-sampling process, and I tried to interview the main protagonists in each issue area whenever possible. In addition to this original qualitative research, I analyzed relevant laws, committee minutes and reports, news articles, public opinion surveys, primary accounts of the movements, and scholarly literature from Japan and Korea. This project utilized an inductive approach and process-tracing to uncover patterns in the way in which victims' demands for redress are or are not fulfilled. I leveraged comparisons across issue area and country case to better understand the conditions for greater or lesser victim group power.

1. Hansen's disease in Japan—comprehensive redress

The Hansen's disease redress movement in Japan demonstrates the full potential of victims' litigation to spur widespread public pressure on the government and thereby attain comprehensive redress. For most of the 20th century Japanese persons affected by Hansen's disease (leprosy) endured near-complete ostracism from society and suffered human rights abuses based on the government's leprosy control policy.⁵⁶ Because Hansen's disease had

⁵⁵ Peter A. Hall, "Policy Paradigms, Social Learning, and the State: The Case of Economic Policymaking in Britain," *Comparative Politics* 25, no. 3 (April 1993): 275-296.

⁵⁶ Hansen's disease, also known as leprosy, is a chronic bacterial disease that is not very contagious, fully treatable, and does not cause disability if caught early. The bacteria that causes Hansen's disease, *Mycobacterium leprae*, affects the skin, peripheral nerves, and mucous membranes. The Norwegian physician Gerhard Armauer Hansen discovered the bacteria that causes leprosy in 1873. Biblical references translated commonly as leprosy (*tzara'at* in Hebrew or *lepra* in Greek) refer to generic skin ailments, not necessarily to Hansen's disease. The Biblical term was linguistically associated with punishment for sin and engendered prejudice against those afflicted by skin disease. Today, people affected by the disease can lead normal lives with treatment but the intense social stigma attached to the misunderstood disease since antiquity lingers.

become fully treatable, the World Health Organization (WHO) recommended out-patient treatment rather than forced institutionalization in 1960. Yet the Japanese government retained its medically unjustifiable isolation policy for an additional 36 years until 1996. Japan's 5,000-member Hansen's disease community eventually sued the Japanese government for violating their constitutional rights to freedom of movement and basic dignity. The court process and a historic court ruling against the government in May 2001 helped attract public support for their quest for redress. The victims' protests and widespread public outrage compelled Prime Minister Koizumi to forgo appealing the historic ruling and offer a sweeping official apology to Hansen's disease sufferers. In June 2001, the Diet passed legislation providing compensation, medical care, a fact-finding commission, and a forum for regular negotiations between the state and the Hansen's disease community. The Japanese victims achieved such comprehensive redress because they effectively mobilized public sympathy, which then fostered the political will and pressured the government to respond to the victims' demands.

2. *Hansen's disease in Korea—partial redress*

The Korean Hansen's disease movement illustrates the challenges of relying on a politician ally without first fostering public sympathy. The victims were only able to achieve partial redress because the political will for redress stemmed from a few enterprising politicians and not so much from public sympathy. Korea's leprosy community actually pursued redress from two governments—first the Japanese and then the Korean. Under Japanese colonial rule from 1910 to 1945, Koreans affected by Hansen's disease endured the same human rights violations that their Japanese counterparts had. Mobilized by Japanese human rights lawyers in 2003, about 120 elderly Koreans with Hansen's disease sued the Japanese government for compensation in Japanese courts. This litigation in turn raised awareness of the ROK government's postwar mistreatment and neglect of Hansen's disease sufferers. After liberation, the ROK officially amended its leprosy policies in 1963 in accordance with the WHO recommendations, unlike Japan. Yet uneven implementation of the revised policies and intense social prejudices perpetuated the suffering of Korea's Hansen's disease community, which existed largely apart from ordinary society, either in leprosaria or "resettlement villages." In 2004 leaders in the national patient organization and a politician ally began to design a compensation law for victims of specific postwar incidents, including the massacres of Hansen's disease sufferers. The ROK government, however, stopped short of granting comprehensive redress or establishing any programs to improve the human rights of persons with leprosy in Korea, who numbered about 15,000 in 2008. Korea's Hansen's disease community only elicited partial redress from the Korean government because their movement failed to mobilize widespread public pressure on the ROK government, though they did mobilize public outrage against the Japanese government.

3. *Hepatitis C-tainted blood products in Japan—comprehensive redress*

The hepatitis C (HCV) victim movement in Japan highlights the utility of litigation and innocent victimhood in amassing public supporters to pressure the state into granting comprehensive redress. The estimated 10,000 hepatitis C sufferers in Japan, who blame the government and pharmaceutical companies for their infections, contracted the chronic liver ailment from tainted blood products prescribed in the 1970s and 1980s to stop bleeding during

labor or surgeries.⁵⁷ After an internal inquiry revealed that the health ministry had known about the blood-borne epidemic but reacted sluggishly, sixteen people infected with the hepatitis C virus filed collective lawsuits in Osaka and Tokyo in October 2002 against the state and three pharmaceutical companies. The victims opted for a more political approach in the fall of 2007 because of the overt efforts by the state and drug firms to use legal technicalities to limit the number of infections for which they could be held legally responsible. Protests, media appearances, and petition drives spread the victims' issue framing—the government did not value citizens' lives. As a result of widespread public pressure and victim advocacy, both houses of the Japanese Diet unanimously passed the Hepatitis C Special Measures Law in January 2008. The law included an admission of government responsibility for causing harm and failing to prevent that harm from spreading, procedures for the certification of victims through the courts, and stipulations about how much monetary relief to give to the victims from a fund created with government and drug-makers' contributions. The law also established a fact-finding committee, which included victim representatives on it. In short, the HCV victims achieved such comprehensive redress by mobilizing public sympathy for their cause.

4. *Hepatitis C-tainted blood products in Korea—negotiated settlement*

Korea's hepatitis C victim movement shows the limits of litigation in the absence of public support. The Korean victims have only been able to negotiate piecemeal concessions from the government. Roughly 650 members of Korea's hemophilia community, or over 60 percent of hemophilia patients over the age of 20, were infected with HCV through tainted clotting factor in the 1980s and 1990s. Starting in 2004 they sued the government and drug maker for failing to prevent and even causing their infections. The number of plaintiffs shrunk from 102 to 77 after they lost the first round of the lawsuit. The victims appealed the ruling to the Seoul High Court in December 2007. Today the defendants refuse to relinquish key documents and other evidence and continue to deny wrongdoing. Meanwhile, the national patient association that organized the lawsuit has negotiated for small concessions from the government because the authorities and drug firm continue to deny responsibility. In sharp contrast to the Japanese HCV victims, the Korean victims have failed to attract public interest in their conflict with the health authorities and pharmaceutical company. As a result, the government does not feel public pressure to grant redress to the victims. Moreover, it has been difficult for the patient association to simultaneously fight the government and drug firms in court and also negotiate for treatment and coverage from them. Nevertheless, the small concessions that the hemophilia patient association has wrung from the government are slowly cumulating into a partial settlement for past harm, albeit without any admission of responsibility from the government.

5. *North Korean abductions of Japanese nationals—partial redress*

The Japanese abductees and their families elicited partial redress from the government, despite considerable public outrage and sympathy for the victims. The families blame the Japanese government for failing to protect its citizens. During the late 1970s and early 1980s,

⁵⁷ Hepatitis refers to viral infections of the liver cells causing inflammation. Hepatitis C (HCV) is transmitted through secretions and blood. Shared needles and tainted blood and blood products account for most infections. The typical epidemiology of HCV would be very few deaths from acute infection, then frequent incidence of liver failure, liver cancer, and complications of arthritis, vasculitis, and/or kidney damage in a few cases. Chronic HCV treatment varies and cures the viral infection in only one-third of patients. Treatment is arduous, takes about one year, and causes miserable side-effects. Based on personal correspondence with Dr. Jerry Powell, UC Davis (April 2010).

North Korean agents kidnapped as many as forty Japanese nationals, apparently to help train spies and to supply identities with which North Korean agents could infiltrate Japan. In September 2002 Kim Jong-il dramatically admitted DPRK involvement in the abduction of 13 Japanese citizens, only five of which were still alive, he claimed. The five survivors and their children were repatriated to Japan in 2002 and 2004 and received government compensation and financial assistance. The families of those still missing, however, continue to pressure the Japanese government to fully investigate the abductions and seek the repatriation of the remaining abductees. The Japanese government cannot fulfill families' demands because the key to comprehensive redress lies outside its jurisdiction—in North Korea. Though the government has not offered full redress, it has aided and heeded the families in other ways. The families and especially their political allies have influenced policy-making to an unprecedented degree, as seen in the Japanese government's behavior at the six party talks, the passage of Japan's first unilateral sanctions against another country, and the ubiquity of the abductions issue in official statements at home and abroad. A 2005 law stipulates that all levels of government must educate the public about the abductions and other North Korean human rights violations. The central government also regularly briefs families about abductions-related developments. Still, the victim families have only achieved partial redress. Compensation is only available to returnees, and the government has eschewed official acknowledgement of its blame. Furthermore, the process for gaining recognition as an abductee is opaque, and most abductees' whereabouts remain unknown. The lack of comprehensive redress in this case is surprising, considering the depth of public concern for the abductions issue.

6. *North Korean abductions of ROK nationals—partial redress*

The Korean abductees elicited partial redress like their Japanese counterparts, albeit in a different form, even without any of the public frenzy that existed in Japan. The South Korean government estimates that almost 4,000 ROK nationals, including many fishermen, have been abducted or detained by the DPRK since 1953. Abductees from the South were welcomed for state propaganda emphasizing the virtues of the North over the South, sent to work camps, used to train DPRK spies, or trained as spies to re-infiltrate the South. As a result, the ROK's military dictatorships were suspicious of abductees and their families and deprived them of economic and educational opportunities. Most abductees returned to the South within three years of disappearing, but today 496 ROK nationals remain in the North and 8 have escaped back to the South. The DPRK continues to deny abducting ROK nationals, despite ample testimony to the contrary from refugees and escaped abductees now in the South. The abductee movement began in 2000, when President Kim Dae-jung made his historic trip to the North to meet Kim Jong-il. Since then, the organized victims in South Korea have successfully lobbied for an official recognition of the abductees, victim certification procedures, and a victim support law in 2007, despite failing to garner widespread public sympathy. Instead, they were able to elicit partial redress, but not full redress, through the top-down efforts of a minister of unification who wanted to rectify the ROK government's history of mistreating abduction victims and their families.

These six case studies illustrate the range of redress outcomes possible for victim groups seeking to hold the state accountable for causing them harm. As my empirical analysis in Chapters 4, 5, and 6 shows, the pattern of conflict expansion explains the extent of state responsiveness to victims' demands for redress. I argue that victim movements which attract grassroots public support tend to achieve more comprehensive redress than either victim groups

which depend on political elites to raise public awareness or groups which fail to spark broader interest in their cause. By investigating the mechanisms of democratic accountability, this project evaluates the responsiveness of political institutions to marginalized groups in East Asia.

ORGANIZATION OF THE DISSERTATION

The modes of conflict expansion and resultant levels of state responsiveness to victims' demands vary across the three issue areas examined here. Throughout the following chapters, I show that these victim movements and state responsiveness are often shaped by and shape other victim movements and policy responses, across issue area, time, and national borders. My main case studies and several smaller cases from Japan and Korea help to trace the linkages among victim movements across time and cross-nationally, as well as to explore the beneficial spillover effects that policies not directly related to victims can have for victims seeking redress. This section explains the insights of each chapter in greater detail.

Chapter 2 situates victim redress organizations within the civil society, social movement, and interest group literatures. I detail the significant hurdles to collective action that victims face and trace the process through which personal victimization becomes a public and then a political issue. This chapter focuses on the emergence, organizational form, and strategies of victim groups in order to introduce the organizational protagonists of the dissertation. As initially impotent outsiders, victim groups try to get the state to accept blame for the repercussions of its decisions. To do so, I argue, they must overcome high barriers to collective action, frame their quests for redress in terms that resonate with non-victims, and voice their demands for redress. They utilize strategies ranging from the contentious to the cooperative, but their strategies are distinctive from those employed by other activist groups.

Chapter 3 sketches the national parameters within which victim groups operate in Japan and Korea. The national contexts are similar in that policy decisions were historically insulated from societal pressures. This autonomy of the state is the most important feature of the strong state concept so often used to characterize Japan and Korea. However, neither state was completely free from interest group or social movement pressures. I demonstrate that increasing penetration of societal actors—including victim groups—into policy-making is slowly transforming state-society relations and enhancing the accountability of these two East Asian democracies. Yet the national contexts differ in important ways when one examines the non-victim advocacy sector and the media in both countries. As filter groups, the media and activist organizations are essential for conflict expansion. I find that Japanese victims have been more successful than Korean victim groups at expanding the scope of their conflicts. In part this is because the Japanese victims could utilize networks of small civic groups focused on narrow issues and relatively homogeneous media content and consumption patterns to develop and sustain public interest in their causes. Since Korea's victims had to compete with large activist groups advancing the concerns of the majority, Korean victims had trouble getting on the political agenda, despite the wider array of access points available. In short, for victim movements, these parameters have felicitous effects in Japan but detrimental effects in Korea.

Chapter 4 analyzes the Japanese Hansen's disease and hepatitis C victim movements. These cases show the effectiveness of bottom-up conflict expansion, particularly spurred by litigation. The Japanese HCV and Hansen's disease victims were able to elicit comprehensive redress from the state because they mobilized enough public support behind their cause to catalyze a legislative resolution to their battle in court. Litigation was useful for linking up particularistic demands with universal principles the public understands and for publicizing

redress efforts. These cases also show that policies granting redress reshape the political environment faced by subsequent victims, affect state capacity to confront or acquiesce to victims' challenges, and create identification among otherwise unrelated groups of victims. The role of time or precedent is not merely evident in the accumulation of legal precedents awarding victims state compensation. The conflicts over HIV-tainted blood, Hansen's disease, and finally HCV all show the effects of time in altering the parameters faced by subsequent victim groups.

Chapter 5 explains why the Korean HCV and Hansen's disease victims have only been able to elicit negotiated settlements and partial redress from the ROK government, respectively. These movements nicely illustrate how the differences between limited and top-down conflict expansion also explain within-country variation in redress outcomes across issue areas. The Korean Hansen's disease victims were able to convince a few well-placed politicians to wring some concessions from the state, while the HCV victims struggled to even attract politician allies. Consequently, the state has been only minimally responsive to the HCV victims, in contrast to the partial redress granted to Hansen's disease victims. The Korean Hansen's disease and HCV cases also show the limits of institutionalized access to the authorities. From before the redress movements began, both disease communities had patient associations to promote the community's interests in negotiations with the state. Both patient associations and their governmental interlocutors developed working relationships that made it difficult to demand that the state to take responsibility for the destructive consequences of its policies.

Chapter 6 points out that widespread public concern for victims does not always lead to extensive state responsiveness. Sometimes state responses are constrained by forces or realities beyond the government's control. Specifically, as the "objective" responsibility of the state for victimization decreases, the capacity of and incentives for the state to grant comprehensive redress decrease. The state's level of responsibility is both objectively discernable and open to political contestation. The government may be genuinely unable to grant some aspects of redress or it could use its partial responsibility as an excuse to avoid making concessions. Additionally, in cases where the state bears partial or secondary responsibility, victim groups' jobs of coherently framing their conflict with the state and effectively attracting public sympathy become harder because the question of blame is more complicated. To illustrate this point, I analyze the recent campaigns by the Japanese and Korean abductions victims and their families for redress. Despite using bottom-up and then top-down conflict expansion, the Japanese victims achieved partial redress. In contrast, the Korean victims also received partial redress, in spite of the limited scope of their abductions conflict. This is because the Korean state had greater capacity to meet victims' demands since it bore more responsibility for their victimization than did the Japanese government for Japanese abductees' suffering.

The conclusion revisits my findings in light of other victimization issues in Japan and Korea, and elsewhere, in order to test my hypotheses about the causal link between conflict expansion and state responsiveness. Korean examples include political prisoners and other victims of the ROK's authoritarian regimes, former spies sent to North Korea, the comfort women, disabled people, and victims of crimes. Japanese examples include atomic bomb sufferers, victims of industrial pollution, and workers who developed mesothelioma after being exposed to asbestos. As I consider whether my findings still hold for these other victim movements that blame the state for their suffering, I also explore interactions among my cases across time, across issue area, and across national borders.

CONCLUSION

Since victims of state policy tend to lack political power and since granting redress to them would be costly and potentially cause more problems for the government, one would expect most governments—even democratic ones—to avoid apologizing and offering restitution for past wrongs. Yet governments do sometimes accept responsibility for unjust, negligent, or failed policies. How and when to recognize the plight of victims of state policies, to grant them political voice, and to admit responsibility for their victimization is a dilemma that democracies, in particular, must grapple with worldwide. Victim organizations seek to hold their government accountable for past wrongs. The conditions under which victim groups successfully press the government to recognize their suffering and grant redress speaks to good governance and reveals much about the responsiveness of democratic institutions in that country.

To understand redress politics, this dissertation analyzes the activism of those directly harmed by state policy—victim redress organizations. Victim groups elicit redress through unconventional means that are based on group members' victimhood. In short, their weakness becomes their strength. By drawing upon their *victimhood*, victim groups can shame the government and coherently frame their campaign for redress in terms that attract non-victim supporters. Thus, Chapter 2 analyzes victim redress organizations and the distinctive aspects of their activism that can empower them. The next chapter also explores the potential pitfalls in the process of victim mobilization and activism.

CHAPTER 2 MOBILIZING VICTIMHOOD: TURNING WEAKNESS INTO STRENGTH

INTRODUCTION

Victimhood implies powerlessness. Compared to other activist organizations and interest groups, victim groups are distinctly disadvantaged with respect to the resources normally considered necessary first to mobilize and then to affect government policies. Victims begin their collective action for redress lacking money, expertise, organizational presence, and access. We would therefore expect victim groups to be weak, but they are not. They actually have unconventional power resources. Victim groups' assets include their personal stake in an issue, their sense of injustice, their credibility as actual victims, and their ability to shame or embarrass officials. The power disparity that exists between the government and victims at the moment of victimization need not continue indefinitely. By mobilizing their victimhood, groups of victims become empowered agents in their quest for redress.¹ Yet it is the dynamic interaction between government officials and victim claimants, rather than merely the victim group's effort, that ultimately defines the politics of redress. This chapter examines the distinctive strengths and weaknesses of victim groups before they emerge and as they organize in order to better understand how victims use their victimhood to empower them in their conflict with the state.

As initially impotent outsiders, victim groups strive to compel the state to take responsibility for the repercussions of its decisions. To do so, they must overcome significant disincentives to collective action, articulate their demands for redress, and frame their cause in terms that resonate with non-victims. Expanding the range of people interested in the victims' dispute with the state is particularly important for victim redress movements, as I discussed in Chapter 1. Fortunately, as "accidental activists" who were not previously politically active, victim group members are well-positioned to deploy the rhetoric of victimization and tell gripping stories of their personal suffering to gain sympathy from the public. The way in which they frame their cause to the public matters greatly. When they are perceived as innocent and depoliticized sufferers seeking justice, victim groups are hard to publicly criticize.² Indeed, the victim groups that I studied are less successful than other groups when using conventional strategies but more successful than other groups when using unconventional strategies, such as shaming and contention. Such strategies enable victim groups to use their victimhood to mobilize empathy from the general public.

Victim groups constitute an understudied type of advocacy organization comprised of people who identify themselves as innocent *victims*, blame the state (at least in part) for their suffering, and demand redress from the state. Just as groups with a policy agenda constitute a subcategory of the broader civil society sector, so victim organizations are a particular type of group with a policy agenda. Victimhood and victimization are certainly not new phenomena, and neither are victim organizations.³ But, just as the number of advocacy organizations is growing,

¹ On the empowering potential of the rhetoric of victimization, see Caroline Joan (Kay) S. Picart, "Rhetorically Reconfiguring Victimhood and Agency," *Rhetoric & Public Affairs* 6 (2003): 97–125.

² John C. Torpey, *Making Whole What has been Smashed: on Reparations Politics* (Cambridge: Harvard University Press, 2006), 7.

³ Indeed, Woolford and Wolejszo argue that the Jewish Holocaust victim movements launched a "cycle of protest" that "culminated in an array of modern victim movements." Andrew Woolford and Stefan Wolejszo, "Collecting on Moral Debts: Reparations for the Holocaust and Pořajmos," *Law & Society Review* 40, no. 4 (2006): 872.

so victim groups are increasing in number because more and more individuals see opportunities to collectively hold the state accountable and redress past injustices done to them.⁴

Victim organizations are those pressure groups one would *least* expect to succeed.⁵ Schattschneider bemoaned the fact that some populations are “organized out” of politics by the established elites. This is particularly true for victim groups because they seek to hold these political elites accountable for their wrongdoing.⁶ Victim groups, therefore, have few natural allies among governing elites. In addition, victim groups usually have few members, few financial resources, and weak organizational presence.⁷ As loose collections of innocent victims without prior activism experience, they also lack the expertise or professional research staff that enable many NGOs to effectively influence policy debates. Although some advocacy groups have emerged in Japan and Korea to represent the interests of marginalized groups—including women, foreigners, minority ethnic groups, and others—advocacy groups often overlook nontraditional minorities, such as victims of state policy.⁸

To voice their collective demands for redress compellingly and thereby gain allies, victim groups sometimes compete and sometimes cooperate with other advocacy groups to gain public attention, especially through the mass media. Both non-victim activist organizations and the media are important for conflict expansion because they are the main filter groups in society. In Chapter 3, I will demonstrate that the structures of civil society and the media generally facilitate victims’ redress efforts in Japan but impede them in Korea. If victims capture the public’s attention, widespread indignation over the state’s wrongdoing can exert substantial pressure on the government to respond to victims’ demands. My research shows that while victim groups’ outsider status is limiting because they must carve out space for their voices, it is also curiously empowering because they have distinctive moral authority as people directly harmed by state policy. The credibility of their victimhood helps victim groups to narrow the power gap they have with government officials.

This chapter begins by conceptualizing victim groups as a distinctive type of activist civil society organization. First, I consider the significant hurdles to collective action that victims face before mobilization. I then investigate how victim organizations turn their distinctive features into power resources and analyze state responses to victim groups’ strategies of expanding public support for their claims. This chapter builds on the interest group, civil society, and social movement literatures by examining the overlooked category of victim organizations and analyzing the strategies these groups use to gain leverage over the government.

⁴ In the American context, see Christopher H. Foreman, “Grassroots Victim Organizations,” in *Interest Group Politics*, ed. Allan J. Cigler and Burdett A. Loomis, 4th ed. (Washington: CQ Press, 1995). M. Kent Jennings, “Political Responses to Pain and Loss Presidential Address, American Political Science Association, 1998,” *American Political Science Review* 93, no. 1 (1999): 1–13. See also Heidy Rombouts, *Victim Organizations and the Politics of Reparation: a Case-Study on Rwanda* (Intersentia Uitgevers NV, 2004).

⁵ For an overview, see Frank R. Baumgartner and Beth L. Leech, *Basic Interests: The Importance of Groups in Politics and in Political Science* (Princeton: Princeton University Press, 1998), chap. 7.

⁶ E. E. Schattschneider, *The Semisovereign People: a Realist’s View of Democracy in America*, 1st ed. (New York: Holt, Rinehart and Winston, 1960).

⁷ See, for example, Michael Lipsky, “Protest as a Political Resource,” *The American Political Science Review* 62, no. 4 (1968): 1144–1158. Kay Lehman Schlozman, “What Accent the Heavenly Chorus? Political Equality and the American Pressure System,” *The Journal of Politics* 46, no. 4 (1984): 1006–1032.

⁸ For an analysis of this phenomenon in the American context, see Dara Z. Strolovitch, “Do Interest Groups Represent the Disadvantaged? Advocacy at the Intersections of Race, Class, and Gender,” *The Journal of Politics* 68, no. 04 (2006): 894–910.

WHAT IS A VICTIM GROUP?

Victim organizations are groups of people who identify themselves as innocent *victims*, blame government actions or inactions for their suffering, and collectively demand redress from the government. Some scholars have referred to the last decade of the 20th century as the “age of apology,” wherein victim redress movements appeared in many different countries.⁹ In 1988 Japanese-Americans won reparations from the U.S. for the World War II-era internment policy in the United States.¹⁰ Swiss, German, and Austrian banks and firms have had to repay victims of Nazi Germany since the late 1990s.¹¹ The South African Truth and Reconciliation Commission sought to heal the wounds of apartheid, with payments to victims starting in 1998. Other well-known examples of victim movements in other parts of the world include the Mothers of the Plaza de Mayo in Argentina, Mothers Against Drunk Driving, and the American hemophilia community’s Committee of Ten Thousand, and the 9/11 victims’ families in the United States. These victim movements also began their quest for redress and policy changes as political outsiders. Overcoming hurdles to collective action that victims worldwide face, as well as garnering support from the general public, empowered these groups, too. Thus, these international examples of victim redress movements form the backdrop for the victim groups I examine in Japan and Korea.

Despite the increasingly evident ubiquity of victim groups, few scholars have specifically analyzed the political advocacy and impact of such organizations.¹² This is particularly surprising in view of the importance of the Minamata industrial pollution victims in sparking Japan’s environmental movement and of the Kwangju incident victims in catalyzing Korea’s democratization movement.¹³ To shed light on this category of activism, I analyze victim organizations as a particular type of civil society organization.

Victim groups are distinct from other civil society organizations in 1) their membership, 2) their interest in bringing about policy changes that constitute redress, 3) their focus on holding the government accountable for causing them harm, and 4) their moral legitimacy as groups of people directly affected by the wrong for which they are seeking redress (*tōjisha* in Japanese, *dangsaja* in Korean). Civil society refers to the public sphere which lies between the family and the state and in which associations of individuals united by shared characteristics or concerns operate.¹⁴ Some civil society organizations are interested in influencing policy. Most of these

⁹ Roy L. Brooks, ed., *When Sorry Isn't Enough: The Controversy Over Apologies and Reparations for Human Injustice* (New York: New York University Press, 1999), chap. 1.

¹⁰ Mitchell Takeshi Maki, Harry H. L. Kitano, and Sarah Megan Berthold, *Achieving the Impossible Dream* (Urbana: University of Illinois Press, 1999).

¹¹ Michael J. Bazzyler, “The Holocaust Restitution Movement in Comparative Perspective,” *Berkeley Journal of International Law* 20 (2002): 11.

¹² Note: McKean includes victims groups amongst her cases of anti-pollution groups in Japan, see Margaret A. McKean, *Environmental Protest and Citizen Politics in Japan* (Berkeley: University of California Press, 1981). See also Michael Reich, *Toxic Politics* (Ithaca: Cornell University Press, 1991). In the United States, Christopher H. Foreman Jr., “Grassroots Victim Organizations,” in Foreman, “Grassroots Victim Organizations.” Jennings explores broader communities affected by “pain and loss” in the AIDS issue domain. Jennings, “Political Responses to Pain and Loss Presidential Address, American Political Science Association, 1998.”

¹³ See McKean, *Environmental Protest and Citizen Politics in Japan*. Jeffrey Broadbent, *Environmental Politics in Japan* (Cambridge: Cambridge University Press, 1999). Gi-Wook Shin and Kyung Moon Hwang, *Contentious Kwangju* (Rowman & Littlefield, 2003).

¹⁴ On the distinction between the private sphere (within trust networks of family and friends) and the public sphere (involving interactions with previously unknown individuals and organizations in society at large), see Jürgen

organizations—variously referred to as advocacy groups, NGOs, or social movements—are comprised of concerned citizens or professional activists.¹⁵ The small subset called victim groups, however, are comprised of directly affected persons and their families.¹⁶ While non-victim interest groups may be unified by economic or professional interests or ideology, victimhood unifies victim groups. Victim groups target the state to demand compensation, whether material (monetary or service provision) or psychological (an apology or the construction of a memorial). Non-victim interest groups may criticize the government for not being good enough to them, but victims hold the government accountable in more specific terms. More frequently than non-victims, these redress movements use litigation to hold the state and other powerful culprits legally accountable. As people directly harmed by the government's actions or inactions, members of victim groups often use their personal stories of suffering in order to enhance the credibility of their redress claims and to bolster their legitimacy in the eyes of the watching public.

Each individual has and must negotiate among multiple identities, of which victimhood is only one dimension (e.g. victims may also be women, foreign residents, elderly, socialists etc.). For the sake of redress, the members of a victim organization come to consider their victimhood the most salient part of their identity, both inside and outside the activities of the victim group. In the American context, Foreman defined such “grassroots victim organizations” (GVO) as groups of people who personally experienced some trauma or suffering and later developed “a *very strong, even consuming, personal stake* in a health or safety-related issue.”¹⁷ I extend his conceptualization to focus specifically on those people who experienced some trauma due to the government's actions or negligence. Many people may consider themselves victims: from local farmers, who face relative deprivation because of globalization, to victims of accidents or natural disasters. Victims of discrimination, crime, or diseases overlap with the victims that I analyze in this study.¹⁸ Rather than explore how people deal with such hardships, however, I focus on how victims of state actions or inactions hold the government accountable for the way it treated them.

The circumstances of victimization in the three main issue areas I study here—Hansen's disease policy, national security and North Korea policy, and blood supply and pharmaceutical regulation—make them hard cases for two reasons. As detailed in Chapter 1, these issue areas are all areas in which policy decisions occurred far from public scrutiny, being the domains of specialists. These closed sub-governments helped those in positions of influence to discourage or

Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, trans. Thomas Burger and Frederick Lawrence (Cambridge: MIT Press, 1991). See also Craig J. Calhoun, ed., *Habermas and the Public Sphere* (Cambridge: MIT Press, 1992).

¹⁵ Activist groups might advance the rights of certain groups (ethnic, religious, racial, economic, or professional) or campaign to protect the environment. Activist groups variously target local communities, the general public, their own governments, or governments abroad to influence policy. Familiar advocacy groups include the National Association of the Advancement of Colored People or the Sierra Club. NGOs include Amnesty International or World Vision. Social movements include the international campaign against the genocide in Darfur or the civil rights movement in the United States. Victim groups may at times join forces with such activist civil society organizations.

¹⁶ Some interest groups or advocacy NGOs do include the people who are being advocated for. For example, sex workers may participate in NGOs that promote the rights of sex workers. However, the victim groups studied in this dissertation are comprised entirely of direct victims of state policy and their families.

¹⁷ Christopher H. Foreman Jr., “Grassroots Victim Organizations,” in Foreman, “Grassroots Victim Organizations,” 34-35. (Italics added).

¹⁸ Susan J. Pharr, *Losing Face* (Berkeley: University of California Press, 1990).

contain challenges from victims, who only pried open the policy domains through their quests for restitution. The political activism of such victim organizations, therefore, is analytically interesting because few governments ever readily accept blame, especially not policy-makers who were historically relatively insulated from societal pressures, as was often the case in Japan and South Korea.

Second, government decisions can cause victimization in a single locality or in disparate locations around the country, but my research focuses on the latter because this further makes victims unlikely to succeed. Dispersed victims must overcome higher hurdles to collective action than residents in one locality affected by a dam, industrial pollution, or a nuclear power plant. “Community-directed GVO” members are linked by some shared public space, while “condition-directed GVOs” address instances in which their victimization was not place-specific.¹⁹ Many of the victims studied here initially lacked “mobilizing structures” that usually exist in localities—previous organizational connections that could facilitate collective action.²⁰

While the similarities between victim groups and other non-victim advocacy organizations facilitate the analysis of victim redress movements, the distinctive features that unite the victim groups studied here should not be ignored. First, in all these cases state neglect, failure, or inappropriate policies were at least partially to blame for harming individuals. Second, the victims endured prolonged suffering, which, when revealed, often symbolized the socio-political crises of their time. Finally, the victims in these three issue areas were initially ostracized and marginalized from normal politics. Their victimhood creates substantial disincentives to collective action. If they manage to mobilize, victims’ goals center on particularistic reparations and preventative measures, rather than policies for the general public interest. Victim groups may be more goal-oriented and focused than diffuse social movements, but also more decentralized and impermanent than interest groups. Victim groups try an assortment of different strategies as they appeal for public backing with which to compel an intransigent government to accept responsibility for causing their suffering. Victims’ activism ranges from being more like social movements (groups willing to use unconventional tactics to promote some collective public good or a cause²¹) to being more like interest groups (organized groups that have relatively continuous contact with officials through more conventional channels²²). Despite their initial weakness as dispersed victims of state policy, the cases of victim redress movements examined here show that victimhood does not always equal powerlessness.

HURDLES TO COLLECTIVE ACTION

Before analyzing the distinctive strengths of victim redress organizations, I must address a prerequisite question: how and under what conditions does a victim’s personal injurious experience motivate his collective action with similar victims against the state? Strong forces keep grievances private and deter victims’ collective action. For example, victims frequently fear stigmatization and shame. Their energy may be consumed already by dealing with their own sufferings. Victims might be wary of holding the state accountable because it could be futile or even cause them to suffer anew. Pluralists tend to ignore the power dynamics and social forces

¹⁹ Foreman, “Grassroots Victim Organizations,” 34-35.

²⁰ Doug McAdam, Sidney G. Tarrow, and Charles Tilly, eds., *Dynamics of Contention* (New York: Cambridge University Press, 2001).

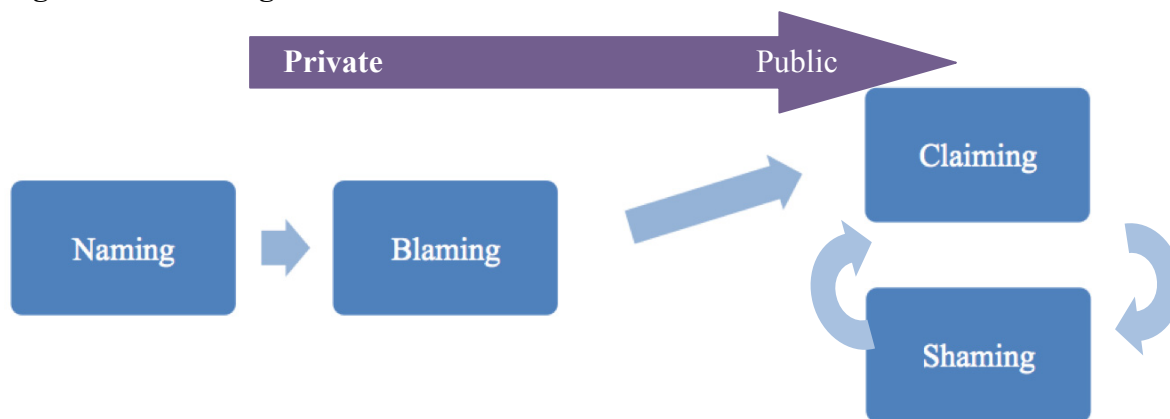
²¹ Jeffrey M. Berry, *Lobbying for the People* (Princeton: Princeton University Press, 1977), 3.

²² Paul Burstein, “Interest Organizations, Political Parties, and the Study of Democratic Politics,” *Social Movements and American Political Institutions* (1998): 39–56.

that prevent certain social groups, and especially many victims, from ever even attempting to challenge the state. However, by examining victim groups *before they emerged* and *as they emerged*, we can discern the collective action dynamics that are distinctive to victims.²³

In analyzing victims’ mobilization, I refer to three stages—“naming, blaming, and claiming.”²⁴ I add “shaming” to these three stages (see figure 2.1). Naming occurs when a person recognizes that he or she has been injured. Blaming refers to the act of holding some entity responsible for one’s suffering. Claiming describes the process of demanding that the authorities grant redress. Shaming entails *publicly blaming* the government and claiming redress. If claiming fails initially, then shaming and claiming become an iterative process. This framework reminds us of the high number of grievances that are never articulated or that fall on deaf ears. It also highlights the staggering attrition rates in victims’ advocacy processes. The dynamics and perceptions at each stage of the process affect subsequent stages.

Figure 2.1: Turning a Private Grievance into a Public Issue



The seemingly personal decision to pursue redress for harm suffered requires a political act for victims of state policy. Victims first make their claims individually through normal grievance articulation channels, such as contacting an elected representative or meeting with an official from the relevant ministry. If these authorities fail to respond, however, the victims may join forces to make their grievance public in order to use popular support to compel the government to respond. This I call shaming. As we shall see in the next three chapters, victims of state policy or negligence often resort to shaming because the government officials are reluctant to acknowledge their faults. To clarify these four stages, I provide below illustrative examples, many of which will be discussed in greater detail in the next three chapters.

Naming

One common factor inhibiting collective action on the part of victims is that they may not yet be aware that other people are suffering as they are or that they can do something to

²³ Mancur Olson, *The Logic of Collective Action* (Cambridge: Harvard University Press, 1965).

²⁴ I have based this framework on the seminal work of Felstiner et al. See William L. F. Felstiner, Richard L. Abel, and Abel Sarat, “The Emergence and Transformation of Disputes: Naming, Blaming, Claiming,” *Law & Society Review* 15, no. 3 (1980): 631-654. For a related discussion and a diagram of the disputing process, see Neil Jeffrey Diamant, Stanley B. Lubman, and Kevin J. O’Brien, *Engaging the Law in China: State, Society, and Possibilities for Justice* (Stanford: Stanford University Press, 2005), 7 fig. 1.1.

remedy their situation. The initial step, in which victims become cognizant of their injurious experiences, is “naming”. This cognitive step is difficult for the researcher to perceive but it is a crucial prerequisite to the subsequent and more public stages. The common inability to perceive that one’s suffering has a discrete cause—here, government decisions—has several sources.

First, a victim may have little to no contact with other victims and, therefore, believe that he or she is the only person suffering in this way. This is, of course, not solely a problem for victims of government policy. The Japanese abductions victim and juvenile crime victim families epitomize solitary suffering. It took a trigger events—the 2000 North-South summit meeting in Pyongyang—for South Korean abductees’ families name their suffering and connect with other victimized families.²⁵ In addition, the founder of an association of juvenile crime victim families in Japan commented that she and her husband felt alone and helpless for a year after their son was murdered. They only began to identify the injustice they felt once they purposively started meeting to grieve with three other murder victims’ families in their city.²⁶ As they shared stories, the government’s systematic neglect of victims’ rights became clearer. Both Japanese and Korean culture prizes stoicism in the face of personal suffering, and therefore discourages naming. Ultimately, the victims must either come to realize or be convinced that they share some unjust experience with others before collective action and the elevation of an issue from a personal concern to a public concern can occur.

Second, the fear of social stigma or discrimination that could accompany any revelation of one’s victimhood deters naming.²⁷ For instance, most Japanese and Korean Hansen’s disease patients had severed ties with healthy family members to spare them from social prejudice. Shimura Hiroshi, a Japanese Hansen’s disease sufferer, told me that the hardest part about becoming one of the first plaintiffs in the lawsuit against the state was worrying about how his activism would affect his mother.²⁸ The “AIDS panic” of the mid-1980s caused many of Japan’s active hemophilia patient associations to become dormant because hemophilia patients and their families suffered intense discrimination, such as job loss or ostracism.²⁹ Observers cite the fear of social stigma as one of the top reasons that juvenile crime victims’ families in the ROK have not mobilized to demand better treatment during the juvenile justice process.³⁰ The fear of discrimination or a second victimization makes many victims reluctant to even acknowledge their victimhood.

Yet, as one or two victims start to publicly name their suffering, these hurdles to collective action start to fall. The process of speaking out also helps victims to understand the cause of their suffering and be liberated from their silence.³¹ For example, after rejoining ordinary society Lee Se-yong, a South Korean affected by Hansen’s disease, founded a volunteer organization for students in order to escape the “withering cycles of self-abasement and self-

²⁵ Keck and Sikkink refer to this as “symbolic politics.” See Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca: Cornell University Press, 1998), 22-23.

²⁶ Interview with Take Ruriko, founder of the AVJC, Osaka (May 17, 2009).

²⁷ This dynamic also deters disease groups or other underprivileged (non-victim) groups from mobilizing.

²⁸ Interview with Shimura Hiroshi, Hansen’s disease sufferer, in Kumamoto (May 14, 2009).

²⁹ Kentaro Kitamura, “Hemofiria Tomonokai Zenkoku Nettowaaku no Kessei [The Formation of the National Network of Hemophilia Associations],” in *6th Annual Conference* (presented at the Shogai Gakkai [Disability Studies Association], Ritsumeikan University, 2009), <http://www.arsvi.com/2000/0909kk.htm>.

³⁰ Interview with Won Hye-uk, professor of law and juvenile justice at Inha University, Incheon (Aug. 21, 2009).

³¹ Shoshana Felman and Dori Laub, *Testimony: Crises of Witnessing in Literature, Psychoanalysis, and History* (London: Routledge, 1992).

pity” that he felt plagued the Hansen’s disease community.³² Similarly, Korean women forced into sexual slavery by the Japanese Imperial Army during World War II (“comfort women”) found the strength to demand restitution after decades of solitary suffering by living together at the House of Sharing (*nanum-eui jib*) established outside Seoul in 1995.³³ Naming, therefore, is a process by which survivors “find the means of reclaiming authorship over their stories” and a crucial prerequisite to seeking redress.³⁴

Blaming

The psychological and social hurdles to naming one’s victimization are high, but assigning blame is rarely straightforward either. “Blaming” refers to the process by which a victim identifies the party responsible for the harm he or she experienced. Victims are often unaware of the fact that discrete government decisions caused their suffering or embedded in hierarchical relationships that obfuscate the true cause of their victimization. Since victims often lack the information needed for effective blaming, assistance from non-victims can alleviate this hurdle to collective action. Below I discuss how government reports and the more intentional efforts of journalists and issue entrepreneurs can help victims to recognize the state’s responsibility for their suffering and contemplate holding the state accountable.

The availability of information about one’s suffering and its causes varies greatly. Government hierarchies, in which there are often many layers between the victim and the real decision-makers, often prevent victims of state policy from identifying the cause of their suffering. Due to the common human tendency to lend great credence to official pronouncements, state denials of responsibility can delay blaming. Unless they attract expert supporters, victim groups also lack the professional staff or expertise to be able to independently research their victimization. For example, people with Hansen’s disease used to believe that their illness was just their fate in life or even a form of religious punishment.³⁵ With the spread of information about international medical advances and other countries’ policies, however, Japanese with leprosy came to realize that they suffered not only from a disease but also from medically unjustifiable institutionalization policies. Likewise, hepatitis C victims in both Japan and Korea trusted that the government was properly regulating drug safety. In reality, an interest in nurturing domestic industry caused regulators’ sluggish responses to evidence of a drug-borne hepatitis C epidemic. Thus, the interests of powerful and connected industry players trumped citizens’ health and well-being, just as the broader and long-term national goals of economic development in Japan and Korea had often trumped citizens’ immediate welfare. In many cases, therefore, the exact causal chain that led to one’s victimization will not become evident for years.

Hierarchical relationships of trust that obscure the reality of victimization are especially pernicious between doctors and patients, as we shall see in Chapters 4 and 5.³⁶ Lacking the expertise that their doctors have, patients trust that the treatment they receive is good. Such trust, particularly in lifelong illness contexts, discourages blaming. Dependence on clotting factor and

³² Interview with Lee Se-yong, person affected by Hansen’s disease, Chungcheongbukdo (July 23, 2009).

³³ Visit to the House of Sharing and conversations with several *halmeoni*, (June 2008).

³⁴ Veena Das and Arthur Kleinman, “Introduction,” in Veena Das et al., ed., *Violence and Subjectivity* (Berkeley: University of California Press, 2000), 12.

³⁵ Tom Frist, “Don’t Treat me like I have Leprosy,” *A Guide to Overcoming Prejudice and Segregation* (2003): 20, http://www.ilep.org.uk/fileadmin/uploads/Documents/Non-ILEP_Publications/dtml.pdf. (Accessed May 25, 2010).

³⁶ Marlynn L. May and Daniel B. Stengel, “Who Sues their Doctors? How Patients Handle Medical Grievances,” *Law and Society Review* 24, no. 1 (1990): 105–120.

the doctors that prescribed it prevented many hemophilia patients from perceiving the cause of their HIV and hepatitis C infections.³⁷ Similarly, Japanese law mandated that people affected by Hansen's disease could only receive medical care from leprosy specialists in leprosaria, making the victims dependent on the leprosarium system and the state that funded it, as opposed to outpatient care at general hospitals. Victims' hesitancy to question trained experts or government officials can delay the blaming process.

Yet revelations of new information can help victims overcome these hurdles to blaming. First, albeit unintentionally, government reports sometimes fill in the gaps in order to link the state to an individual's suffering. Official reports on social problems are usually intended to show that the state is taking appropriate actions to address the problem. However, such reports may also reveal damning evidence of state negligence or blame. For example, a news article based on the first official list of abductees in 1998 made the woman who started Korea's abductions movement begin to blame the ROK government for neglecting her abducted father.³⁸

Second, enterprising journalists may also piece together the causal story linking the state to individuals' suffering. For example, Mrs. Asakura, infected with hepatitis C while giving birth, had blamed herself until she watched a *Fuji TV* program, which revealed that the Japanese government had failed to recall in the late 1980s.³⁹ This investigative reporting proved that at least one doctor had notified the government that the clotting factor was tainted with HCV roughly 14 months before the government finally recalled the product.

Third, "issue entrepreneurs" may actively seek out and mobilize victims in order to prove a pattern of state victimization.⁴⁰ Korea's HIV- and HCV-tainted blood scandals emerged largely due to the advocacy of a whistleblower who used to work with the Korean National Red Cross' (KNRC) blood program. After revealing several infections from tainted blood transfusions in 2003-04, the whistleblower started working with the hemophilia community to gather evidence of HIV and HCV infections to deliver to the GNP legislator Ko Gyeong-hwa, who was on the health and welfare committee. With the GNP in the opposition in 2005, Ko Gyeong-hwa spearheaded a parliamentary audit of the government's management of the blood supply and its failure to properly regulate blood products. Of course, incontrovertible evidence, such as in Kim Jong-il's admission of North Korean involvement in the abductions of Japanese citizens, instantly speeds the blaming stage. Abductee families could then clearly blame the DPRK for the abductions and the Japanese government for failing to protect its citizens or properly investigate the abductions. The transition from blaming the state to claiming redress, however, presents further challenges due to relationships among victims and to political power dynamics.

Claiming

When victims demand redress for the harm they suffered, they are "claiming." Most victims first individually claim restitution from the state through institutionalized political or

³⁷ Interview with Kawada Ryuhei, hemophilia patient with HIV and hepatitis C campaigning for a seat in the upper house of the Diet, Tokyo (July 25, 2007).

³⁸ Interview with Choi Woo-young, former leader of FADN, Seoul (July 11, 2007).

³⁹ The *Fuji TV* reporter tracked down the only surviving bottles of the clotting factor used in the late 1980s and had them tested to show that they were tainted with hepatitis C. Interview with Asakura Mitsuko, hepatitis C plaintiff, Tokyo (June 9, 2009). Interview with Iwasawa Mitsuhiro, *Fuji TV* reporter for the series, Tokyo (June 3, 2009).

⁴⁰ John D. McCarthy and Meyer N. Zald, "Resource Mobilization and Social Movements: A Partial Theory," *American Journal of Sociology* 82, no. 6 (1977): 1215. See also John W. Kingdon, *Agendas, Alternatives, and Public Policies* (Boston: Little, Brown, 1984), 129-130.

bureaucratic channels. For instance, if they take the political route, then victims would appeal to elected officials, whether from the ruling or the opposition party, for assistance. The Arimoto family, for example, first contacted their local Diet member. Unfortunately, she was the socialist leader Doi Takako, whose party claimed that the abductions were a myth.⁴¹ During the 1960s and 1970s, Japanese opposition parties helped raise awareness about the effects of industrial pollution, but they lacked the power to actually bring about redress. Consequently, opposition parties pressured the ruling LDP to change its position. With the rise of more moderate and viable opposition parties in Japan, recent victim claimants often contact both the LDP and the DPJ in order to maintain political neutrality.⁴² Japanese victims also voice claims to the bureaucracy, as the family of one abductee did after receiving a letter from him from North Korea in 1988.⁴³ South Korean victims likewise utilize both political and bureaucratic routes of grievance articulation. Korean abductee families wrote letters to the Ministry of Unification seeking information about their relatives. They were usually either ignored or told that their loved ones had defected to the North and therefore were subjected to surveillance.⁴⁴ Korean claimants who contact opposition party members sometimes spark legislative audits of the government. The audits reveal compelling evidence of government wrongdoing, as we shall see from the Korean hepatitis C case in Chapter 5. Despite these multiple institutionalized channels for grievance articulation, individual victims are particularly disadvantaged claimants because of the disparity in power, information, and resources between state actors and the victims seeking to hold the government accountable.

The government can reject, ignore, or pay off individual claimants with greater ease than it can stonewall a group of claimants. Officials, like most humans, prefer taking credit for success and avoiding blame for failures. State actors may suppress evidence of victimization or stall in order to protect key interests, such as the domestic pharmaceutical companies that manufactured clotting factor tainted with hepatitis C in both Japan and Korea. The power differential between such industry actors and victims explains why the government initially privileged the industry's account over the victims' story of blame. Rejecting or ignoring claims enables the government to stall and see how the victims' challenge pans out.

In addition, the government can divide victim claimants from one another to defuse their collective challenge. The government's power to grant or withhold official "victim" status, depending on when a person suffered or how severe the suffering was, helps the government to minimize a conflict. The ROK government's contested decision to define an abduction as detention in North Korea for *over three years* exemplifies this "divide and conquer" strategy. In court, the Japanese government also tried to delimit the timeframe of hepatitis C infections for which it would be legally responsible because it was concerned about the HCV victims gaining too much power and pressing for costly compensation policies. The government might

⁴¹ Eric Johnston, *The North Korea Abduction Issue and its Effect on Japanese Domestic Politics*, JPRI Working Paper, 2004, <http://www.jpri.org/publications/workingpapers/wp101.html>.

⁴² Interview with Yasuhara Yukihiko, lawyer, Tokyo (May 26, 2008).

⁴³ Ishioka Jun, who disappeared in 1980, wrote to his family in a letter smuggled out of North Korea in August 1988 that he was living in North Korea near other Japanese abductees, including Arimoto Keiko. After the Ishioka family contacted the Arimotos, the two families decided not to publicize the information for fear that it would jeopardize their children's lives. They showed the letter to NPA and MOFA officials to demand more concerted actions by the Japanese government. Johnston, *The North Korea Abduction Issue and its Effect on Japanese Domestic Politics*.

⁴⁴ One son of an abductee was prohibited from serving as a public servant, joining the military, or traveling abroad until the late 1980s. Interview with Kim Jong-gwan, secretary general of AFU, Seoul (Aug. 10, 2009).

preemptively grant material benefits, or often privileged access, to a subset of victims without acknowledging responsibility so as to undermine a potential redress movement. Historically, the Japanese and Korean governments have used such compromise strategies to manage challenges from societal groups.⁴⁵

Especially for victim groups, I found that gaining or having direct access to policy-makers can hamper efforts to hold the state accountable. The same can be said for non-victim advocacy groups, which debate the relative value of access and autonomy. This is because institutionalized interaction between societal groups and government officials creates path dependent relationships that are hard to challenge.⁴⁶ Even independent victim groups never engage in disputes with the government on relatively equal footing from which they can compel state responsiveness (“the first face of power”). With access to state actors, however, power asymmetries worsen over time and government officials can use its control over the agenda (“the second face of power”) and the victim community’s dependence on the state (“the third face of power”) to force victims to assent to the government’s plans.⁴⁷ Open conflict becomes unnecessary because the institutionalized relationship has created such significant hurdles to victims’ collective action for redress. Fear of losing the benefits already achieved will prevent victims, as well as non-victim NGOs, from fully holding the state accountable. Granting privileged access to some victims, therefore, may help the state to undermine victims’ claims.

When the government rejects, avoids, or pre-empts victims’ claims, joining forces with other victims then augments the pressure that a victim’s claim puts on the state. Many of the redress movements in this dissertation began when individuals were rebuffed in their claiming efforts. Such mobilization will not occur, however, unless the victims perceive some opportunity for achieving redress or threat that their situation could worsen.⁴⁸ Collectively, victims either continue to claim redress through accepted channels or combine such efforts with more unconventional shaming tactics to pressure the state into responding. The latter approach helps the victims to enhance their leverage over an intractable government because shaming aims to attract public support for the victims’ cause, as we will discuss in the next section.

Even in cases where the culprit’s responsibility—the state’s blame—is clear and individual claims for redress are rebuffed, victims do not always agree on whether to demand redress, let alone how best to go about it. Divisions among victims may hobble their campaign for redress before it even really begins, as a unified voice is commonly seen as a key to successful redress movements.⁴⁹ Victims may argue 1) that by attempting to claim compensation for their suffering they might lose the benefits they already elicited, 2) that their claiming efforts will only make matters worse for them, or 3) that there is no chance of them ever achieving redress so any effort and resources they expend would be wasted. Hirschman classified versions of these arguments as “jeopardy,” “perversity,” and “futility,” respectively.⁵⁰ Some hemophilia patients and their parents in Korea have been reluctant to sue the government because they worry

⁴⁵ Frank K. Upham, *Law and Social Change in Postwar Japan* (Cambridge: Harvard University Press, 1987). Pharr, *Losing Face*.

⁴⁶ Paul Pierson, “Increasing Returns, Path Dependence, and the Study of Politics,” *The American Political Science Review* 94, no. 2 (June 2000): 259.

⁴⁷ On the three faces of power, see Steven Lukes, *Power: A Radical View* (London: Macmillan, 1974). John Gaventa, *Power and Powerlessness: Quiescence and Rebellion in an Appalachian Valley* (Oxford: Clarendon Press, 1980).

⁴⁸ McAdam, Tarrow, and Tilly, *Dynamics of Contention*.

⁴⁹ Brooks, *When Sorry Isn't Enough*, 7.

⁵⁰ Albert O. Hirschman, *The Rhetoric of Reaction: Perversity, Futility, Jeopardy* (Cambridge: Belknap Press, 1991).

that the hard-won state subsidies for their expensive medical treatment might be curtailed.⁵¹ The first thirteen Japanese Hansen's disease plaintiffs faced opposition from other leprosarium residents who feared getting kicked out of the leprosaria and facing social discrimination again.⁵² Concern about losing the benefits already obtained or about being re-victimized are justifiable, but feelings of futility when taking on the government are crippling.

Certainly, each stage highlighted above reveals the diverse and interrelated hurdles to collective action that especially plague victims. It would seem that very few populations of victims ought to be able to organize. Indeed, the Korean women enslaved by the Japanese Imperial Army during World War II maintained their silence and failed to organize until new documentation about the so-called "comfort stations" was discovered in 1990. Likewise, there is no organization of Japanese citizens who were inoculated en masse using the same needle and contracted hepatitis B because they are numerous and do not know that their disease was the product of an over-zealous government policy to promote vaccinations. These are just a few examples of victims who have failed to mobilize, a notoriously unobservable bunch.

For those victims that do mobilize, the stages of naming, blaming, and claiming characterize the process whereby victim redress movements emerge and develop. Of course, the risks of collective action failing or backfiring are high because the difficulties described above do not just evaporate once an organization exists. In addition, the government need not and often does not respond to victims' claiming. I argue, therefore, that the tripartite framework discussed above is missing the stage of *shaming*—the process of publicly holding the government accountable for one's victimization and appealing to supporters. Each of my case studies focuses on the multi-staged dance that includes shaming. Through shaming, victim groups seek to expand the arena of their conflict so as to pressure the government, but the government usually responds only gradually. Victim groups may need to engage in various forms of activism with diverse strategies over time. Thus, Chapters 4 to 6 explore stages of conflict expansion and state responsiveness to elucidate these dynamic interactions that shape redress politics.

SHAMING: TURNING WEAKNESSES INTO STRENGTHS

Even when a set of victims is able to overcome these high hurdles to collective action, the victim group enters the political fray as a distinctly weak voice compared to other advocacy groups. First, victim groups suffer from a severe lack electoral weight, organizational experience, or financial resources, at least at first. Second, the policy areas that victim groups are trying to transform have developed modus operandi that are not easily overcome because they are closed and specialized issue areas. Third, victim groups are asking for financial compensation from the state when government resources are often already strained or allocated to other projects. Finally, victim groups are demanding no less than that the state admit responsibility for their victimization. Consequently, publicly shaming the government is crucial because no government is likely to willingly accept blame.

As "accidental activists," without the political taint of prior activism experience and with credibility as people who personally suffered due to state policies, victims are uniquely well positioned to publicly shame the government. In the process of shaming, victim groups primarily

⁵¹ Interview with Kim Yeong-ro, director of KOHEM, Seoul (July 27, 2009). In the United States, treatment for a hemophilia A bleeding disorder costs, for the average patient, \$336,000 per year. Personal correspondence with Dr. Jerry Powell, UC Davis (July 2010).

⁵² Interview with Shimura Hiroshi, Hansen's disease sufferer, in Kumamoto (May 14, 2009).

aim to garner the public's attention and appeal to sympathetic allies. Such conflict expansion helps victim groups to turn their weaknesses into strengths. However, nothing about the actual details of their victimization determines how well conflict expansion will work; instead it is about how the victim group "packages" its cause. It is impossible to objectively identify some "hierarchy of horribleness," in which those who suffered more have a higher probability of earning public sympathy. For example, is it worse to not know where one's daughter is for over thirty years or to be forced to undergo a vasectomy? The severity of each victim's suffering elicits different degrees of empathy from different people. As a result, factors endogenous to the victimization are poor predictors of which victim groups will more effectively attract public attention. Nor do particularly needy, persistent, or large groups of victims appear more likely to successfully shame the government into granting redress. The seventeen Japanese abductee families garnered much more publicity than the 500 South Korean abductee families, for instance. So what explains the fact that certain victimization episodes more readily capture the public's attention than others?⁵³ Successful shaming, I argue, depends on the absence of a powerful counter-framer, the presence of a receptive media and public, and the credibility and coherence of the victims' message.⁵⁴

This section first investigates how victims surmount feelings of futility as they shame the government and how they articulate an issue framing that resonates in order to overcome their weakness. Establishing cohesion among victims and credibility in the eyes of potential supporters poses significant challenges in the early stages of victim activism.⁵⁵ In this section, I also show that victim groups employ a range of different tactics at different times, just as non-victim social movements and interest groups do. Yet the most effective tactics and issue framing for victim groups are not always the conventional ones that work so well for non-victim interest groups. Where aligning with a political party might work for non-victim groups, it often backfires for victim organizations because it makes them seem ideologically motivated rather than innocently seeking justice. If gaining funding helps non-victim activists, it can undermine the irreproachable image that victims cultivate. Cooperating with the government might give non-victim interest groups influence, but it limits the extent to which victims can hold the state accountable. This section examines the potential pitfalls and potency of shaming as a way of characterizing the strategies of victim activism.

The Challenges of Shaming

The core challenges of shaming are maintaining unity, establishing the victims' version of blame as the authoritative issue framing, and garnering public sympathy that can be used to pressure the government to grant redress. Clashes of personality or disputes over leadership in the early stages risk undermining the strength of a victim organization, and thereby constraining the group's ability to attract public attention.⁵⁶ Such disagreements among victims over strategy

⁵³ For an insightful approach to this question, see Clifford Bob, "Marketing Rebellion: Insurgent Groups, International Media, and NGO Support," *International Politics* 38, no. 3 (2001): 311–334.

⁵⁴ Whether the person is a "real victim" matters. See Picart, "Rhetorically Reconfiguring Victimhood and Agency," 102, 118. See also Veena Das and Arthur Kleinman, "Introduction," in Das et al., *Violence and Subjectivity*.

⁵⁵ Pharr, *Losing Face*, chap. 6.

⁵⁶ William A. Gamson, *The Strategy of Social Protest*, 2nd ed. (Belmont: Wadsworth Publishers, 1990). In their study of poor people's movements, however, Piven and Cloward suggest that organizational strength may not always be correlated with a group's ability to extract concessions from the authorities. Frances Fox Piven and

also inhibit cogent and uniform framing of the dispute. Until the victims' story of blame gains coherence and resonance, the government indeed represents a powerful counter-framer.

For the government, keeping an embarrassing instance of government wrongdoing out of the public discourse saves face, restricts the amount of compensation the state must pay, and helps government officials to retain control over the course of the conflict.⁵⁷ In the case of the abductions in Japan, for instance, rumors that foreign agents may have been involved in the mysterious disappearances appeared sporadically in media accounts but the authorities denied these claims due to insufficient evidence. In the face of such denials, most mainstream media did not cover the mysterious abductions.⁵⁸ This enabled political elites to continue to pursue back-channel dialogue with North Korea. The government retains control over the pace of change and the framing of an issue if the public perceives that the problem is "routine."⁵⁹ Little or no media coverage, or coverage that suggests a problem is routine, signals that shaming was foiled.

Sometimes state actors preemptively publicize an instance of victimization in order to set the terms of the debate, as the Korean government tried to do with its report about the HIV infections among persons with hemophilia. The state may grant victims access and possibly even financial assistance to avoid being held accountable by and to the victims. With the Minamata pollution disease victims, the Japanese government and polluting firm proffered a negotiated settlement in 1959 to those amenable victims, in exchange for their agreement to forgo the right to litigate in the future.⁶⁰ Well-connected industry players that share blame for some victimization can encourage the government's conflict minimization and blame avoidance tactics. In the next three chapters, I analyze specific instances of the Japanese and Korean governments utilizing these tools as they respond to victim redress movements.

Since the power differential between the government and victimized populations constrains victim groups, stretching these constraints is crucial for a victim redress movement.⁶¹ In so doing, victim groups turn their weaknesses into strengths. Victims' identity, stories, and moral authority become resources to be mobilized in the absence of normal political resources. As they seek a full account of their victimization and its cause, an official apology, compensation, and preventative policy changes, victims must frame their campaign in ways that resonate with the general public and utilize strategies that attract public support. For the rest of this section, I characterize the issue framing and strategies of victim redress movements.

Shaming as Issue Framing

Issue framing refers to the process of creating and sustaining meaning for the public, other victim movement members, and opponents by situating a specific grievance within more

Richard A. Cloward, *Poor People's Movements: Why They Succeed, How They Fail* (New York: Vintage Books, 1979).

⁵⁷ On the Japanese state's history of pre-emptive damage control related to victims, minorities, or other aggrieved parties, see Upham, *Law and Social Change in Postwar Japan*. Pharr, *Losing Face*.

⁵⁸ Interview J-101, Tokyo (July 18, 2007).

⁵⁹ Michael R. Reich, "Crisis and Routine: Pollution Reporting by the Japanese Press," in George A. De Vos, ed., *Institutions for Change in Japanese Society* (Berkeley: University of California Press, 1984), 148.

⁶⁰ Paul D. Almeida and Linda Brewster Stearns, "Political Opportunities and Local Grassroots Environmental Movements: The Case of Minamata," *Social Problems* 45 (1998): 43-44.

⁶¹ Richard J. Samuels, *Machiavelli's Children: Leaders and Their Legacies in Italy and Japan* (Ithaca: Cornell University Press, 2003).

general collective action frames.⁶² The concept highlights the agency of victim groups: framing is a strategic tool that victims use to advance their claims. But victim groups never have full control over framing. Collective action frames emerge from negotiations among victim groups, state actors, and filter groups over how the victims' grievances should be interpreted.⁶³ Such filter groups include the media and non-victim activist groups. The interactive process of framing, though constrained by the victims' political and cultural context, helps to unify victims, establish connections with supporters, and dignify victims' claims.⁶⁴ Shaming the government gives victim leaders the ability to mobilize other victims to claim redress ("motivational framing") and to attribute blame to the government ("diagnostic framing").⁶⁵ The common "injustice frame" is central to the process of holding the state accountable.⁶⁶

More than just injustice, publicly shaming the government entails framing a victim conflict as the failure of the government to perform its expected duties. Victim organizations argue that state actors should be ashamed of their sluggish responses to evidence of a problem and for their inability to prevent victimization. In deploying this issue framing, victims are particularly well-positioned despite their lack of the usual political resources.

First, the personal experiences of victims or the "testimonials of suffering" are a potent tool for attracting sympathy and support from non-victims.⁶⁷ Although victims may hesitate to expose themselves and their personal story of harm to public scrutiny, many feel empowered by the effect it has on the movement.⁶⁸ Once organized, victims can utilize their credibility as people actually affected to gain moral legitimacy and empathy from the general public.

Second, a dearth of activism experience and other resources bolsters victims' credibility as accidental activists. Though small numbers, few funds, and little organizational experience could constrain victim activism, victims can also transform these constraints into resources. A victim group may highlight its members' lack of financial and organizational resources to emphasize their innocent and pure intentions. Innocence highlights the injustice of the suffering and fosters a victim framing. Such innocence and the accidental activist identity also helps victims avert criticism for demanding greater sums of compensation or more concessions from the cash-strapped government.

Third, as they frame their conflict with the government, victims are uniquely well-situated to appeal to universal principles while still articulating a particularistic grievance. Evidence of the government's negligence or fault highlights the injustice of the victims'

⁶² Robert D. Benford and David A. Snow, "Framing Processes and Social Movements: An Overview and Assessment," *Annual review of sociology* 26, no. 1 (2000): 613-614. Erving Goffman, *Frame Analysis: An Essay on the Organization of Experience* (New York: Harper & Row, 1974).

⁶³ Sidney G. Tarrow, *Power in Movement: Social Movements and Contentious Politics*, 2nd ed. (Cambridge: Cambridge University Press, 1998), 20-21. On the media as a filter, see Todd Gitlin, *The Whole World Is Watching: Mass Media in the Making & Unmaking of the New Left* (Berkeley: University of California Press, 1980).

⁶⁴ McAdam, Tarrow, and Tilly, *Dynamics of Contention*, 41.

⁶⁵ David A. Snow and Robert D. Benford, "Ideology, Frame Resonance, and Participant Mobilization," in *From Structure to Action: Comparing Social Movement Research across Cultures*, ed. Bert Klandermans, Hanspeter Kriesi, and Sidney G. Tarrow, vol. 1, International Social Movement Research (Greenwich: JAI Press, 1988).

⁶⁶ On "injustice frames," see William A. Gamson, Bruce Fireman, and Steven Rytina, *Encounters with Unjust Authority* (Homewood: Dorsey Press, 1982).

⁶⁷ Salmaan Keshavjee, Sheri Weiser, and Arthur Kleinman, "Medicine Betrayed: Hemophilia Patients and HIV in the US," *Social Science & Medicine* 53, no. 8 (October 2001): 1081-1094.

⁶⁸ For example, Interview with Yamaguchi Michiko, lead HCV plaintiff, Tokyo (June 16, 2009). Interview with Choi Woo-young, former head of FADN, Seoul (July 11, 2007).

suffering. Human rights and social movement scholars posit that bodily harm and injustice are a particularly powerful basis from which to seek public attention and pity, and therewith to try to influence political outcomes.⁶⁹ Thus, victims can effectively frame their conflict with the state as a violation of basic human rights or as something that could have happened to any citizen. In articulating the need for preventative policy changes victims can be quite effective in linking specific redress demands to the broader public interest. As such, shaming often requires indicting the governmental structures and norms that contributed to victimization.

Victim groups, despite their weaknesses, have distinctive tools for effective shaming. Yet, how can we tell if the victims' framing worked? Successful shaming occurs when the media coverage and public discourse faithfully relate the version of the blame story advanced by the victim group. Consequently, the media and the advocacy sector, as intermediary groups, affect issue framing. As I will discuss in Chapter 3, they constitute important features of the political opportunity structures that affect victim redress movements in different ways in Japan and Korea.⁷⁰ In the long-run, Japan's activist organizations and media facilitate victim advocacy, while civic groups and the media in Korea hamper victim groups' activism. Japan's small and narrowly-focused agglomeration of activist groups tend to be more receptive to conflicts framed as particularistic victim redress movements. In part, this may be because many of Japan's activist networks have experience with similar causes dating back to the Minamata disease issue. Korean victim redress movements, in contrast, must become part of a broader agenda in order to capture the attention of the politically active NGOs. Likewise, the relative homogeneity of Japan's mass media can be a great asset to victim groups, whereas Korea's heterogeneous media do not help victims sustain the public's attention.

These dynamics operate differently in the initial shaming and issue framing stages, however. There are high barriers to entry in Japan for marginalized groups seeking media coverage but low barriers to entry in Korea. Victims will get media coverage more easily in Korea during their first efforts to collectively and publicly blame the government because Korea's news outlets are diverse and often critical of the government. In fact, ordinary Koreans' high consumption of internet news sites and "citizen journalist" articles, such as from OhMy News, make the entry barriers low for victim organizations. Even though the victims' version of blame is unlikely to reach many ordinary citizens, their shaming efforts may resonate among a small subset of the watching public. The Japanese media, in contrast, privileges official government sources and therefore will resist publicizing victims' shaming efforts until the authorities have recognized that a problem exists. An intrepid journalist or one of the non-mainstream tabloids or weekly and monthly magazines may also "break" the story. Once a victim movement achieves news coverage in Japan, the uniform content of the mainstream media facilitates sustaining public interest in their cause. Korean news coverage, on the other hand, will be more short-lived, unless the victims' conflict is reframed as a more "hot" topic.

The Korean Hansen's disease case illustrates the difficulty of sustaining a redress movement's momentum in light of the nature of Korea's media. The colonial era victims' lawsuit in Tokyo gave the Korean Hansen's disease community a model for how to compellingly frame their case against the ROK government. Thereafter, the network of experienced lawyers and scholars from Japan and their colleagues in Korea helped articulate a story of blame against

⁶⁹ Keck and Sikkink, *Activists beyond borders*, 205. Pharr also notes that protests are only accepted in Japanese political culture if the challengers suffered extreme injustice or deprivation. Pharr, *Losing Face*, 36.

⁷⁰ See Tarrow, *Power in Movement*, chap. 5.

the Korean government. Yet the Korean media and public were more receptive to framing the Hansen's disease issue as a battle against the Japanese government for colonial era injustices rather than as a question of unjust discrimination against minorities in Korea. The Korean political establishment encouraged such issue framing to avoid blame.

Even if shaming is successful and the public accepts the victims' accounts of the state's blame, this issue framing is not permanent. Lipsky emphasizes the importance of not just examining whether an issue gets public attention, but also what form the issue takes in the public discourse.⁷¹ Reframing a conflict can discredit the victim group and spark public skepticism about the validity of victims' stories of blame. The public may also come to see the victims as undeserving of compensation. When a victim group joins forces with another pressure group or a set of politicians to enhance its leverage over the state, reframing may result. To avoid having their cause reframed within a larger agenda, Korean HCV victims only engage in *ad hoc* and one-off collaborations with other civic groups.⁷² Politicians can utilize narratives of victimization to advance their own interests once victims have amassed public interest in their conflict.⁷³ Even if it means possibly relinquishing control over the framing of the case and the terms of the dispute, most victims pursue conflict expansion in order to win backers and therewith resources for their battle with the government. As such, victims must choose their tactics so as to sustain their moral authority and innocence as they seek to rectify the injustice they suffered.

SHAMING AND CONFLICT EXPANSION STRATEGIES

Beginning with the shaming and issue framing processes, victim groups may choose from a range of different strategies for articulating their grievances and demanding redress. Studies of interest group and protest group advocacy have pointed out that groups *without* regular access to public officials are quite powerless.⁷⁴ Yet, victims' surprising power as outsiders gives them freedom to select from many different tactics. Tilly defined this range of options as a "repertoire of collective action," inherited and culturally bound but also flexible enough to allow for improvisation and innovation.⁷⁵ This section describes the repertoires of contention available to victims. In the next three chapters, I will trace specific victim groups' adaptations, innovations, and combinations of tactics in reaction to state responses to their advocacy across various stages of conflict expansion. In general, the most effective strategies are those that attract the general public to the victims' side in the dispute. More contentious and publicity-oriented strategies work best for victim groups because the public support they receive gives politicians reason to join their cause and puts pressure on the government to grant redress.

Bottom-up conflict expansion, the most effective means of extracting comprehensive redress from the government, requires targeting both state and society. Initially, victim organizations often employ a number of different strategies at once because they are unsure which will be most efficacious and because state actors also adapt their approach to meet the victim group's challenge. Three core purposes of civic groups include: social protest, advocacy,

⁷¹ Lipsky, "Protest as a Political Resource."

⁷² Interview with Kim Yeong-ro, director of KOHEM, Seoul (July 27, 2009)

⁷³ Woolford and Wolejszo, "Collecting on Moral Debts," 876.

⁷⁴ For example, see Lipsky, "Protest as a Political Resource."

⁷⁵ Charles Tilly, "Repertoires of Contention in America and Britain, 1750-1830," in *The Dynamics of Social Movements*, ed. Meyer N. Zald and John D. McCarthy (Cambridge: Winthrop, 1979). McAdam, Tarrow, and Tilly, *Dynamics of Contention*, 48-50.

and service provision.⁷⁶ The first two types of action are directed at influencing policy, officials, or public opinion, while service provision affects group members most of all. Most victim organizations engage in some of all three activities at any given time. Groups like the association of juvenile crime victims in Japan and Korea’s hemophilia patient association started out as peer support groups among the victims and their families. In conflict expansion, social protest to win public support and advocacy to influence political elites often go hand-in-hand.

Within social protest and advocacy, one can distinguish four types of tactics based on whether the group adopts a cooperative or an adversarial approach, and whether they use institutionalized channels or transgress them (see table 2.1). Most often, victim redress organizations begin with an adversarial approach because their members’ individual pleas for redress were rebuffed. Cases in which the government bears partial or secondary blame for some victimization require less adversarial tactics because government officials can become allies of the victim group against some other culprit, as we shall see with the abductions cases. Since victim claimants are marginalized groups without institutionalized access to the state, they often begin their collective action outside the normal channels of grievance articulation. In the course of their activism, intransigence on the part of the state may require conflict escalation. As such, temporarily adopting more disruptive and outsider tactics can help victims sustain public interest in their cause and pressure on the government. Over time, victim groups may become more accommodating or even co-opted by the government, but the movement from a cooperative approach to a more adversarial approach is rare. Table 2.1 illustrates the range of tactics victim organizations can choose from, and I will discuss each in turn.

Table 2.1: The Dimensions of Tactics (ideal types with examples from my cases)⁷⁷

	Cooperative Approach	Adversarial Approach
Through Accepted Channels	<p><i>Compliance</i> Official requests, join official committees, cooperate, testify, support candidates in elections</p> <ul style="list-style-type: none"> - J-Abductions post-2002 - K-Hansen’s disease - J-Hansen’s disease post-2002 	<p><i>Contention</i> Litigate, initiate local referenda, sign petitions, smear candidates in elections, write letters</p> <ul style="list-style-type: none"> - K-Hepatitis C post-2002 - J-Hepatitis C - J-Hansen’s disease 1996-2002
Outside Accepted Channels	<p><i>Collaboration</i> Inform, lobby central or local governments, publicize issue, lobby governments abroad</p> <ul style="list-style-type: none"> - K-Abductions (FADN) - K-Hepatitis C pre-2002 - J-Hansen’s disease pre-1996 	<p><i>Confrontation</i> Protest, rally, hold vigils, die-ins/ sit-ins, publicly denounce, other forms of direct action</p> <ul style="list-style-type: none"> - J-Abductions pre-2002 - K-Abductions (AFU) - J-Hepatitis C in 2007 - K-Hansen’s disease in 2005

Compliance—When using compliance, victim groups adopt an accommodating stance toward the state and act through institutionalized channels. These tactics include giving testimony, backing candidates in elections, appealing for officials’ assistance, or joining an advisory council or committee. Such tactics seem tame because the victim group has a stake in

⁷⁶ Debra C. Minkoff, “Bending with the Wind: Strategic Change and Adaptation by Women’s and Racial Minority Organizations 1,” *American Journal of Sociology* 104, no. 6 (1999): 1666–1703.

⁷⁷ Inspired by Cynthia Hardy and Nelson Phillips, “Strategies of Engagement: Lessons from the Critical Examination of Collaboration and Conflict in an Interorganizational Domain,” *Organization Science* 9, no. 2 (April 1998): 217-230.

its relationship with the state. In addition, the government retains superior power over the victims in compliant strategies.⁷⁸ However, simultaneously using more adversarial tactics in other arenas can help redress this power imbalance. For example, Japan's Hansen's disease community agreed to regular negotiations with the government after 2001 but insisted on having lawyers present and utilized confrontational tactics when negotiations stalled.

The risk of beginning a redress campaign with compliance is that it is difficult to expand the scope of the conflict if one's group already has institutionalized access to the state, as discussed in Chapters 4 and 5 with reference to the Hansen's disease and hepatitis C issues. Litigation helped the Japanese Hansen's disease victims to break free from institutionalized compliance, while Korea's associations of Hansen's disease and hemophilia patients tried to pursue redress without relinquishing their dependent relationship with the state. These victim groups were torn between redress goals and a reluctance to bite the hand that fed them. Compliance often leads to top-down and limited conflict expansion, as political allies or bureaucratic interlocutors determine the agenda and course of the conflict.

Collaboration—Tactics of collaboration entail the development of new ways of contributing to the policy-making process outside the normal channels of interest representation. Such tactics are common for victim groups that only partially or secondarily fault their own government and can therefore utilize a more cooperative approach to realizing policy change. Collaborative tactics include providing novel information to publicize a problem without forcefully blaming the state, lobbying other nations' governments to build international awareness, and *ad hoc* cooperation with government actors to address some victimization.⁷⁹ All parties interact voluntarily with such tactics, so the victim groups are more equal partners of the state with such tactics. As such, victim groups may downplay the blame of the state in their pragmatic quest for redress. The organization of families of pre-1953 abductees in South Korea epitomizes such tactics, as its main aim is to research, in cooperation with the government, the status of the estimated 83,000 wartime abductees.⁸⁰ Japanese consumer organizations, particularly at the local level, often adopt collaboration tactics as they work alongside the authorities but independently to improve consumer safety.⁸¹ Victim groups that use collaborative strategies pose less of a threat to the political establishment, which may be more inclined to make significant policy changes because it need not admit blame.

Contention—Most victim redress movements employ adversarial tactics within institutionalized channels. Although they utilize accepted channels of grievance articulation, adversarial tactics can also be disruptive and profoundly challenging to those in power and often test the borders of existing modes of dispute resolution. O'Brien and Li (2006), for example, discuss "rightful resistance" in rural China, where citizens operate at the edge of authorized channels to hold the state accountable but are also willing to employ more confrontational tactics if contention fails to elicit state responsiveness.⁸² Even though there are many channels of grievance articulation in Japan and Korea, the power differential between the state and the

⁷⁸ Ibid., 224.

⁷⁹ On the "boomerang model" see Keck and Sikkink, *Activists beyond borders*, chap. 1.

⁸⁰ Interview with Lee Mi-il, head of KWAFU, Seoul (Feb. 3, 2009).

⁸¹ Patricia L. Maclachlan, "The Struggle for an Independent Consumer Society: Consumer Activism and the State's Response in Postwar Japan," in *The State of Civil Society in Japan*, ed. Frank J. Schwartz and Susan J. Pharr (Cambridge: Cambridge University Press, 2003).

⁸² Kevin J. O'Brien and Lianjiang Li, *Rightful Resistance in Rural China* (New York: Cambridge University Press, 2006).

victims sometimes necessitates a combination of contention within accepted channels and confrontational strategies. Former ROK spies sent to North Korea, for example, sued the government for recognition and compensation for their injuries but also held violent protests in 2002 to pressure the state to adhere by the court's ruling in their favor.

Litigation is the most common adversarial tactic used by victim groups inside accepted channels. Litigation can "be the vehicle for the transformation of diffuse discontent or isolated individual conflicts into social issues."⁸³ Victim groups utilize litigation to frame their particularistic grievance within universal principles that the public can identify with and to seek a legal basis for their case against the state. The legal process also provides victims with important witness' testimonies, interim rulings, or transitions in court around which to stage publicity events, such as press conferences or rallies to attract public support. The hepatitis C and Hansen's disease movements in Japan were particularly adept at using the court process to garner public empathy. Clearly, acts of contention often target both elites and the general public. For instance, by submitting hundreds of thousands of signatures, victim groups seek to compel a few officials to respond. But the act of delivering reams of signed petitions also serves to attract media attention. The abductee families in Japan spent many hundreds of hours at busy intersections and train stations gathering signatures prior to 2002 in order to petition the government and become a familiar issue to ordinary Japanese. Besides litigation, contentious tactics include signature petition drives, smear campaigns to discredit candidates for elected office, letter writing, complaints against the relevant authorities, and local referenda.

Confrontation—Tactics that are confrontational and outside accepted institutional channels constitute disruption and often entail violence. Many studies of the consequences of collective action have investigated the impact of violence or disruption on movement success, controlling for other factors. Gamson (1990) and Piven and Cloward (1979) posit that disruption helps movements to succeed. Schumaker (1975), however, counters that violence can be counterproductive because it scares off potential third party supporters.⁸⁴ Since victim groups must guard their credibility in order to sustain public sympathy for their cause, they tend to avoid violence, especially in Japan.⁸⁵ Historically, social movements in both Japan and Korea have used violence and faced state repression, but victim organizations have rarely used violence during the past 20 years. Instead, sit-ins, die-ins, loud protests, rallies, and marches are more common. These tactics work well because they attract publicity and become powerful images with which to win over the public. All the cases examined here have employed such confrontational tactics, particularly in response to government intransigence.

Nevertheless, one should not forget that countless victim redress movements remain mired in the earliest stages of shaming and conflict expansion, unable to force the government to respond to their demands. Disagreements over tactical decisions are common within victim groups, but most groups strive for unity for the sake of their credibility and to achieve redress. Members of non-victim social movements may switch to another organization if they sense that their organization is not effective.⁸⁶ Victims often lack that luxury of choice because creating a

⁸³ Upham, *Law and Social Change in Postwar Japan*, 27.

⁸⁴ Piven and Cloward, *Poor People's Movements*. Gamson, *The Strategy of Social Protest*. Almeida and Stearns, "Political opportunities and local grassroots environmental movements." Paul D. Schumaker, "Policy Responsiveness to Protest-Group Demands," *The Journal of Politics* 37, no. 2 (1975): 488–521.

⁸⁵ Pharr proposes a Japanese "ideal model of protest" in which claimants try to keep the level of conflict as low as possible in order to avoid alienating the watching public. Pharr, *Losing Face*, chap. 2, 7.

⁸⁶ McCarthy and Zald, "Resource mobilization and social movements."

second victim group feeds into the government's divide and conquer strategy. So victims either form a splinter victim group, as happened with the Korean abductee groups, or opt out of the victim movement, as some Hansen's disease victims did in Japan until 2001. Once the core victim group starts to win concessions from the government, however, splinter or withdrawn victims may want to rejoin, to benefit from the state's redress policies. Chapters 4 through 6 detail the evolution and effectiveness of victim groups' strategies of conflict expansion over time.

CONCLUSION

In analyzing when, how, and why victim groups emerge, this chapter detailed the distinctive strengths of victim groups. Victim groups share many characteristics with advocacy groups and social movements. Like social movements, victim groups seek to appeal to broad swaths of the public in order to exert pressure on the government to respond to their demands. Victim groups, however, tend to be smaller, much more narrowly focused, more organized, and less ideological than most social movements. Also, compared to most interest groups, victim groups are particularly disadvantaged before they even form. The hurdles to collective action are multifaceted and so substantial that many groups of victims never even organize. Though victim groups employ a variety of tactics much like other social movements, they especially depend on non-victim activist groups and the media to expand their conflicts by garnering public sympathy. As I will show in Chapter 3, in Japan, the structure of civil society and the media facilitate victim advocacy, while in Korea they hinder victim advocacy.

Victim groups may face high hurdles to collective action and lack the resources normally considered necessary to influence policy, but they have distinctive resources as victims. Mobilizing their innocent and apolitical victimhood to shame the government and to attract public sympathy are just some of the unusual ways in which victim groups hold the government accountable for causing them harm. Chapter 3 investigates aspects of the national context in Japan and Korea which help and hinder such shaming and conflict expansion efforts by victim groups. Specifically, non-victim activist groups and the media serve filtering or gate-keeping functions that are especially relevant for conflict expansion. I will show that the dominant form of activist organization, news media content, and news consumption patterns facilitate conflict expansion in Japan but frustrate it in Korea.

CHAPTER 3 THE NATIONAL CONTEXT OF VICTIM POLITICS IN JAPAN AND KOREA

INTRODUCTION

My paired case studies indicate that Japanese victim organizations are generally more successful than their Korean counterparts at expanding the scope of their conflicts and thereby eliciting redress. Why were different levels of redress granted for virtually identical victimization in these two countries? If winning public sympathy was so effective for some victim groups, then why did all groups not pursue bottom-up conflict expansion? I attribute the overall cross-national difference in victim group success to particular aspects of the national context that help Japanese victims but hinder Korean victim groups' efforts to appeal to the general public for sympathy.

While both Japanese and Korean politics have become less state-dominant in the past two decades, civil society and the media have followed divergent evolutionary paths in Japan and Korea. Since the mass media and activist civil society groups perform filtering or gate-keeping functions that are especially relevant for conflict expansion, these dissimilar national parameters have important implications for victim redress movements. The plethora of activist groups in Japan are mainly volunteer-based and lack the access and organizational resources normally needed for effective political advocacy. In contrast, Korea's activist sector is dominated by large, professionalized, and politically well-connected organizations and national coalitions. When it comes to the mass media, there are higher entry barriers to media coverage in Japan, when compared with the low entry barriers to Korea's heterogeneous news media. News content and consumption patterns in Japan are relatively homogeneous, unlike the diverse of media content and consumption habits found in Korea. Based on these descriptions of civil society and the media, one would expect Korean victim groups to gain greater redress from the state than their Japanese counterparts. Certainly, the Korean context has a wider array of access points, including powerful non-victim activist groups and an accessible media sphere that could help victims expand the scope of their conflict.

Yet, Japanese victim groups were generally more successful because they could use local networks of activist groups focused on narrow issues and relatively homogeneous media content and consumption patterns to develop and sustain public interest in their causes. Since Korea's victim groups had to compete with large activist groups advancing the concerns of the majority, Korean victims had trouble getting on the political agenda. For a victim group, getting into the media is more difficult in Japan than in Korea, where a plethora of one-man or citizen journalist sites exist and are read online. However, media coverage of victim redress movements in Korea tended to be short-lived and only reach a small audience due to the diversity of news outlets and consumption habits in Korea. Shaming the government and winning support from the general public require sustained publicity, a coherent message, and an issue framing that resonates, as discussed in Chapter 2. Thus, for victims' efforts to pressure the government into granting redress, I argue that these contextual factors—the dominant form of activist civil society organizations and news media content and consumption patterns—have felicitous effects in Japan but detrimental effects in Korea.

This chapter outlines the national parameters within which victim activism occurs in Japan and Korea. The national contexts are similar in that policy decisions were historically insulated from societal pressures. For the study of victim politics, this autonomy of policy-makers is the most relevant feature of the "strong state" concept, so often used to characterize

Japan and South Korea.¹ Institutional reforms, more competitive electoral politics, increasingly independent judiciaries, rising civic activism, and greater media scrutiny of the political establishment have made the decision-making environments in Japan and Korea more and more porous during the past twenty years. Some victim groups played significant roles in spurring this opening, and others benefited greatly from newly available mechanisms of democratic accountability. Within this more open political environment, the media and non-victim activist groups can help or hinder victims' quests for redress. The media plays a crucial role in arbitrating among issues competing for public and political attention. Civil society groups with policy agendas alternately compete with and support victim groups because a finite number of issues can receive political attention at any time.

To be clear, within civil society, I focus on non-victim activist and advocacy groups interested in policy issues ranging from the public interest down to the rights of specific marginalized groups.² I will refer to these organizations as civil society, but emphasize that I am primarily concerned with activist civic groups, such as human rights groups, NGOs/ NPOs, issue-specific citizen networks, coalitions of citizen movements, local supporters' networks, etc. As elaborated below, such civil society organizations vary in their autonomy from the state, their degree of professionalization, their size, their membership, their reach, and their identity. I count victim groups among such activist civil society organizations, as discussed in Chapter 2.

Japanese victim redress movements during the past two decades have benefited from the legacy of grassroots activism in the 1960s. The mass mobilization and the passion of Korea's mass-based democratization movement, albeit twenty years more recent than Japan's peace and anti-pollution movements, likewise provides Korea's victim redress movements with comparable models and resources today. I do not intend to disregard the time lag between Japan and Korea's democratization. It is not merely a matter of time, however, before Korean victim groups start eliciting the same comprehensive redress that Japan's groups have. Indeed, certain "in vogue" victimization issues have already won widespread public attention in Korea and resulted in degrees of redress. Consider, for example, the comfort women and Korean atomic bomb victims, who achieved only partial redress but became emblematic of the Korean public's outrage over Japan's inability to adequately atone for its colonial past. Or consider the former ROK spies sent to North Korea, former political prisoners, and other victims of Korea's authoritarian regimes, who have received full redress at last, as the ROK comes to terms with its brutal postwar past.

Still, victim groups in Japan and Korea face different constraints because of the different national contexts within which they operate. This chapter first characterizes the longstanding insulation of policy-making in both countries and how societal groups have gradually made significant inroads into decision-making processes. After tracing the emergence of an

¹ Chalmers A. Johnson, *MITI and the Japanese Miracle: The Growth of Industrial Policy, 1925-1975* (Stanford: Stanford University Press, 1982). Alice H. Amsden, *Asia's Next Giant: South Korea and Late Industrialization* (New York: Oxford University Press, 1989).

² Civil society is usually used more broadly to refer to formal and informal groups of ordinary citizens not aiming to earn money or win an election. Economic or professional interest groups and political groups, such as political parties, are generally excluded. Civil society includes groups with policy interests, volunteer organizations, non-profit service providers, community groups, religious groups, sports clubs, educational groups, women's groups, youth or elderly clubs, and so on. See among others Juan J. Linz and Alfred C. Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe* (Baltimore: Johns Hopkins University Press, 1996). Marc Morjé Howard, *The Weakness of Civil Society in Post-Communist Europe* (Cambridge: Cambridge University Press, 2003), 32-42. Robert Pekkanen, *Japan's Dual Civil Society: Members Without Advocates* (Stanford: Stanford University Press, 2006), 3-4.

increasingly vibrant but distinctive advocacy sector in each country, this chapter examines the media and non-victim civil society to better understand the parameters within which victim redress movements seek to expand the scope of their conflicts with their government.

EVOLVING DECISION-MAKING ENVIRONMENTS

Policy-makers in both Japan and Korea were relatively insulated from public scrutiny and societal pressure historically. By referring to Japan and Korea as strong states, scholars particularly highlighted the autonomy of political elites from society in decision-making.³ Yet politics is becoming more open in both countries. In discussing these changes, I investigate how and why they have had different results in Japan and Korea. This dissimilarity is particularly evident when one looks at the advocacy sector and the media, as I will in the next section. First, however, this section examines the similar history of state-dominance over societal actors in Japan and Korea before analyzing how various forces undermined one-party dominance in Japan and brought about the end of authoritarian rule in Korea.

Japan has been a democratic polity with free, fair, and frequent elections since 1945, while successive authoritarian regimes ruled Korea from the end of the Korean War to 1987.⁴ The Japanese democratic parliamentary system consisted of elected political elites who could not act entirely independently of public will.⁵ Yet, the Liberal Democratic Party (LDP) ruled Japan virtually uninterrupted for 54 years. This LDP dominance resulted in a relatively closed ruling coalition. The LDP and the bureaucracy wove business and agricultural interests into that tight-knit coalition. Other groups, such as labor, academics, and victims, were excluded because these groups were not as important, either for votes or for economic development, for the policy agenda of the LDP and the government.⁶ Meanwhile, successive conservative dictators ruled Korea without serious opposition until the 1980s. The bureaucratic authoritarian governments of the ROK rewrote laws as needed, oppressed opposition, curtailed the basic freedoms of speech and assembly, and undeniably acted independently of public will until democratization in 1987.⁷ In both countries, policy decisions, especially related to economics or in highly technical matters, occurred with very little involvement of any groups outside the dominant coalition and were guided by a centralized bureaucracy.⁸ Neither country had an activist and fully independent judiciary to check other branches of the government. Consequently, bureaucrats operated with

³ On the origins of the autonomy of administrative elites, especially those related to economic policy, in Japan, see Johnson, *MITI and the Japanese Miracle*, chap. 2. And T. J. Pempel, *Policy and Politics in Japan: Creative Conservatism* (Philadelphia: Temple University Press, 1982), chap. 2.

⁴ During Korea's the eight months of second republic (1960-1960) under the leadership of Chang Myon, political activity and basic freedoms were briefly liberalized. President Syngman Rhee's regime had been overthrown, but a military coup by Park Chung-hee brought a swift end to the political opening of 1960-1961.

⁵ Drawing on principal-agent theory, some have argued that politicians dominate in policy-making over the bureaucracy. See J. Mark Ramseyer and Frances McCall Rosenbluth, *Japan's Political Marketplace* (Cambridge: Harvard University Press, 1993).

⁶ Scholars disagree on which node of the iron triangle or "ruling triumvirate" of big business, the LDP, and the bureaucracy dominated. Haruhiro Fukui, "Studies in Policymaking: A Review of the Literature," in T. J. Pempel, *Policymaking in Contemporary Japan* (Ithaca: Cornell University Press, 1977), 22-58. See also T. J. Pempel and Keiichi Tsunekawa, "Corporatism without Labor? The Japanese Anomaly," in *Trends towards Corporatist Intermediation*, ed. Philippe C. Schmitter and Gerhard Lehmbruch (Beverly Hills: Sage Publications, 1979).

⁷ See Guillermo A. O'Donnell, *Modernization and Bureaucratic-Authoritarianism: Studies in South American Politics* (Berkeley: Institute of International Studies, University of California, 1973).

⁸ Peter B. Evans, *Embedded Autonomy: States and Industrial Transformation* (Princeton: Princeton University Press, 1995). On the state's role as a gatekeeper, see Pempel, *Policymaking in Contemporary Japan*.

few legal checks. In short, Japanese and Korean policy-makers were simultaneously free from societal interference but also responsive to privileged interests due to a “combination of formal insulation and informal social networks.”⁹

In this context, victim redress groups seeking to hold the government accountable for its failures have had difficulty compelling the state to respond to their demands. The strong state paradigm may not be an accurate characterization of Japan and Korea in all issue areas and across time.¹⁰ Yet I find that the state’s dominance and autonomy is clear in policy decisions in the issue areas studied in this dissertation. Decisions occurred far from public scrutiny, being the domains of specialists. Infectious disease control, medical drug regulation, management of the blood supply, national security, North Korea policy—these are not issue areas that are distributive, redistributive, or closely related to constituents. Instead, just as in other countries, experts, bureaucrats, industry elites, and a few politicians decided policy in these closed sub-governments. Decision-makers discouraged or contained any challenges to their *modus operandi*. As I will discuss in Chapters 4 through 6, this autonomy of decision-makers contributed to the victimization of thousands. These victims, however, drew inspiration from and contributed to the rising power of societal actors vis-à-vis the state from the late 1980s onward.

Despite being considered relatively strong and autonomous states, the Japanese and Korean governments have been constrained by interest groups and even social movements at numerous points since World War II. For example, the policy dominance of the state varies by policy domain, as Lowi argues.¹¹ The Japanese state is also more permeable in times of crisis and on decisions related to agriculture, construction, and transport.¹² And consumers, environmentalists, and other groups have proven to the LDP that Japanese civic groups can “get mad enough to mobilize and to hurt the LDP at the polls.”¹³ Victims have played crucial roles in many transformative social conflicts and have been taken seriously by political elites. The Japanese atomic bomb survivors (*hibakusha*) first organized in the 1950s to demand state medical assistance but became the core of the anti-nuclear and peace movements.¹⁴ Consider also the victims who sued the state and the polluting companies in the late 1960s for damages from pollution-related asthma in Yokkaichi, Minamata disease in Kumamoto and Niigata, and Itai-Itai disease in Toyama. They jumpstarted Japan’s environmental movement and served as a model

⁹ Tom Ginsburg, “Dismantling the Developmental State-Administrative Procedure Reform in Japan and Korea,” *American Journal of Comparative Law* 49 (2001): 585-626. For a discussion of school, regional, and blood ties in Korea’s strong state, see Yong Chool Ha, “Late Industrialization, the State, and Social Changes: The Emergence of Neofamilism in South Korea,” *Comparative Political Studies* 40, no. 4 (2007): 363-382.

¹⁰ For a model that combines the clientelistic state and developmental state, based on issue areas, see Brian Woodall, *Japan Under Construction: Corruption, Politics, and Public Works* (Berkeley: University of California Press, 1996). For the “network state” model, see Daniel I. Okimoto, *Between MITI and the Market: Japanese Industrial Policy for High Technology* (Stanford: Stanford University Press, 1989).

¹¹ Theodore J. Lowi, “American Business, Public Policy, Case-Studies, and Political Theory,” *World Politics* 16, no. 4 (1964): 688.

¹² Kent E. Calder, *Crisis and Compensation: Public Policy and Political Stability in Japan, 1949-1986* (Princeton: Princeton University Press, 1988). Woodall argues that governmental and private sector elites decide policies regarding high growth sectors and issues of vital national interest without much involvement from politicians, while politicians dominated decisions related to distributive and public policy. Woodall, *Japan Under Construction*.

¹³ Margaret A. McKean, “State Strength and the Public Interest,” in *Political Dynamics in Contemporary Japan*, ed. Gary D. Allinson and Yasunori Sone (Ithaca: Cornell University Press, 1993), 97.

¹⁴ James Joseph Orr, *The Victim as Hero: Ideologies of Peace and National Identity in Postwar Japan* (Honolulu: University of Hawai’i Press, 2001), chap. 3.

for subsequent victim groups.¹⁵ Furthermore, the role of the courts in holding the government and powerful interests accountable in the pollution cases set precedents for future claimants.

Likewise in Korea, societal groups have constrained the strong state at various points since the Korean War, and victims have played important roles at these key junctures. The most significant influence that civil society organizations, including some victim groups, exerted over the Korean state occurred in July 1987, when a massive popular uprising forced the ruling party to implement democratic reforms. Pro-democracy activism opened a window of opportunity for societal groups to hold the state accountable. Previously, students, intellectuals, and labor unions had opposed the harsh *Yushin* constitution of President Park Chung-hee (1961-1979) and the 1980 military coup by President Chun Doo-hwan (1980-1988). The latter incited mass protests during the “Seoul Spring” in 1980. When President Chun Doo-hwan quashed these protests and arrested the main opposition leaders, the “three Kims,” protests erupted in Kwangju.¹⁶ The bereaved families and survivors of the Kwangju violence catalyzed the pro-democracy movement.¹⁷ Neighbors of the U.S. military bases in Korea also pressured their government to negotiate clearer rules about how the bases affect the local communities in the 1990s.¹⁸

To clarify how relatively insulated decision-making and rising societal activism affected victim redress movements, I trace the dynamics of state-society relations in the postwar period in both Japan and Korea. After detailing society’s position under single-party dominance in Japan and authoritarianism in Korea, this section highlights five developments that have enhanced the accountability of the state: 1) reforms in response to crises and scandals, 2) increased electoral competition, 3) an increasingly activist judicial branch, 4) rising civic activism, and 5) more media scrutiny of politics. The final two sections of this chapter focus on the media and civil society because they play such important mediating roles for victim redress movements.

Japan—Undermining One-Party Dominance

Clearly, the limits that decades of authoritarianism placed on Koreans’ rights to associate or express themselves freely meant that civil society, and specifically victim groups, had a head

¹⁵ Residents of Niigata and Minamata suffered neurological damage due to mercury compounds discharged into local waters by the companies Showa Denko and Chisso Corporation, respectively. Residents of Yokkaichi suffered from asthma attacks and lung disease due to the pollution from the local petrochemical complex. And people residing along a river in Toyama prefecture suffered cadmium poisoning from the pollution. Margaret A. McKean, *Environmental Protest and Citizen Politics in Japan* (Berkeley: University of California Press, 1981). Jeffrey Broadbent, *Environmental Politics in Japan* (Cambridge: Cambridge University Press, 1999).

¹⁶ The “Three Kims” refers to Kim Young-sam, Kim Dae-jung, and Kim Jong-pil, who were key democratization leaders in Korea. Kim Young-sam was first elected to the National Assembly in 1954 and was president from 1993-1998. He was arrested in the early 1970s, and public protests erupted in his political base in the Southeast when he was expelled from the National Assembly in 1979. Kim Dae-jung first became a legislator in 1963 and ran for president three times (1971, 1987, and 1992) before winning in 1997. As a dissident leader, he was often put under house arrest, survived several attempted assassinations, and was exiled during the 1980s. He was the first opposition president of South Korea and the first president from the southwest region of Jeolla. Kim Jong-pil founded the Korean Central Intelligence Agency (KCIA) and served as President Park Chung-hee’s prime minister. He became an opposition party leader later.

¹⁷ Hagen Koo, *State and Society in Contemporary Korea* (Ithaca: Cornell University Press, 1993). Gi-Wook Shin and Kyung Moon Hwang, *Contentious Kwangju: the May 18 Uprising in Korea’s Past and Present* (Lanham: Rowman & Littlefield, 2003).

¹⁸ Katharine H.S. Moon, *Sex Among Allies: Military Prostitution in US-Korea Relations* (New York: Columbia University Press, 1997). Sheila A. Smith, *Shifting Terrain: the Domestic Politics of the US Military Presence in Asia*, vol. 8, East-West Center Special Reports (Honolulu: East-West Center, 2006).

start in Japan. Nevertheless, Japanese victim redress efforts met with relatively limited success until the HIV/ AIDS scandal that culminated in 1996.¹⁹ The Japanese government had learned to anticipate and meet some underrepresented groups' demands in order to undercut the challenge such groups could pose to the authorities. For example, the "big four" environmental pollution lawsuits helped spark thirteen sweeping new environmental laws passed by the Diet in 1970, but victims and lawyers continued to battle with the state for decades over just which individuals could obtain the victim certification, needed for compensation and medical care, and whether the state was responsible.²⁰ Atomic bomb survivors similarly struggled for recognition as victims from the state.²¹ Several important drug-induced disasters sparked redress movements by victims against the state. For instance, Japanese victims of subacute myelo-optico-neuropathy (SMON) sued the Japanese government and pharmaceutical companies because this debilitating disease was caused by a toxic diarrhea drug containing *clioquinol*, which was widely prescribed in Japan from 1959 to 1970. Some 10,000 people were affected and thousands died, but the thousands of victims that sued starting in 1971 faced slow and frustrating court processes.²² The failure to significantly reform the processes that led to the government's sluggish response to SMON was amply evident in the subsequent HIV, Iressa, and hepatitis C disasters.²³

Victims and other citizen groups who challenged the government's policies watched the state minimize their conflicts so as to avoid responding to the challengers' demands. Litigation by Minamata disease sufferers, Burakumin, and women successfully drew attention to issues previously ignored by the government, but the state used "bureaucratic informalism" to ensure that the locus of policy-making would remain in the bureaucracy not the courts.²⁴ The Japanese state had a propensity to "privatize" conflict by granting pre-emptive but partial concessions to potential challengers and by "avoiding resolutions that might have broad application to other

¹⁹ Eric A. Feldman, *The Ritual of Rights in Japan: Law, Society, and Health Policy* (Cambridge: Cambridge University Press, 2000).

²⁰ For the victims of Minamata disease, for example, plaintiffs won a historic compensation lawsuit against the company Chisso in March 1973 but it took until October 2004 for the Supreme Court to rule that the central and prefectural governments had neglected to take appropriate action to prevent the spread of Minamata disease after January 1960. The ruling also called for significantly looser criteria for recognizing Minamata disease victims.

²¹ Atomic bomb survivors collectively filed a series of administrative lawsuits against the Japanese government starting in 2003 to press the government to loosen its criteria for recognizing and assisting atomic bomb disease sufferers. Only 0.8 percent of the 259,556 atomic bomb survivor certificate holders have been recognized as suffering from atomic bomb diseases (MHLW survey, cited in *Kyodo News*, Aug. 15, 2006). In Aug. 2009, the LDP's Kawamura Takeo, then chief cabinet secretary, publicly apologized for the prolonged suffering the litigants had to endure as the state fought each of the 17 district court cases. Ultimately, on Dec. 1, 2009, the DPJ's ruling coalition and Komeito finally passed a bill to financially assist all atomic bomb survivors who filed lawsuits against the state for recognition (even if they lost). The bill was passed unanimously but the LDP boycotted the session of the Lower House. The victim group, the Japan Confederation of A- and H-Bomb Sufferers' Organizations, as well as plaintiffs and lawyers applauded the bill. Interview with Yasuhara Yukihiko, lawyer, Tokyo (May 26, 2008).

²² Kyoichi Sonoda, "SMON and Other Socially Induced Diseases in Japan," *Social Science & Medicine. Part A: Medical Psychology & Medical Sociology* 12 (1978): 497-506. Interview with Katahira Kiyohiko, Toyo University, Tokyo (Sept. 30, 2008).

²³ For detailed information, see the Yakugai Ombudsperson "Medwatcher Japan," an NGO founded in 1997 to "monitor and prevent drug-induced disasters." Website: <http://www.yakugai.gr.jp/en/> (accessed May 25, 2010).

²⁴ Frank K. Upham, *Law and Social Change in Postwar Japan* (Cambridge: Harvard University Press, 1987), chap. 1. In a related vein, see David E. Apter and Nagayo Sawa, *Against the State: Politics and Social Protest in Japan* (Cambridge: Harvard University Press, 1986).

situations.”²⁵ Despite being formally democratic, the Japanese government tended to deftly avoid being held fully accountable for its policies.

Nonetheless, the state’s ability to dominate policy-making declined during the past two decades.²⁶ With the bursting of the economic bubble in 1990 and the concomitant decline in electoral support for the LDP, the Japanese political sphere gradually opened. More centrist and pragmatic opposition parties emerged, and reformist LDP Diet members were more welcoming of outsiders than their predecessors had been.²⁷ Widespread public disillusionment with politics caused political elites to become more attuned to public demands for transparency and accountability. In 1993, Japan passed an Administrative Procedure Law, somewhat curtailing administrative discretion.²⁸ Electoral system and campaign finance reforms in 1994 aimed to curb the power of business elites in elections.²⁹ A Product Liability Law also passed in 1994.³⁰ Decentralization reforms in 1995 enhanced the responsiveness and responsibilities of local officials. The 1998 NPO law made it easier for civil society organizations to incorporate.³¹ After the Information Disclosure Law passed in 1999, citizens gained access to documents with which to hold the state accountable.³² These reforms and the increased competition between the LDP and the Democratic Party of Japan (DPJ) after 1996 created new opportunities for groups seeking to hold the government accountable.

In addition, the courts have become a more viable channel for grievance articulation against the government in Japan. Historically, mediation was favored over litigation, and the state won most lawsuits filed against it. During the 1970s, however, “courtroom battles and moralistic judicial opinions upholding plaintiffs’ positions contributed to the transformation of individual or local disputes into national issues that the ruling coalition could not dismiss.”³³ These initial pollution and drug-related disaster cases also became precedents, both legally and as models of contentious politics. Lawyers and activists from earlier victim cases supported the HIV, Hansen’s disease, radiation sickness, and hepatitis C victim redress movements that followed.³⁴ From 1985 to 2007, the number of new civil litigation cases rose from 379,000 to 727,000 and the number of new administrative lawsuits rose from 1,800 to 6,100.³⁵ Along with

²⁵ Susan J. Pharr, *Losing Face* (Berkeley: University of California Press, 1990), 168-169.

²⁶ Robert Pekkanen, “After the Developmental State: Civil Society in Japan,” *Journal of East Asian Studies* 4, no. 3 (2004): 365-372.

²⁷ J. A. A. Stockwin, “To Oppose or to Appease? Parties out of Power and the Need for Real Politics in Japan,” in *Japan Forum*, vol. 18, 2006, 115-132.

²⁸ The bureaucracy authored this law, so its effect on the openness of policy-making was somewhat limited.

Ginsburg, “Dismantling the Developmental State-Administrative Procedure Reform in Japan and Korea,” 586.

²⁹ Raymond V. Christensen, “The New Japanese Election System,” *Pacific Affairs* 69, no. 1 (1996): 49-70.

³⁰ Patricia L. Maclachlan, *Consumer Politics in Postwar Japan* (Columbia University Press, 2002).

³¹ Pekkanen, *Japan’s dual civil society*.

³² Lawrence Repeta, “Local Government Disclosure Systems in Japan,” *National Bureau of Asian Research Executive Insight* 16 (October 1999). Patricia L. Maclachlan, “Information Disclosure and the Center-Local Relationship in Japan,” in *Local Voices, National Issues: The Impact of Local Initiatives in Japanese Policy-Making*, ed. Sheila A. Smith (Ann Arbor: University of Michigan, 2000), 9-30.

³³ Upham, *Law and Social Change in Postwar Japan*, 23.

³⁴ Interview with Itai Masaru, lawyer, Kumamoto (May 15, 2009). Interview with Toyota Makoto, lawyer, Tokyo (July 1, 2009).

³⁵ “Chapter 25: Justice and Police,” in *Japan Statistical Yearbook* (Tokyo: Statistical Research and Training Institute, MIC, 2010), fig. 25-10, <http://www.stat.go.jp/data/nenkan/pdf/yhyou25.pdf> (accessed May 25, 2010), 780. See also Tom Ginsburg and Glenn Hoetker, “The Unreluctant Litigant? An Empirical Analysis of Japan’s Turn to Litigation,” *The Journal of Legal Studies* 35, no. 1 (January 1, 2006): 31-59.

an increase in the size of the bar, legal and procedural reforms, and more human rights lawyers, the examples of successful lawsuits by victim groups have opened up litigation as an effective channel for grievances against the state.³⁶ Finally, as we will explore below, a more activist civil society and a more vigilant media have contributed to the erosion of the insularity of policy-makers and one-party dominance.

Korea—the Erosion of Authoritarianism

The institutions and legal statutes put in place during Japanese colonial rule resulted in a relatively autonomous centralized bureaucracy in the ROK.³⁷ Due to the societal opposition engendered by the exploitative Japanese colonial authorities, however, Korean civil society entered the postwar period politicized and agitated. The Korean War and the South's subsequent staunch anti-communist stance, backed by the United States, justified the use of ideology and coercion to dampen social opposition. As in Japan, the Korean state created civic organizations to help it implement policies, though these policies were more oppressive in Korea. "Despite the state's strength and unusual presence, civil society in the South has never been completely stifled but has always demonstrated a subversive, combative character."³⁸ As we shall see, such contentiousness, both before and after democratization, created a vibrant activist civil society. Unfortunately, mainstream activist organizations' focus on big public interest issues, such as democracy and civil rights promotion, and tended to drown out minority voices.³⁹

Authoritarian rule for most of the postwar period through 1987 limited citizen groups' ability to challenge the state. A powerful anti-communist and conservative ruling coalition utilized media censorship and the oppression of opposition organizations to maintain its hold on power.⁴⁰ President Park Chung-hee's overt mobilization of societal groups to support him, the *Yushin* constitution imposed in 1972, and the draconian institutions like the National Security Law gave the state nearly unfettered powers. The subversive character of many activist groups meant that such groups exerted little influence over policy. For example, Korea also enacted environmental protection laws in the 1970s and 1980s. These reforms, however, were designed by the bureaucracy, rather than as a political response to civic organizations, because most environmental groups were perceived to be anti-government and therefore repressed. Many environmental policies adopted by President Chun Doo-hwan were aimed at shoring up the regime's legitimacy.⁴¹ Still, economic development and expanded access to education enhanced the power of the middle class and labor groups, and provided opportunities for societal mobilization to counterbalance relatively insulated government elites.⁴²

³⁶ For an in-depth discussion of these reforms, see Daniel H. Foote, ed., *Law in Japan: A Turning Point* (Seattle: University of Washington Press, 2007). See also Dai-Kwon Choe and Kahei Rokumoto, *Judicial System Transformation in the Globalizing World: Korea and Japan* (Seoul: Seoul National University Press, 2007).

³⁷ Joel S. Migdal, *Strong Societies and Weak States: State-Society Relations and State Capabilities in the Third World* (Princeton: Princeton University Press, 1988), 272.

³⁸ Koo, *State and Society in Contemporary Korea*, 232.

³⁹ On the marginalization of women, the working classes, and the urban poor, see Moon Seungsook, "Redrafting Democratization through Women's Representation and Participation in the ROK," in Samuel S. Kim, *Korea's Democratization* (Cambridge: Cambridge University Press, 2003).

⁴⁰ Amsden, *Asia's Next Giant*. Koo, *State and Society in Contemporary Korea*.

⁴¹ One campaign in 1977 encouraged hikers not to litter but did little to address industrial pollution. J. H. Lim and S. Y. Tang, "Democratization and Environmental Policy—Making in Korea," *Governance* 15, no. 4 (2003): 563-564.

⁴² Eun Mee Kim, "Contradictions and Limits of a Developmental State: With Illustrations from the South Korean Case," *Social Problems* 40, no. 2 (May 1993): 232.

After democratization 1987, further reforms targeted key pressure points of the former authoritarian system. Especially with the election of Kim Young-sam (1993-1998), the first civilian president in 32 years, democratizing reforms gradually removed the barriers to political access for outsider groups.⁴³ Government collaboration with civil society organization began in 1994, and some of the groups receiving government funding were even critical of the administration. In addition, Kim Young-sam's administration tackled the power of the military and undermined a key avenue for political corruption by enacting "real-name" bank account legislation. The National Assembly gained the power to investigate presidential decisions.⁴⁴ In 1995, Kim Young-sam also instituted elections for governors, provincial legislators, and mayors, thereby increasing the incentives for local governments to be more responsible and more responsive to the public. Citizens' options for pursuing complaints against the government expanded with administrative litigation reforms in 1995 and 1996, information disclosure laws in 1996, the institution of a petitions system in 1997, and the establishment of an Ombudsman's Office and the Bureau of Audit and Inspections.⁴⁵ Since Kim Dae-jung (1998-2003) was elected as Korea's first opposition party president, the Korean political spectrum has widened with the successful alternations of power from conservative to progressive in 1997 and back to conservative in 2007.⁴⁶ Moreover, issues that affect marginalized groups are gaining prominence in politics. When comparing the 2002 and 2007 presidential elections in Korea, one scholar notes that the top issues in the former were the sunshine policy and anti-Americanism. In the 2007 election, however, the "nuts-and-bolts issues" of daily life, such as the economy, jobs, and social welfare, dominated.⁴⁷

Still, many scholars bemoan the fact that "political institutions remain shallow and immature, unable ...to provide the responsiveness, accountability, and transparency expected by the South Korean public."⁴⁸ Presidential secretaries' agenda-setting roles ensure that Korean presidents, even after democratization, wield considerable power with regard to the National Assembly, in contrast to the overall weakness of the Japanese prime minister. Like Diet members, National Assembly members and committees have small staffs and little policy expertise, but they have shorter tenures than Japanese Diet members. Legislative committees rarely debate government bills in earnest, and parties often disband and reform, leaving little institutional stability in the legislative branch.⁴⁹ The Assembly's legislative bureau is also far less influential and institutionalized than the equivalent bureau serving the Diet in Japan.⁵⁰ Arguably,

⁴³ Katharine H.S. Moon, "Resurrecting Prostitutes and Overturning Treaties: Gender Politics in the "Anti-American" Movement in South Korea," *The Journal of Asian Studies* 66, no. 01 (2007): 129-157. Aurel Croissant, "Legislative Powers, Veto Players, and the Emergence of Delegative Democracy: a Comparison of Presidentialism in the Philippines and South Korea," *Democratization* 10, no. 3 (2003): 68-98.

⁴⁴ Chan-wook Park, "Legislative-Executive Relations and Legislative Reform," in *Institutional Reform and Democratic Consolidation in Korea*, ed. Larry J. Diamond and Doh Chull Shin (Stanford: Hoover Institution Press, 2000), 77.

⁴⁵ Ginsburg, "Dismantling the Developmental State-Administrative Procedure Reform in Japan and Korea," 608-609.

⁴⁶ C. Hahm, "South Korea's Miraculous Democracy," *Journal of Democracy* 19, no. 3 (July 2008): 129.

⁴⁷ *Ibid.*, 138.

⁴⁸ For a summary of such critiques, see *Ibid.*, 129-130. Larry J. Diamond and Byung-Kook Kim, *Consolidating Democracy in South Korea* (Boulder: Lynne Rienner Publishers, 2000), 2.

⁴⁹ Park, "Legislative-Executive Relations and Legislative Reform."

⁵⁰ Interview with Kim Jung in Seoul, Korea (July 30, 2009)

bureaucrats or the Blue House (if one can get access) remain more attractive advocacy targets than National Assembly members for Korean victim groups.⁵¹

In this environment, marginalized groups still face difficulties in challenging the state. Some structural changes and new channels of grievance articulation, like the National Human Rights Commission (NHRCK) and the Truth and Reconciliation Commission (TRCK), are emboldening victims who suffered due to state policies to name their victimization publicly.⁵² Though they were designed to make the bureaucracy more responsive to public demands, both the NHRCK and the TRCK increase the likelihood that redress decisions will occur *within the bureaucratic realm*, as both institutions operate under the Justice Ministry. Thus, although both commissions draw publicity to instances of the state violating people's rights, the political impact of their recommendations, which lack legal authority, tends to be more diffuse than the collective lawsuits in Japan. As such, channeling grievances into the NHRCK or the TRCK helps the Korean government to minimize victim group access to policy-making processes and limit the repercussions of victims' challenges, often resulting in mere negotiated settlements.

Nevertheless, the influence of the judiciary and the viability of the courts as a channel of grievance articulation have increased in Korea, as in Japan. Historically, law was considered a tool of the state—the Korean system was characterized as rule by law rather than rule of law.⁵³ Litigation was discouraged to the point that, according to one scholar, “a litigious man ... cannot be considered an acceptable member of the collectivity.”⁵⁴ Yet, the number of civil litigation cases against the government increased from 527 in 1993 to 1,096 in 2007, and the number of administrative lawsuits jumped from 5,444 in 1993 to 14,713 in 2007.⁵⁵ Additionally, after public support for President Roh Moo-hyun recovered in May 2004, the Constitutional Court overruled the vote by the National Assembly to impeach him.

Still, Korean confidence in the judicial system lags behind Japanese perceptions. Out of samples of over 1,000 respondents in 2005 in each country, 50.9 percent of Koreans expressed a great deal or quite a lot of confidence in their justice system while 82.0 percent of Japanese

⁵¹ For example, when asked in 2006 what they could do to influence the central government as it debates a decision, 11.3 percent of Japanese respondents versus just 4.7 percent of Korean respondents selected “tak[ing] action through a political party.” Meanwhile, 24.0 percent of Korean respondents compared to just 11.1 percent of Japanese respondents selected “mak[ing] direct contact with a government official/ bureaucrat.” Only slightly more Japanese (12.6 percent) than Koreans (10.2 percent) selected “mak[ing] direct contact with a politician or the mass media.” 2006Q6_: “Specifically what could you do to influence the debate or decision? What actions do you think you could take or what methods do you think you could use? Which of the following statements describes your opinion? Any others...?” Keio University 21COE-CCC, *Research Survey of Political Society in a Multi-Cultural and Pluri-Generational World*, (August 2004 to July 2007), data available at http://www.coe-ccc.keio.ac.jp/data_archive_en/data_archive_csw_en.html (accessed March 10, 2010).

⁵² At the start of the Korean War, ROK military and police executed almost 5,000 civilians who were suspected of being communist sympathizers. The survivors and bereaved families could not speak out during authoritarian rule in the ROK because doing so would have got them in trouble with the authorities who kept surveillance on the victims' families until the 1980s as part of the government's confrontation with North Korea. Numerous other cases of wrongful and politically-motivated execution under past military dictatorship have come to light. Family members of executed dissidents and other victims have sought state compensation for their losses through the courts, which have awarded compensation to a growing number of claimants, despite the expiration of the statute of limitations (5 years) in most cases. Still, critics bemoan the limited mandate and resources of the TRCK. Truth and Reconciliation Commission, Republic of Korea, “Truth and Reconciliation: Activities of the Past Three Years,” 2009, <http://japanfocus.org/data/TRC2009Report.pdf> (accessed March 20, 2010).

⁵³ See Kuk Cho, ed., *Litigation in Korea* (Cheltenham: Edward Elgar Publishing, 2010).

⁵⁴ Pyong-choon Hahm, *Korean Jurisprudence, Politics, and Culture* (Yonsei University Press, 1986), 117.

⁵⁵ Supreme Court of Korea, *Sabeop Yeongam [Judicial Yearbook] 2002, 2005, 2005*, <http://www.scourt.go.kr>.

respondents provided the same answers.⁵⁶ In fact, Koreans' trust in the judicial system has declined from 66.6 percent in 1990.⁵⁷ As discussed in Chapters 4 and 5, my case studies indicate that the resources to effectively use the judicial route to hold the government accountable may be more widely available in Japan than in Korea. With such flagging trust in state institutions, the Korean media have come to play more of a watchdog role over politics, and the political influence of activist civil society groups has dramatically increased during the past two decades.

During the past twenty years in both Japan and Korea, more and more victims of ill-conceived state policies or state negligence have mobilized to demand official acknowledgment of their suffering and compensation. The reputation of the bureaucracy was irreparably tarnished with the culmination of the highly-publicized HIV scandal, in which nearly half of Japan's 5,000 hemophilia patients were infected with HIV/AIDS from contaminated clotting factor. Like the bursting of the Japanese bubble economy, the Asian Financial Crisis in 1997 deeply undermined the Korean public's confidence in the ability of the conservative establishment to manage the economy and contributed to Kim Dae-jung's election to the presidency as the first opposition party president since democratization. Along with such crises and sociopolitical shifts, Japanese and Korean victim movements contributed in significant ways to increasing the accountability of policy-makers, often with the media and activist civil society groups playing important roles.

THE MEDIA AND ACTIVIST CIVIL SOCIETY—MEDIATING VICTIM POLITICS

Among the forces undermining the autonomy and enhancing the accountability of policy-makers in Japan and Korea, the evolution of the media and civil society arguably matter most for victim politics. The media are a powerful vehicle for garnering grassroots support, setting the agenda, and influencing political decisions.⁵⁸ Additionally, non-victim activist organizations alternately compete with and support victim groups because a limited number of issues can receive political attention at any moment. During the past two decades, the political roles of the media and activist groups have diverged in Japan and Korea. I contend that the relatively homogeneous news content and consumption patterns in Japan facilitate victim group activism, while the heterogeneous media content and consumption patterns in Korea hamper victim groups' efforts. I also find that the dominant patterns of social activism in Japan help victim movements, while activist civil society in Korea hinders victims' efforts to expand public interest in their cause and elicit redress from the state. I argue that these differences in the media and civil society in Japan and in Korea help explain why Japanese victim groups generally tend to receive more comprehensive redress than Korean groups do.

The Media and Victim Groups

Victim groups often rely on their ability to elicit empathy from the public using powerful images and personal stories of their suffering. For this, the media are crucial. The media determine the version of blame that reaches the public discourse through their selection of stories,

⁵⁶ Data from World Values Survey, Question V137: "I am going to name a number of organizations. For each one, could you tell me how much confidence you have in them: is it a great deal of confidence, quite a lot of confidence, not very much confidence or none at all? Justice system." World Values Survey, fifth wave (2006). Available at www.worldvaluessurvey.org (accessed May 26, 2010).

⁵⁷ World Values Survey, second wave (1990).

⁵⁸ See John Campbell in Susan J. Pharr and Ellis S. Krauss, *Media and Politics in Japan* (Honolulu: University of Hawaii Press, 1996), 187 ff.

inclusion or exclusion of facts, and emphasis within a story.⁵⁹ The Japanese mainstream media's rather uniform content and the industry's professional norms and structure mean that outsider groups face high initial entry barriers but, once on the public radar screen, will more easily sustain public and political attention than the equivalent Korean outsider groups.⁶⁰ Comparatively, the Korean mainstream media are politically polarized and have more diverse content. Outsider groups face lower initial entry barriers but have a harder time remaining in the spotlight, as competing media outlets divert attention to other stories and issues. Organizational features and consumption patterns of each country's media, as well as journalistic norms, have created these divergent media cultures. The result is that the Japanese media helps to preserve public interest in the conflict of a victim group, while in Korean media coverage of victim issues rarely lasts long and reaches few people.

Japanese news is known for being quite homogeneous. Among mainstream media outlets, one can observe "competitive matching" in format, content, and sources.⁶¹ "Pack journalism" and "saturation coverage" have been used to refer to the uniformity of stories and flood of details, even though they are the result of journalists' efforts to convey objective and unbiased information.⁶² According to one study, only 20 percent of respondents saw partisan bias in Japanese newspapers, TV, and magazines.⁶³ Although Japanese news stories used to include little analysis, this has been changing with the spread of quasi-political TV talk shows, such as Kume Hiroshi's *News Station*.⁶⁴ As such television shows become more of a tool for politicians to spread their message, elected officials have greater incentives to side with victim organizations that have significant public backing.⁶⁵ Beginning with media coverage of former Health Minister Kan Naoto's dramatic revelation of a bureaucratic cover-up in the HIV scandal, numerous other politicians have found analogous opportunities to gain political support by siding with popular victim redress movements. Hirasawa Katsuei, an LDP politician who gained great visibility regarding the abductions issue, commented on the utility of TV talk shows that target the housewife, whose contact network through the PTA, clubs, and volunteer work "is horizontal

⁵⁹ Michael R. Reich, "Crisis and Routine: Pollution Reporting by the Japanese Press," in *Institutions for Change in Japanese Society*, George De Vos, ed., Institute for East Asian Studies, UC Berkeley, Research Papers and Policy Studies No. 9 (Berkeley: University of California Press, 1984), p. 148. Ikuo Kabashima and Jeffrey Broadbent, "Referent Pluralism: Mass Media and Politics in Japan," *Journal of Japanese Studies* 12, no. 2 (1986): 329–361.

⁶⁰ On the importance of sustained public interest, see Anthony Downs, "Up and Down with Ecology: The Issue Attention Cycle," *Public Interest* 28, no. 1 (Summer 1972): 38–50.

⁶¹ Maggie Farley, "Japan's Press and the Politics of Scandal," in *Media and Politics in Japan*, ed. Susan J. Pharr and Ellis S. Krauss (Honolulu: University of Hawai'i Press, 1996), 69.

⁶² One foreign journalist remarked that, "When a big scandal breaks the public is suddenly immersed in a torrent of revelations that gush forth from the newspaper, magazines, and broadcasting stations day after day... until the scandal itself seems to be the whole political process, unique and unrelated to anything else in the past. For that reason, scandal after scandal erupts and subsides, yet no political lessons are learned and no real reform is achieved." Quoted in Maggie Farley, "Japan's Press and the Politics of Scandal," in Susan J. Pharr and Ellis S. Krauss, eds., *Media and Politics in Japan* (Honolulu: University of Hawaii Press, 1996), pp. 144–145. See also Ofer Feldman, *Politics and the News Media in Japan* (Ann Arbor: University of Michigan Press, 1993).

⁶³ Susan J. Pharr, "Introduction: Media and Politics in Japan: Historical and Contemporary Perspectives," in *Media and Politics in Japan*, ed. Susan J. Pharr and Ellis S. Krauss (Honolulu: University of Hawai'i Press, 1996), 5. See also Hiroshi Akuto, "Media in Electoral Campaigning in Japan and the United States," in *Media and Politics in Japan*, ed. Susan J. Pharr and Ellis S. Krauss (Honolulu: University of Hawai'i Press, 1996), 325.

⁶⁴ Masaki Taniguchi, "Changing Media, Changing Politics in Japan," *Japanese Journal of Political Science* 8, no. 01 (2007): 147–166.

⁶⁵ Ikuo Kabashima and Gill Steel, "How Junichiro Koizumi Seized the Leadership of Japan's Liberal Democratic Party," *Japanese Journal of Political Science* 8, no. 1 (2007): 97.

and expands rapidly. If housewives have an interest and take action, politicians also have to move... A five minute appearance on TV equals a hundred thousand posters in my district.”⁶⁶ The homogeneity of the content of Japanese news augmented the impact of such publicity stunts.

News conventions and the organizational structure of the media in Japan, however, have combined with this homogeneity to create high entry barriers for outsider groups, particularly victims of state policy. The “information cartels”—comprised of press clubs (*kisha clubs*), the newspaper industry association (*kyōkai*), and business groups (*keiretsu*)—that structure the media industry in Japan homogenize news and opinion, sideline alternative media outlets, and encourage a reliance on government sources for facts.⁶⁷ Victim groups’ appeals for public support are rarely backed by official facts at the earliest stages of their activism. As such, the government can often deflate the challenge from victims with a well-timed press conference.⁶⁸ Freeman and others argue that, the Japanese media has “frequently worked together with, or on behalf of, the political core—capturing, subverting, misleading, or alternatively ignoring the political periphery.”⁶⁹ Facing high barriers to entry, newly mobilized victim groups try to get their version of the blame story into non-mainstream media or foreign media.⁷⁰ Once a story of governmental negligence or policy failure breaks in the non-mainstream media, then mainstream news outlets may cover it, but this is not guaranteed. In their early activism, therefore, Japanese victim groups often rely on local editions of the national papers or regional newspapers to garner publicity.⁷¹ Such appeals in the local or regional media work well due to the localized structure of activist civil society networks.

Once a victimization story breaks into the national news, then widespread and relatively comprehensive coverage is likely in Japan due to the uniformity of news content and to media consumption patterns (see figures 3.1 and 3.2). Most Japanese rely on mainstream television and newspaper outlets, as opposed to the Internet, for their news. Figure 3.1 shows that Japanese read more daily newspapers than Koreans do. In 2005 over 90 percent of Japanese reported reading a mainstream newspaper in the past week, as compared to just 67.6 percent of Koreans.⁷² Television represents the main source of news in both Japan and Korea, but more Japanese depend more on NHK than Koreans do on KBS for news, though both are public broadcasters. Indeed, figure 3.2 shows that over 60 percent of Japanese watch NHK everyday or almost daily. In short, Japanese still consume uniform news in uniform ways. This facilitates victim organizations’ conflict expansion efforts, if they can break into the national news. Homogeneous

⁶⁶ M. Taniguchi, “Changing Media, Changing Politics in Japan,” *Japanese Journal of Political Science* 8, no. 01 (2007): 160.

⁶⁷ Laurie Freeman, *Closing the Shop: Information Cartels and Japan’s Mass Media* (Princeton: Princeton University Press, 2000), pp. 165-169.

⁶⁸ Maggie Farley, “Japan’s Press and the Politics of Scandal,” in *Media and Politics in Japan*, ed. Susan J. Pharr and Ellis S. Krauss (Honolulu: University of Hawai’i Press, 1996), 136.

⁶⁹ Laurie Freeman, “Mobilizing and Demobilizing the Japanese Public Sphere: Mass Media and the Internet in Japan,” in Frank J. Schwartz and Susan J. Pharr, eds., *The State of Civil Society in Japan*, (Cambridge: Cambridge University Press, 2003), p. 236.

⁷⁰ Japan’s non-mainstream media include sports newspapers, weekly or monthly magazines, and tabloid-style newspapers. They represent about 10 percent of news consumption. Kabashima and Steel, “How Junichiro Koizumi Seized the Leadership of Japan’s Liberal Democratic Party,” 97.

⁷¹ Interview with Inoue Keiko, Kumamoto Public Broadcasting, Kumamoto (May 15, 2009).

⁷² World Values Survey, 5th wave, V223: “People use different sources to learn what is going on in their country and the world. For each of the following sources, please indicate whether you used it last week or did not use it last week to obtain information: Daily newspaper.” Data from www.worldvaluessurvey.org (accessed May 26, 2010).

content then helps victims to spread their issue framing, and uniform news consumption patterns ensure that the victims' message reaches many ordinary citizens.

Figure 3.1: Sources of Information on the Central Government (percent, 2006)⁷³

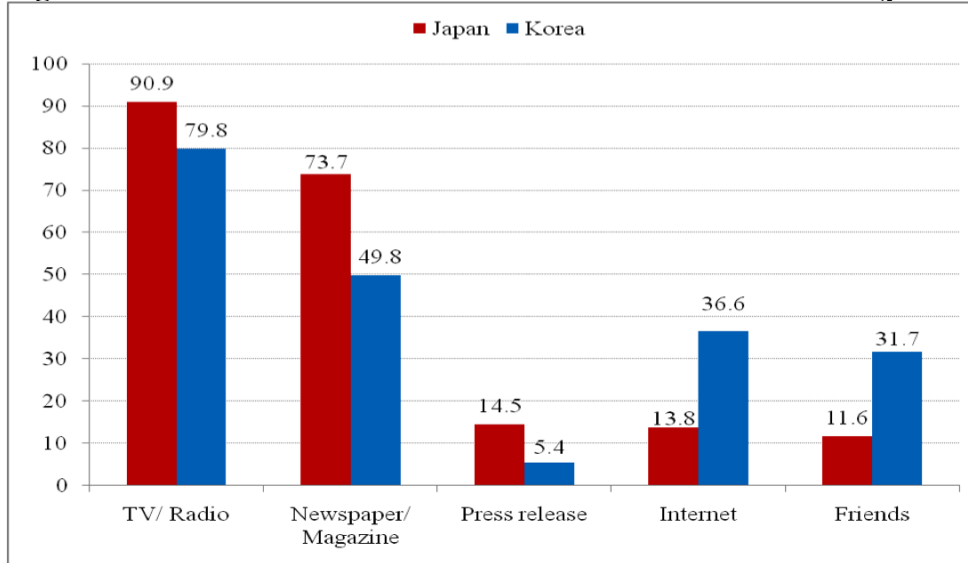
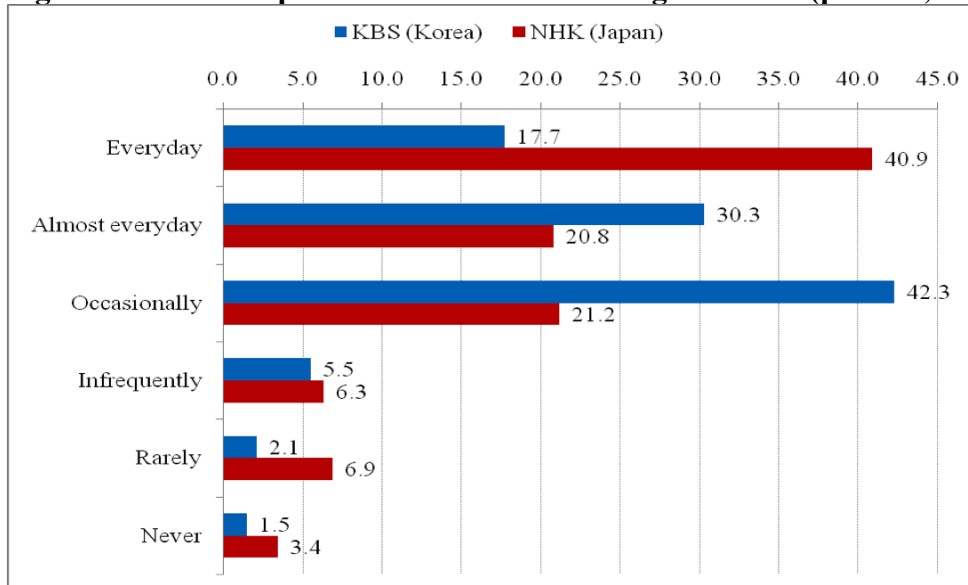


Figure 3.2: Consumption of Public Broadcasting TV News (percent, 2006)⁷⁴



⁷³ Question 33_1 (2006): "Which of the following media do you usually source when you get information on the central government's activities?" Keio University 21COE-CCC, *Research Survey of Political Society in a Multi-Cultural and Pluri-Generational World*, (August 2004 to July 2007), data available at http://www.coe-ccc.keio.ac.jp/data_archive_en/data_archive_csw_en.html (accessed March 10, 2010).

⁷⁴ Question 86 (2006): "How often do you watch the news programs of NHK/ KBS?" *Research Survey of Political Society in a Multi-Cultural and Pluri-Generational World*, (July 2007).

In contrast, the Korean media today exhibit greater diversity of tone and content across different news outlets. Korean news media are also sharply divided along a conservative *versus* progressive divide, so much so that “the truth is compromised,” as one editorialist bemoaned.⁷⁵ On the establishment side are the three main daily mass-circulation newspapers (*Chosun Ilbo*, *JoongAng Ilbo*, and *DongA Ilbo*, hereafter *Cho-Joong-Dong*), which roughly mirror the ideological span of Japan’s five main papers.⁷⁶ Yet Korea also has more widely read progressive news outlets than Japan, including younger newspapers like *Hankyoreh* and *Kyunghyang Shinmun*. In between are the relatively moderate television stations, KBS and MBC, and a plethora of internet news sites that span the political spectrum. Antagonism between progressive administrations and the conservative major newspapers exacerbated the polarization of Korea’s media.⁷⁷ Almost 50 percent of respondents in a 2009 survey felt that reporting was not particularly evenhanded, while just 25 percent felt that the media was not particularly diverse.⁷⁸ Furthermore, since KBS and MBC are led by presidential appointees, the print media and broadcast media sometimes publicly criticize each other for a lack of professional integrity and sometimes compete over content.⁷⁹ Korean news content, therefore, tends to be heterogeneous and often ideologically diverse.

The structure of the media industry reinforces this heterogeneity of news and polarization of news outlets. Since democratization, press freedom has steadily increased in Korea but the media are now constrained by business pressures and internal norms, rather than government controls. From 1980 to 1987, the government used the Korean media to overtly promote the government’s agenda and maintain national stability.⁸⁰ Since the media sector opened to market competition in 1988 a vast number of alternative news outlets and new types of media like internet blogs and “one-man media” have flourished to a greater extent than in Japan.⁸¹ The large number of media outlets offers victim groups a range of options when they seek to initially shame the government. The entry barriers for outsider groups are especially low if one considers citizen journalism and blogs as access points.⁸² Despite the low entry barriers to groups wishing

⁷⁵ Interview with Kim Sun-hyuk, Korea University, Seoul (June 10, 2008). *Korea Herald* (July 1, 2008)

⁷⁶ As of 2005, *Chosun Ilbo* boasted 2.4 million readers, while *JoongAng Ilbo* and *DongA Ilbo* had about 2 million readers. These circulation rates resemble those of *USA Today* and the *Wall Street Journal* in the U.S. In contrast, Japan’s five main newspapers had circulations that put them in the top 10 largest papers in the world: *Yomiuri* (14 million), *Asahi* (12 million), *Mainichi* (5.5 million), *Nikkei* (4.6 million), and *Sankei* (2.7 million). Data from “WAN: World’s 100 Largest Newspapers,” *World Association of Newspapers*, 2005, <http://www.wan-press.org/article2825.html> (accessed June 1, 2010).

⁷⁷ Kim Dae-jung’s administration launched a tax-probe against *Cho-Joong-Dong*, leading to the arrest of several owners. Roh Moo-hyun’s antagonism focused on the *Chosun Ilbo* when he called for a law to restrict the newspapers’ market share. Lee Myung-bak has engaged in a harsh battle with *Hankyoreh Shinmun*, among others. There has been less antagonism between the government and the broadcast media. Sook-Jong Lee, “Democratization and Polarization in Korean Society,” *Asian Perspective* 29, no. 3 (2005): 118-121.

⁷⁸ Data from Media Survey, Media Statistics Information System [*Midieo Tongyae Jeongbo Shiseutem*], (2009), available at http://mediasis.kpf.or.kr/surveyStatistics/KPF_mediaSurvey.aspx (accessed April 15, 2010).

⁷⁹ The ideological heterogeneity and diverse news consumption patterns exacerbate political polarization, regional, and generational divides in Korea. Sook-Jong Lee, “Democratization and Polarization in Korean Society,” *Asian Perspective* 29, no. 3 (2005): 118-121.

⁸⁰ Robert E. Bedeski, *The Transformation of South Korea: Reform and Reconstitution in the Sixth Republic Under Roh Tae Woo, 1987-1992* (London: Routledge, 1994), 27.

⁸¹ Suk-hee Sung, *Gesellschaftswandel und journalistische Kultur in Korea*, Dr.Phil. Dissertation, Universität Dortmund, (2004), <https://eldorado.uni-dortmund.de/bitstream/2003/2969/1/Sungunt.pdf>, p. 107.

⁸² Thanks to Laurie Freeman for pointing this out.

to publicize their cause, victim groups' tough competition with activist groups for media attention impedes victim groups' ability to shame the government. Korea's mainstream journalists tend to pay closest attention to "well-packaged issues," which often involve some political slant.⁸³ Since such packaging requires expertise and savvy public relations tactics, Korea's large and professionalized activist groups are better positioned to attract media attention than small groups of victims. Without publicity, victim groups have trouble reaching the general public and therefore find bottom-up conflict expansion difficult.

Compared to their Japanese counterparts, few Korean journalists actively pursued stories of state victimization in the issue areas I studied, and the relative disinterest of Korean journalists for marginalized groups frustrates victim activists.⁸⁴ In the liberalization of the media sector, the traditional media outlets must increasingly compete for market share, like Japanese media. Yet the longer history and greater credibility of Japan's fourth estate, as well as the weaker labor unions in Japan, have insulated Japanese media companies from some of the upheavals faced by Korea's media companies. In the tumult, professional standards have suffered.⁸⁵ Close to 35 percent of respondents in a 2009 survey questioned the professionalism of the media.⁸⁶ Libel suits against the media have also increased in number.⁸⁷ Moreover, the large number of web-based news outlets in Korea tends to produce sensational and provocative coverage, often without proper fact-checking. Thus, the internet provides ordinary citizens with the tools to hold the state accountable, but the politicized and polarized Internet in Korea is virtually "an extension of street politics that has characterized Korean politics for decades."⁸⁸ In other words, victim groups have many easily accessible options for gaining publicity for their causes, but the public sphere is already crowded with many issues and many louder voices.

Moreover, sending a coherent message has become more difficult in this milieu in Korea due to the large number of media outlets, with low levels of overlap among audiences. Figure 3.1 shows that far more Koreans rely on the internet or on friends as their main sources of information about the central government than do Japanese. In 2006, fully 31.6 percent of Korean respondents said that they did not read any newspaper, while just 4.6 Japanese respondents offered the same reply.⁸⁹ More Koreans than Japanese got their news from the Internet (59.2 percent versus 45.9 percent).⁹⁰ Indeed, Korean Internet usage is the highest in the

⁸³ Interview with Kim Sun-hyuk, Korea University, Seoul (June 10, 2008).

⁸⁴ For example, the Unification Ministry official in charge of the abductions issue reports that more Japanese journalists have contacted him than have Korean journalists. Koo Byeong-sam, quoted in Samuels (forthcoming).

⁸⁵ For example, a report by *PD Diary* (MBC) on April 29, 2008 raised questions about safety of U.S. beef by showing a downer cow and mistranslating the words of an American woman, whose daughter had died of a degenerative brain disease, to imply that she had died of mad cow disease. The Korean Communications Standards Commission filed a lawsuit against MBC, but civic groups and the MBC labor union protested the lawsuit. Several GNP politicians publicly criticized MBC for trying to incapacitate the government.

⁸⁶ Data from Media Survey, Media Statistics Information System [*Midieo Tonggyae Jeongbo Shiseutem*], (2009), available at http://mediasis.kpf.or.kr/surveyStatistics/KPF_mediaSurvey.aspx (accessed April 15, 2010).

⁸⁷ The number of libel cases against the media totaled 198 from 1988 to 1997, and this was four times the total from 1945 to 1987. About 75 percent of the more recent libel cases are successful. Jae-Jin Lee, "Libel Law and the Press: The Struggle of the Korean Press to Establish 'Public Person' Privilege Against Libel Litigation," *International Communication Gazette* 61, no. 5 (October 1, 1999): 445 n. 3.

⁸⁸ Katherine H.S. Moon, "Taming Korea's Wild Wild Web," *Far Eastern Economic Review*, (Nov. 18, 2008).

⁸⁹ Keio Survey, Q37: "Which of the following newspapers do you usually read? Please indicate all that apply." *Research Survey of Political Society in a Multi-Cultural and Pluri-Generational World*, (July 2007).

⁹⁰ World Values Survey, fifth wave, question V223: "People use different sources to learn what is going on in their country and the world. For each of the following sources, please indicate whether you used it last week or did not

world, and most Koreans express high levels of trust for information from the Internet.⁹¹ The result is that Koreans consume a more diverse array of news, when compared with Japanese. This dilutes the impact of each victim group's appeal for support because it reaches fewer ordinary citizens and must compete with many other stories in Korea's fragmented media environment. Moreover, nationally organized and politicized activist groups virtually dominate the public sphere in Korea, leaving little room for victim advocacy groups.

Activist Civil Society Organizations and Victim Groups

If Japanese civil society organizations are “members without advocates,” then Korean civil society organizations are “advocates without members.”⁹² The character and political role of activist civil society organizations vary cross-nationally on several dimensions, including autonomy from the state, the most common organizational form, membership type, and the influence of civic groups in politics. Japan's activist civil society groups are most often apolitical, volunteer-based, local, and allegedly ill-equipped for advocacy. As for Korea, most characterizations depict the opposite: nationalized, politicized, and professionalized civil society groups that have become institutionalized and politically powerful more rapidly than political parties in the past fifteen years.⁹³ Surprisingly, however, Japanese victim groups are better off because they can attract non-victim supporters that do not have broader policy agendas and will therefore not compromise the victims' redress goals. In contrast, Korean non-victim civil society organizations tend to frustrate victim redress movements.

By comparing the evolutionary paths of civil society, one can see the origins of these differences between the Japanese and Korean civil society sectors.⁹⁴ Civil society emerged from localized advocacy networks in Japan and has resulted in a large number of local self-help, volunteer, and service oriented associations.⁹⁵ A development-minded central government and a constraining regulatory environment in Japan tended to discourage the formation of adversarial civil society groups with professional staff or a national scope, which most scholars consider essential for sustained and informed lobbying.⁹⁶ As a result, 55.8 percent of NPOs surveyed had fewer than 50 members, and 54.1 percent of NPOs surveyed had fewer than 5 paid staff, according to 2007 data.⁹⁷ Indeed, the state and business sectors still loom large in Japanese politics, leaving “few civil society organizations with the independence and capability to monitor

use it last week to obtain information (Read out and code one answer for each): Internet or Email.” Data from www.worldvaluessurvey.org (accessed May 26, 2010).

⁹¹ According to the UCLA World Internet Project, 55.7 percent of Koreans used the Internet for more than 10 hours per week; the Japanese figure was closer to 40 percent. Also, 69.7 percent of Korean respondents versus 25.3 percent of Japanese respondents expressed high levels of trust in information from the Internet. “Internet Usage Trends in Japan: Survey Report 2005” (World Internet Project, August 2005), http://www.worldinternetproject.net/publishedarchive/Japan_Report_2005.pdf (accessed June 1, 2010).

⁹² Pekkanen, *Japan's dual civil society*. Theda Skocpol et al., eds., *Civic Engagement in American Democracy* (Washington: Brookings Institution Press, 1999), chap. 13.

⁹³ Interview with Jaung Hoon, scholar, Seoul (June 4, 2008).

⁹⁴ Young-Hae Han, “An Analysis of the Discourse on the Citizens' Movement in Korea: A Comparison to the Japanese Case,” *Korea Journal* 46, no. 2 (2006): 35-67.

⁹⁵ Yutaka Tsujinaka, “From Developmentalism to Maturity: Japan's Civil Society Organizations in Comparative Perspective,” in *The State of Civil Society in Japan*, ed. Frank J. Schwartz and Susan J. Pharr (Cambridge: Cambridge University Press, 2003), 105.

⁹⁶ Pekkanen, *Japan's dual civil society*, 10.

⁹⁷ “Heisei 18nendo shimin katsudou dantai kihon chousa houkokusho [2006 Report on Citizen Activities' Associations]” (Prime Minister's Office, April 2007), 21-22.

the state, publicize critical perspectives, or propose new policy ideas.”⁹⁸ Thus, activist groups focus on targeting fellow citizens and their localities, rather than adopting a political bent.⁹⁹

In Korea, on the other hand, the turbulent nationwide pro-democratization struggle spawned nationalized, politicized, and professionalized civil society groups.¹⁰⁰ Compared to their Japanese counterparts, a greater proportion of Korean organizations are based in the capital.¹⁰¹ According to 2003 statistics, civil society organizations had an average of 8.5 employees and 20.4 percent had more than ten employees, meaning that the level of professionalization is higher in Korea than in Japan.¹⁰² Since successfully toppling their authoritarian regime in 1987, Korean civil society and political advocacy groups continue to actively contest political processes, in spite of an unfavorable tax code and national security and election laws that limit their activities.¹⁰³ Many of the intellectuals involved in the democracy movement became professional activists for various causes, resulting in a relatively elite cadre of activists with few links to the grass roots.¹⁰⁴ Initially bolstered by favorable public opinion, Korean civic groups have had to continuously justify their importance in the context of democratic consolidation through high-visibility tactics and a focus on politics at the center and the concerns of the majority. According to an annual *JoongAng Ilbo* survey on the ideological orientations of Koreans, the proportion of respondents calling themselves moderate politically dropped from 49.5 percent to 34.8 percent to 30 percent from 2002 to 2004.¹⁰⁵ Korean advocacy groups have become polarized along with the rest of Korean society and the media, particularly as newer progressive groups discredit older organizations established under authoritarian rule.

Japanese civic activism skyrocketed in the wake of the Great Hanshin earthquake in 1995, when the government responded sluggishly to the disaster. The Japanese government reported in 2000 that almost half of the nation’s citizen groups formed during the 1990s.¹⁰⁶ But these groups mainly focused on service and local advocacy. Japanese women’s groups were largely absent from the process leading to the 1986 Equal Employment Opportunity law, but helped to shape its revision in 1997 to require sexual harassment prevention programs at workplaces.¹⁰⁷ Japanese

⁹⁸ Pekkanen, *Japan’s dual civil society*, 177.

⁹⁹ Robin M. LeBlanc, *Bicycle Citizens: The Political World of the Japanese Housewife* (Berkeley: University of California Press, 1999).

¹⁰⁰ Lee, “Democratization and Polarization in Korean Society.” Charles K. Armstrong, ed., *Korean Society: Civil Society, Democracy and the State*, 2nd ed. (London: Routledge, 2007). Yutaka Tsujinaka and Yeom, eds., *Gendai Kankoku no Shimin Shakai, Atsuryoku Dantai: Nikkan Hikaku ni yoru Taisei Ikō no Kenkyū [Civil Society and Pressure Groups in Modern Korea]* (Tokyo: Bokutakusha, 2004).

¹⁰¹ Among incorporated associations in 1997, regional groups outweigh organizations in the capital in Japan (67.5 percent to 60.3 percent). While 58.2 percent of Korean organizations were in the capital, just 44.5 percent were in the regions. Tsujinaka, “From Developmentalism to Maturity: Japan’s Civil Society Organizations in Comparative Perspective,” 90.

¹⁰² “The Explosion of CSOs and Citizen Participation: An Assessment of Civil Society in South Korea (CIVICUS Civil Society Index Report for South Korea)” (The Third Sector Institute, Hanyang University, Seoul, 2006), 39, http://www.civicus.org/media/CSI_South_Korea_Country_Report.pdf.

¹⁰³ The NSL forbids the formation of communist organizations and election law forbids civil society organizations from endorsing candidates for the 180 days prior to an election.

¹⁰⁴ Interview K-101 (July 6, 2007). See also “CIVICUS Civil Society Index Report,” 32.

¹⁰⁵ Cited in Lee, “Democratization and Polarization in Korean Society,” 104.

¹⁰⁶ Pekkanen, “After the developmental state,” 373.

¹⁰⁷ Jennifer Chan, *Gender and Human Rights Politics in Japan: Global Norms and Domestic Networks* (Stanford: Stanford University Press, 2004).

advocacy groups concerned with foreign residents' welfare and rights have also concentrated on service provision and local reforms rather than national policy change.¹⁰⁸

As in Japan, the number of groups intermediating between the state and society grew rapidly in the 1990s to the point that Korean organizational density reached parity with Japan's in 1996.¹⁰⁹ Yet, Korean organizations seem to have greater political voice and importance in national politics than their counterparts in Japan.¹¹⁰ Korean civil society groups monitored public officials, campaigned for various reforms related to the environment and women, launched a movement to scrutinize the national budget, or blacklisted candidates running for election.¹¹¹ Korean NGOs have been active in advancing the rights of immigrants in recent years, culminating in the Basic Law on the Treatment of Foreign Residents in 2007.¹¹²

These depictions suggest that Korean civil society organizations are more influential in agenda setting and policy-making processes than their Japanese counterparts. Indeed, 11.1 percent of Korean civil society groups reported success at blocking policies, while just 6.5 percent of Japanese groups had experienced such success.¹¹³ Similarly, just 10 percent of polled experts named NGOs as the most dominant political actors in Japan in decisions related to climate change, while 23.7 percent named Korean advocacy groups as most influential.¹¹⁴ When it comes to victim groups, however, I find that Japanese victim groups are generally more able to elicit redress from their government than Korean groups.¹¹⁵ What explains this puzzling reality?

I argue that Japanese victim groups more closely resemble non-victim activist groups in their society than Korean victim groups do. As a result, Japanese victims can draw on a variety of networks of small groups of sympathetic individuals with grassroots activism experience and can learn from a wider range of prior social movements. In contrast, Korean victim groups are dwarfed by the large professional civil society organizations that dominate the public sphere and the political agenda in Korea. Unless a Korean victim group fits with the objectives of one of the large influential advocacy organizations, it has a hard time attracting supporters and accessing political resources. As such, my study of victim redress organizations refines established

¹⁰⁸ Apichai W. Shipper, *Fighting for Foreigners: Immigration and Its Impact on Japanese Democracy* (Ithaca: Cornell University Press, 2008).

¹⁰⁹ Tsujinaka, "From Developmentalism to Maturity: Japan's Civil Society Organizations in Comparative Perspective," 100.

¹¹⁰ Han, "An Analysis of the Discourse on the Citizens' Movement in Korea."

¹¹¹ Armstrong, *Korean Society*, 4.

¹¹² Keiko Yamanaka, "Immigration, Population and Multiculturalism in Japan," *Asia Report No. 141*, Asia Program Woodrow Wilson Center (July 2008).

¹¹³ Pekkanen, *Japan's dual civil society*, 183.

¹¹⁴ Miranda A. Schreurs, "Democratic Transition and Environmental Civil Society," *The Good Society* 11 (2002): 57-58.

¹¹⁵ An interesting difference of focus also exists between Japanese non-victim activists and Korean non-victim activists. Japanese civic groups (including victim groups) tend to pursue practical interests in Japan, whereas Korean activist organizations (unlike Korea's victim groups) tend to pursue strategic interests. In her study of feminist movements, Molyneux distinguishes between "practical interests" and "strategic interests." Practical interests are formulated by the people actually affected, on the basis of their immediate conditions and needs. Strategic interests, on the other hand, are deductively formed on the basis of an envisioned alternative to the existing sociopolitical order and are often articulated or deduced by others (in our case, non-victims). Victim groups tend to pursue practical interests, which might include compensation for a specific injury, medical care, or an explicit apology. This means that Japanese non-victim activists have more in common with victim groups than do Korean activists with Korean victim groups. Maxine Molyneux, "Mobilisation Without Emancipation? Women's Interests, State and Revolution in Nicaragua," *Critical Social Policy* 4, no. 10 (1984): 59-71. See also Raka Ray, *Fields of Protest: Women's Movements in India* (Minneapolis: University of Minnesota Press, 1999).

conceptions of how and when societal groups influence agenda setting and democratic policy-making processes in Japan and Korea.

The historical trajectory of civil society in Japan and the preponderance of single-issue, local, and apolitical groups highlight the fact that pragmatic and service-related approaches are the norm in Japanese civil society, in contrast to the overtly political or strategic issue framings of democratic consolidation or human rights that most Korean non-victim activist groups employ.¹¹⁶ Indeed, Japan's environmental pollution victims in the 1960s and even concerned citizens focused more on clarifying blame and immediate concerns than on broad principles.¹¹⁷ This trait was particularly clear when contrasted with the U.S. environmental movement, wherein victims and activists pursued principled environmental stances. It seemed that the U.S. movement dwelt on insurmountable problems and unachievable goals, while the Japanese environmental movement adopted a victim framing and strove for more proximate goals. As such, Japanese victim groups match Japan's dominant pattern of pragmatic or even parochial activist organizations well. The grass-roots and pragmatic tendency of Japanese civil society groups, in turn, helps victim groups to spread their indictment of government policy widely. Moreover, my case studies show that retaining outsider status is a rational decision on the part of a victim group because staying small and focused is most effective.

In contrast, Korea's victim groups are dwarfed by larger activist groups with broad agendas that rarely leave room for the victims' particularistic concerns. Scholars note that, the citizens' movement in Korea is not a "movement of the grassroots masses" but rather one of organizations made up of professionals and activists "for the grassroots masses."¹¹⁸ The political activities of such civil society organizations are well covered by the media and sometimes spark bursts of temporary mass-participation.¹¹⁹ Under President Roh Moo-hyun's "participatory government," activist groups gained unprecedented access to policy-making processes. Observers even joked that the acronym "NGO" referred to "next government official."¹²⁰ Roh Moo-hyun's administration rewarded government departments and agencies in annual performance reviews, if they formally included civil society leaders in advisory committees, policy study groups, or other parts of the policy-making process.¹²¹ Hence, small victim groups find the public sphere already dominated by large and politically connected NGOs and umbrella organizations.¹²² Often, Korean victim groups must decide whether to dilute their claims in order to appeal to the large and influential NGOs because coalitional activism is so prevalent in Korea.¹²³ In addition, Korean civic associations have relatively low tolerance or respect for the

¹¹⁶ Sook Jong Lee and Celeste Arrington, "The Politics of NGOs and Democratic Governance in South Korea and Japan," *Pacific Focus* 23, no. 1 (2008): 75–96.

¹¹⁷ McKean, *Environmental Protest and Citizen Politics in Japan*.

¹¹⁸ Jonggwon Jeong, "Simin undong-e daehan bipanjeok pyongga [Critical Assessment of the Citizens' Movement]," *Gyeongje-wa sahoe [Economy and Society]*, no. 45 (2000): 132-148.

¹¹⁹ "CIVICUS Civil Society Index Report," 10.

¹²⁰ Interview Patricia Goedde, Sungkyunkwan University College of Law, Seoul (June 10, 2008)

¹²¹ Interview with Park Chan Un, a human rights lawyer, in Seoul (June 4, 2008)

¹²² Interview with Kim Yong-ro, KOHEM, (Feb. 27, 2009). Interview with Horiyama Akiko, Mainichi Shimbun, Seoul (June 7, 2008). See also "CIVICUS Civil Society Index Report," 35.

¹²³ Forming such ad hoc coalitions or solidarity networks is a common strategy because it works in Korea. For example, women's groups helped push the Korean government to enact prostitution regulations and to abolish the family registration system (*hojuje*). Yet, for marginalized groups such coalitions can obscure their particular goals. As a case in point, the core message of activism related to military prostitution was subsumed by the larger anti-base and pro-women's movements in Korea. See Moon, "Resurrecting Prostitutes and Overturning Treaties," 132.

rights of minority groups.¹²⁴ Thus, the Korean advocacy sector, “rather than being an open marketplace for political interests and ideas, . . . has great power to decide who belongs and who does not, whose grievances and pains are worthy of collective attention.”¹²⁵ In many cases, marginalized victim groups lose the battle for public attention, as we shall see with Korea’s hepatitis C victims in Chapter 5.

In sum, non-victim civil society organizations in Japan tend to facilitate victim group activism while activist groups in Korea pose hurdles to victim group activism. Finding sympathetic allies to help amplify one’s message is easier in Japan’s grassroots citizen networks than in the lofty heights of Korea’s elite and politicized civil society.

CONCLUSION

Japan and Korea present an ideal pair of national contexts in which to study victim redress movements. Historically, policy-making was quite insulated from societal interference. Scandals, national crises, changes in the legal system, increased electoral competitiveness, mounting media scrutiny of politics, and the growth of an activist civil society have helped pry open policy-making processes to make policy-makers and the government more accountable, responsive, and transparent. In these processes, victim groups played important roles and found new windows of opportunity.

Among all the evolving features of the Japanese and Korean national contexts, the prevailing character of activist organizations and the content and consumption patterns of the news media are of particular importance for victim redress movements. I have argued that the news content, the media’s organizational structure, journalists’ professional norms, and consumption patterns of the media affect victims’ ability to shame the government and expand the scope of their conflicts. For a victim group, getting into the media is more difficult in Japan than in Korea, where a plethora of one-man or citizen journalist sites exist and are read online. However, once a victim group gets media coverage in Japan, it is likely to get more widespread, comprehensive, accurate, and long-term coverage than a victim group in Korea would. This extensive and relatively homogeneous coverage by Japan’s news media helps victims to amass public support and thereby pressure the government. The structure of the advocacy sector similarly facilitates victims’ activism in Japan, but hinders it in Korea. I find that Japanese victims have been more successful than Korean victim groups at expanding the scope of their conflict because the Japanese victim groups find sympathetic and conscientious networks of ordinary citizens more easily than Korean victim groups do.

The ability to pursue bottom-up conflict expansion within favorable parameters explains why Japanese victim groups have generally elicited greater state responsiveness than their Korean counterparts. Chapters 4 and 5 present comparisons of both countries’ Hansen’s disease and hepatitis C movements to support this argument.

¹²⁴ Korea scored 1.9 out of 3 for tolerance. “CIVICUS Civil Society Index Report” (accessed May 25, 2010): 61.

¹²⁵ Moon, “Resurrecting Prostitutes and Overturning Treaties,” 153.

CHAPTER 4 COMPREHENSIVE REDRESS: JAPANESE VICTIM MOVEMENTS

INTRODUCTION

Until 1996 the government's official leprosy control policy mandated that all persons afflicted with the disease be forcefully confined in specialized sanatoria (leprosaria). This was 36 years after 1960, when the World Health Organization (WHO) determined that such isolation was unnecessary because the disease was wholly treatable. Starting in 1998, several Japanese with Hansen's disease sued the government of Japan because its leprosy control policies had violated patients' constitutional rights to dignity and freedom of movement. At last, on May 25, 2001, Japanese Prime Minister Koizumi Junichirō offered a historic apology to Japan's Hansen's disease (leprosy) community. He declared that, "in light of the fact that former government policies restricted and limited the human rights of many..., the government... would like to offer an honest apology to [patients and former patients] and condolences to those who have already passed away after much suffering and resentment."¹ On hearing this news, one of the plaintiffs present, Hino Kōki, shouted: "I have finally become a human being!"²

Due to the discoveries of the hepatitis B virus, HIV, and hepatitis C virus (HCV) in plasma-derived protein concentrates used therapeutically to help stop uncontrollable bleeding, the world's main pharmaceutical companies gradually started to inactivate such viruses in the mid-1980s with heat treatment and other procedures. However, Japanese drug makers and regulators were slow to respond to signs of an analogous hepatitis C epidemic in among clotting factor recipients in Japan. As a result, in 2002 the Japanese citizens who had contracted HCV from contaminated blood products in the 1980s initiated lawsuits against the Japanese government and three pharmaceutical companies for failing to prevent their infections. Ultimately, in early January 2008, both houses of the Japanese Diet unanimously passed a compensation law for HCV-infected individuals. That day, a leader of the HCV plaintiffs, Yamaguchi Michiko declared that the victims had finally "reaped the reward of [their] five-year battle."³ Prime Minister Fukuda Yasuo issued a statement, saying "we must frankly admit the state's responsibility for causing huge harm to the victims and for failing to prevent the harm from spreading. I express my apologies from my heart."⁴

How did these two sets of victims elicit such comprehensive redress? This chapter analyzes the Japanese Hansen's disease and hepatitis C victim redress movements, which received more extensive redress than their Korean counterparts, as discussed in Chapter 5. The Japanese cases point to the effectiveness of bottom-up conflict expansion—stoking outrage among the general public against the government's wrongdoing. I demonstrate that litigation is a powerful tool that 1) connects particularistic grievances to universal principles with which the public can identify, 2) brings to light evidence of victimization and of the state's efforts to avoid blame, and 3) escalates a conflict by providing milestones in the courtroom that help to gain supporters among the broader public.⁵ I also argue that, as plaintiffs, the victims who sued the

¹ "Hansenbyou mondaino soukikatsu zenmenteki kaiketsu ni muketeno naikaku souridaijin danwa [Statement by Prime Minister Junichiro Koizumi Concerning the Swift and Comprehensive Solution of the Hansen's Disease Issue]," May 25, 2001, <http://www.kantei.go.jp/jp/koizumispeech/2001/0525danwa.html> (accessed June 28, 2010).

² Ryuichi Kitano, "The Price of Isolation: Public Health Policy in the United States and Japan with Special Reference to Hansen's Disease," no. 02, USJP Occasional Paper (2002).

³ "Diet Decision Brings to End 5-year Battle for HCV Plaintiffs," *The Daily Yomiuri*, January 12, 2008.

⁴ "Hepatitis C Bill Offering Aid, Apology Clears Diet," *Japan Times*, January 12, 2008.

⁵ Frank K. Upham, *Law and Social Change in Postwar Japan* (Cambridge: Harvard University Press, 1987), 23.

state carved out a novel organizational identity that was distinct from the extant patient associations, which had been co-opted by the state and were therefore unable to hold the state accountable. In contrast, the Korean Hansen's disease and HCV victims had trouble overcoming their co-opted relations with the state. By using litigation to launch their grievances onto the political agenda, the Japanese Hansen's disease and HCV victims ultimately compelled the Japanese government to apologize for its failure, compensate the victims, make procedural changes to prevent future victimization, and establish victim assistance programs to improve the lives of those who suffered. In contrast to their Korean counterparts, the Japanese groups achieved comprehensive redress, the most extensive form of state responsiveness (see table 1.1).

The Japanese hepatitis C and Hansen's disease victims were able to elicit comprehensive redress from the state because they successfully engaged in bottom-up conflict expansion—they mobilized the general public behind their cause. Small, local networks of activists, as well as the uniform content and consumption patterns of Japan's news media, facilitated the victims' appeals to the general public. Japanese victims' conflict expansion efforts also deftly deployed lawyers' personal connections and emphasized the inherent injustice of the victimization.

In the conflict expansion process, prior victim movements provided subsequent victim redress movements with resources and transformed the constraints they faced. The HCV redress quest began one year after the government started granting reparations to the Hansen's disease community, and therefore drew on the experiences of the Hansen's disease victims in holding the government accountable. Just as the HCV victims learned from the Hansen's disease movement, however, so the government learned how to better handle demands for redress after the Hansen's disease issue peaked in 2001. It is important to remember that redress is ultimately the product of dynamic interactions between victim groups and the government they hold accountable.

This chapter begins by situating these victim redress movements in their political and historical contexts, as well as elucidating how their victimization came to light. I then compare the Japanese Hansen's disease and the hepatitis C movements. By tracing the expansion of each conflict, I explore how litigation and other tactics helped the victims to articulate their grievances and attract sympathy from the general public. The chapter concludes by analyzing state responsiveness to each victim group across five phases and detailing how the expanded scope of each conflict put pressure on the political establishment to respond to the victims' demands.

SITUATING THE HANSEN'S DISEASE AND HEPATITIS C VICTIM REDRESS MOVEMENTS

The Hansen's disease and hepatitis C victims in Japan began from positions of weakness as political outsiders, but ultimately forced the Japanese government to admit its wrongdoings and offer an official apology and reparations to the aggrieved victims. The ability of these groups to garner widespread public support was crucial in ultimately eliciting such comprehensive redress from the state. Yet each redress movement existed within a specific political and historical milieu that constrained the victims' advocacy in some ways but also endowed them with unique points of leverage. After outlining the core problem in each issue area, this section sets the stage for my subsequent analysis of the Hansen's disease and HCV conflicts. To do so, I first situate these movements in their political and historical context and then explain the timing of the initial public recognition of these two episodes of victimization as social issues.

The Political Causes of Victimization

For decades prior to these victim movements' emergence, Japan's national modernization effort had determined the policy-making priorities regarding Hansen's disease and

pharmaceutical products. In the case of Hansen's disease, the authorities sought to cleanse society from the embarrassing 'third-world blight' of leprosy.⁶ When it came to plasma-derived clotting factor to help stop bleeding, the government sought to nurture domestic producers to compete with the dominant U.S. and German pharmaceutical companies.⁷ To ensure the smooth implementation of policies, closed sub-governments were formed among politicians from the ruling LDP with medical expertise (*zoku giin*), officials from the Ministry of Health and Welfare (MHW, renamed the Ministry of Health, Labor, and Welfare or MHLW in 2001), and doctors or pharmaceutical industry leaders. The fragmentation of Japanese policy-making, with generally clear jurisdictional boundaries, has been elsewhere noted.⁸ But in policy-making related to Hansen's disease and pharmaceuticals, the high stakes of the nation's reputation and economic development kept decision-making particularly insulated from societal pressures.

Such entrenched political relationships among the political, industrial, and expert elite prevented the authorities from comprehending the harm their policies were causing to individual Japanese citizens. The forced isolation of persons affected by Hansen's disease in leprosaria persisted as Japan's official policy for *over three decades* after the WHO declared it medically unjustifiable in 1960.⁹ Japan's isolation policy remained on the books even though the disease was wholly treatable.¹⁰ In addition to forcing anyone affected by the disease to be

⁶ Hansen's Disease Lawyers' Association, *Hirakareta Tobira: Hansenbyou Saiban wo Tatakatta Hitobito [The Opened Door: the People who Fought the Hansen's Disease Lawsuit]* (Tokyo: Kodansha, 2003), 21.

⁷ Whole blood is used for transfusion, but components of blood have been used to produce drugs to stop bleeding or to treat bleeding disorders. Called clotting factor or blood products, such drugs were first mass produced by U.S. and European drug companies, which relied on plasma collected from populations with high rates of diseases like HIV and HCV. Signs of contamination in whole blood and blood products were not new in the 1980s. For instance, U.S. Ambassador Edwin O. Reischauer contracted hepatitis while being treated for a non-fatal knife wound in Japan in 1964, spurring the Japanese government to clean up its blood supply. Before that reform, post-transfusion hepatitis infection rates were 50.9 percent, so many of today's older generations have some form of hepatitis. Moreover, the common practice of inoculating many individuals with the same needle contributed to the spread of HCV and other forms of hepatitis. Although the Japanese government decreed in 1964 that all whole blood should be donated and not commercially purchased, it made no such stipulation about the raw blood used to produce clotting factor domestically. As a result, hemophilia patients and other people who received clotting factor in Japan were particularly at risk for contracting HIV and/ or HCV from these blood products until the pharmaceutical companies started using virus inactivation techniques such as heat-treatment in the late-1980s. U.S. and European drug makers implemented effective virus inactivation techniques several years prior to when Japanese drug companies did. Douglas Starr, *Blood: An Epic History of Medicine and Commerce* (New York: Alfred A. Knopf, 1998).

⁸ John Creighton Campbell and Ethan E. Scheiner, "Fragmentation and Power: Reconceptualizing Policy Making under Japan's 1955 System," *Japanese Journal of Political Science* 9, no. 01 (2008): 89–113.

⁹ Japanese some medical experts and officials had long known that leprosy was not infectious enough to merit forced isolation. For instance, when the Imperial Diet first debated how to deal with Hansen's disease in 1899, it did not include leprosy under the extant Infectious Disease Prevention Law, which applied to other more acutely infectious diseases. Dr. Ogasawara Noboru, a leprosy specialist, asserted in 1931 that the disease was *not* highly contagious but he was denounced as a national traitor at the 1941 Japanese Leprosy Association (JLA) convention. Otani Fujio, the former MHW official who orchestrated the LPL's abolition in 1996, proudly reminded me that he was an erstwhile student of Dr. Ogasawara. Interview with Otani Fujio, former MHW bureaucrat, Tokyo (June 18, 2009).

¹⁰ Leprosy is a chronic illness caused by the bacterium *Mycobacterium leprae*, discovered in 1873 by the Norwegian doctor G.H. Armauer Hansen. Leprosy is therefore also called Hansen's disease. It is not very contagious. Persons affected by the disease and not treated can lose sensation in their extremities or develop physical handicaps, including blindness. It affects men roughly twice as often as it does women. Leprosy has been treatable since the early 1940s with sulfone drugs, such as promin and dapsone, which is why the WHO recommended an end to isolation policies in 1960. Since 1981 an effective multi-drug therapy (MDT) has been used worldwide. Leprosy has

institutionalized in a leprosarium, the 1916 Leprosy Prevention Act and then the Leprosy Prevention Law (LPL) of 1953 legalized compulsory vasectomies and abortions, the punishment of patients without a proper trial, and forced labor.¹¹ The LPL also included no details on discharge procedures or outpatient treatment.¹² The numbers of Japanese affected by Hansen's disease decreased during the twentieth century from a peak of 30,000 in 1900 to just 5,413 in 1996.¹³ This was due to advances in treatment, hygiene, and natural aging rather than the effectiveness of the government's leprosy control policy. Nonetheless, the Japanese government retained its anachronistic and harmful leprosy control policies until 1996.

Similarly, entrenched relations among policymakers and experts help explain why Japanese doctors continued to widely prescribe fibrinogen, a clotting factor which also remained approved by the MHW, until June 1988. This was fully *ten years after* the American FDA canceled the distribution of Japanese-made fibrinogen because it was deemed ineffective and contaminated with hepatitis.¹⁴ In contrast to the quicker responses of other countries' drug regulators, the Japanese government's sluggish reaction to indications of a blood-borne epidemic created an unusually large population—an estimated 10,000, most of whom are women—infected with hepatitis C from fibrinogen and other blood products often used in the 1970s and 1980s to stop bleeding during labor or surgeries.¹⁵ When the MHW approved the Green Cross'

become curable with MDT. Poorer countries, however, still have had higher rates of leprosy due to lack of sanitation and health care. Worldwide, about six million people are affected by Hansen's disease.

¹¹ Officially, the Eugenic Protection Law (*Yusei Hogo Hou*) of 1948 legalized "voluntary" vasectomies and abortions for leprosy patients. "Verification Committee Concerning Hansen's Disease Problem (final report, summary version)" (Japan Law Foundation, March 2005), 37, 66, <http://www.mhlw.go.jp/english/policy/health/01/pdf/01.pdf> (accessed May 5, 2007). On the absence of due process in the leprosaria, consider, for instance, the case of Fujimoto Matsuo, who was executed in 1962 for attempting to murder a leprosarium official despite the fact that appeals and retrial requests were still pending at the time of his execution.

¹² Although some cured patients were released in an ad hoc fashion after 1953, the number of discharges declined after 1960 as the "thick wall" of social prejudice became more and more feared. The number of persons discharged from the leprosaria fell from a peak of 216 in 1960 to just 47 by 1972. Fujio Otani, *The Walls Crumble: The Emancipation of Persons Affected by Hansen's Disease in Japan* (English trans. of Japanese 1996 edition) (Tokyo: Toufu Kyoukai, 1998), 140. See also "Verification Committee Report," 46.

¹³ Japanese law required doctors to report all cases of leprosy to the health authorities. According to MHW records, some patients minimally affected by the disease lived outside the leprosaria, even under the LPL. Their numbers declined from 1,112 (1955) to 658 (1994). Federation of National Leprosarium Patients, *Zenkankyou Undoushi: Hansenshibyou Kanja no Tatakai no Kiroku [The History of the National Patients' Federation Movement: the Record of Hansen's Disease Patients' Battle]* (Tokyo: Ikkousha, 1977), 191. "Hansenbyou no Rinkushuu [Collection of Hansen's Disease Links], Data," n.d., <http://www.eonet.ne.jp/~libell/14data.htm>. (accessed April 1, 2010).

¹⁴ At the time, HCV had not yet been discovered but the FDA report cited hepatitis B and non-A, non-B hepatitis. NA-NB hepatitis was renamed hepatitis C when HCV was discovered in 1989. Hepatitis A, B, and C are the most common types, and hepatitis D, E, and G are rare. Hepatitis A is often called "infectious hepatitis" because it is acquired from contaminated food, bad hygiene, etc. The immune system usually tackles hepatitis A infections, which never turn chronic. Hepatitis B (HBV) is transmitted through secretions and blood. Infection can lead to acute illness and occasionally chronic illness, as well as liver failure. Vaccines exist for hepatitis A and hepatitis B, and liver cancer rates worldwide have dropped since the HBV vaccine became available in 1990. Although the U.S. FDA withdrew approval for Green Cross fibrinogen in 1977, the Green Cross continued to distribute the suspect fibrinogen in Japan and failed to voluntarily notify the MHW of the FDA's withdrawal of approval until 1984. The Green Cross, Japan's primary producer of plasma derivatives including fibrinogen, split into Mitsubishi Pharma and Benesis after the HIV scandal involving a different Green Cross clotting factor for hemophilia patients.

¹⁵ "Kanen taisaku ni kansuru yushikisha kaigi houkokusho [Report of the Expert Panel on Hepatitis Measures]," March 30, 2001, <http://www.mhlw.go.jp/houdou/0104/h0409-1.html>. (accessed March 30, 2010).

fibrinogen anew in 1985, the MHW was essentially shielding the Japanese firm from foreign competition, which had already deployed effective virus inactivation techniques. In addition, in re-evaluating fibrinogen, the MHW gave precedence to the opinions of obstetricians (who widely prescribed fibrinogen) over opinions from other medical specialists, such as hematologists or epidemiologists.¹⁶ In January 1987, the MHW received a report that eight women administered fibrinogen in Aomori prefecture had been infected with hepatitis.¹⁷ The regulators at the MHW recommended that fibrinogen should be used sparingly in June 1987, but the obstetrics and gynecological professional associations protested the recommendation and won.¹⁸ Not until June 1988 did the MHW order a blanket recall of fibrinogen due to HCV contamination.

Such medically unjustifiable and sluggish decision-making by the Japanese government created numerous victims. Not only did persons affected by Hansen's disease have to deal with the medical challenges that the disease entailed, but their fundamental human rights were also grossly violated by the state. The Japanese citizens who contracted hepatitis C faced not only a debilitating chronic disease that was costly and difficult to treat, but they also came to realize that their infections could have been prevented if the government had responded appropriately to evidence of contamination in their blood products. These instances of victimization constitute just some of the repercussions of Japan's focus on economic development in the postwar period.

The Political and Historical Context of Each Redress Movement

By the early-1990s, the insularity of decision-making in general grew unsustainable as the costs of Japan's modernization policies became increasingly evident. After Japan's economic bubble burst and the political elite failed to restart the economy despite painful reform attempts throughout the 1990s, unemployment and homelessness rose, the suicide rate increased, and financial insecurity broke families apart.¹⁹ In fact, the economic crisis undermined the dominant myth of a "family nation," with competent bureaucrats guiding growing firms that employed Japanese men who presided over the traditional nuclear family.²⁰ Public trust in the long-dominant LDP certainly dimmed as the Recruit scandal (1988-89) and Sagawa Kyūbin scandal (1993) revealed the deep roots of money politics in Japan. Thus, when the politician Ozawa Ichiro defected from the LDP with a group of colleagues just before the July 1993 elections, Japan received its first non-LDP government in 38 years.²¹ The chastised LDP managed to regain power only by forming a coalition with the socialists in 1994. Thereafter, the massive Hanshin

¹⁶ Hideo Yasunaga, "Risk of Authoritarianism: Fibrinogen-Transmitted Hepatitis C in Japan," *The Lancet* 370, no. 9604 (12, 2007): 2066.

¹⁷ The *Yomiuri Shimbun* reported these infections on April 19, 1987 and the regional *Daily Touhoku* reported the doctor's suspicions that there might be many more HCV infections on April 19, 1987. The doctor had experience researching hepatitis, so he was aware of the disease. He also secretly hid several bottles of the drug produced from the same lot in spite of the Green Cross' recall. Since the Green Cross destroyed all recalled bottles, this doctor's preserved bottles would become scientific evidence that fibrinogen was tainted with HCV some fifteen years later. Michihiko Iwasawa, *Yakugai C gata Kanen Onnatachi no Tatakai [The Battle of the Women Victims of Drug-Related Hepatitis C]* (Tokyo: Shogakukan, 2008), 76-83.

¹⁸ See Yasunaga, "Risk of Authoritarianism," 2064.

¹⁹ Jeff Kingston, *Japan's Quiet Transformation* (London: Routledge, 2004), chap. 1.

²⁰ William W. Kelly and Merry I. White, "Students, Slackers, Singles, Seniors, and Strangers: Transforming a Family-Nation," in *Beyond Japan: the Dynamics of East Asian Regionalism*, ed. Peter J. Katzenstein and Takashi Shiraishi (Ithaca: Cornell University Press, 2006). Peter J. Katzenstein and Takashi Shiraishi, *Beyond Japan: the Dynamics of East Asian Regionalism* (Ithaca: Cornell University Press, 2006), chap. 3.

²¹ T. J. Pempel, *Regime Shift: Comparative Dynamics of the Japanese Political Economy* (Ithaca: Cornell University Press, 1998).

Earthquake in Kobe in 1995 toppled the buildings and roads that had symbolized economic growth and proved that the government was unable to respond rapidly in an emergency. Just two months later, the authorities failed to prevent a fatal sarin gas attack on the Tokyo subway by the cult, *Aum Shinrikyō*.²² By the mid-1990s, these crises had both revealed the costs of *status quo* politics and had rendered the ruling coalition vulnerable.

The HIV-tainted blood scandal particularly contributed to this elite instability and became an important precedent for the subsequent Hansen's disease and hepatitis C movements. Nearly half of Japan's hemophilia patients had been infected with HIV through tainted blood products in the 1980s.²³ The prospect of an AIDS Prevention Law in 1988 sparked collective action among Japanese with hemophilia, who felt that the law unfairly discriminated against them by profiling them as dangers to society.²⁴ Shima Hiroshi, who would later become one of the first people with leprosy to sue the state, wrote a letter to an organization of hemophilia patients in 1988, concurring that the AIDS Prevention Law bore an alarming resemblance to the Leprosy Prevention Law. Few ordinary Japanese even knew about Hansen's disease, but since an "AIDS Panic" engulfed Japan, the bill passed. Outraged, the hemophilia patients infected with HIV filed lawsuits against the government and five pharmaceutical companies in 1989. As the LDP fell from power for the first time in 1993, the tainted blood controversy exploded as a social issue. Settlement negotiations to end the HIV lawsuits began in late 1995. In March 1996, the Health Minister Kan Naoto produced files that proved the embarrassing failure of the MHW to prevent the HIV epidemic among Japan's hemophilia population.

Evidence of the state's inhumane treatment of Hansen's disease patients and of various other drug-related disasters had surfaced periodically in previous decades, but the political establishment had suppressed or settled these issues before they could truly threaten the *status quo*.²⁵ Earlier victims of state policies had lacked the financial, organizational, and political resources, as well as a window of opportunity to hold the MHW and the government accountable. Riding on the coat-tails of the massive HIV-tainted blood scandal in the mid-1990s, however, the Hansen's disease and hepatitis C victims managed to add two more shocking revelations of ill-conceived and negligent policies developed by bureaucrats in the MHLW. These revelations have repeatedly shaken public trust in the bureaucracy from 1996 to today. According to a 2009 survey, 78 percent of ordinary Japanese said they could not trust the MHLW.²⁶

Initially, however, neither the Hansen's disease sufferers nor the hepatitis C victims garnered much public attention. They began their campaigns for recompense from positions of

²² David R. Leheny, *Think Global, Fear Local* (Ithaca: Cornell University Press, 2006), chap. 2.

²³ In addition, 41 percent of all Japanese hemophilia sufferers (and 87 percent of the living HIV-positive hemophilia patients) contracted HCV when treating their bleeding disorders. HIV and hepatitis C left its mark on hemophilia communities in most advanced industrialized countries which used clotting factor produced before virus-inactivation techniques were developed in the mid- to late-1980s. "Ketsueki Gyouko Ijoubyou Zenkoku Chousa [National Coagulation Disorders Survey], 2008 Report" (Zaidan Houjin Eizu Yobou Zaidan [AIDS Prevention Foundation], n.d.), http://api-net.jfap.or.jp/siryou/h20_research/h20_research.pdf. " (accessed March 12, 2010).

²⁴ Eric A. Feldman, *The Ritual of Rights in Japan: Law, Society, and Health Policy* (Cambridge: Cambridge University Press, 2000).

²⁵ SMON (a disease caused by an anti-diarrhea drug) and thalidomide were earlier instances in which the MHW failed to trace the cause of a drug-induced disaster and respond appropriately.

²⁶ For comparison, 84 percent said they could not trust political parties or politicians. Only 53 percent, however, said they could not trust drug and medical device companies. Trust levels for patient associations were quite high at 68 percent. N = 1016 "Nihon no Iryou ni Kansuru 2009nen Yoron Chousa [The 2009 Public Opinion Survey on Japanese Medicine]" (Japan Health Policy Institute, January 2009), 1, http://www.healthpolicy-institute.org/handout/2009-10-02_45_524645.pdf, (accessed March 30, 2010).

weakness as outsiders in both Japanese society and politics. The Leprosy Prevention Law (repealed in 1996) had rendered those affected by Hansen's disease essentially non-persons to society for most of the 20th century.²⁷ Fear of damaging the reputation of one's family was one of the primary reasons cited for not becoming a plaintiff in the lawsuits against the state.²⁸ Similarly, most of the hepatitis C victims had concealed their disease from their families, employers, and society.²⁹ The media and the public had paid little attention to either issue.³⁰

ACHIEVING INITIAL RECOGNITION OF THE HANSEN'S DISEASE AND HCV PROBLEMS

In their initial mobilization, the Hansen's disease and HCV victims had to overcome significant hurdles to collective action and highly closed policy-making environments. The government's eventual recognition of each problem galvanized some brave victims from each community into action. The Hansen's disease case demonstrates the importance of building unity of purpose among the victims in order to amass public support. The HCV victims' emphasis on the fact that any ordinary Japanese could have contracted HCV due to the government's negligence serves as a particularly potent example of how to spark public interest in one's redress movement. In this section, I describe the victimization and power dynamics in each issue area to illustrate how the government's initial recognition of each problem opened a window of opportunity for the victims.

Hansen's Disease—The redress movement for Hansen's disease victims in Japan could never have occurred if the Leprosy Prevention Law (LPL) had not been abolished in 1996, but one victim's letter actually sparked the redress movement. Shima Hiroshi, a resident of a leprosarium in Kumamoto, wrote a letter to the Kyushu Bar Association in September 1995 detailing the state's inhuman treatment of Hansen's disease sufferers under the LPL.³¹ Though discussions to abolish the LPL were already underway, he condemned the legal establishment's ignorance of such widespread state-sanctioned human rights abuses. Pointedly, he asked, "are leprosaria a place where the Japanese constitution does not apply, or are persons affected by Hansen's disease not human?"³² Shima's original framing of the government's leprosy control policies as violations of the Japanese constitution would help break open the insulated decision-making patterns that had harmed so many people affected by Hansen's disease over the years.

²⁷ Before the Meiji era most leprosy patients lived at home and the burden of care fell on families; those patients who lacked families suffered lives as outcasts in society, below even the *burakumin* caste. The predecessor to the LPL, Law No. 11 of 1907, was designed to safeguard communities from this "floating leper" population. This law stated that whenever possible leprosy patients should be cared for at home. Heavily influenced by Dr. Mitsuda Kensuke, who was Japan's premier leprosy specialist, prewar leprosy control policies shifted toward forced institutionalization, forced vasectomies and abortions, "Leprosy Free Prefecture" campaigns after 1929, special confinement cells for punishment after 1938, and the suppression of patients' committees during wartime.

²⁸ Yasushi Shimura, *Watashi no Tomurai Gassen [My Avenging Battle]* (Kumamoto, 1999), 53. Association to Support the Hansen's Disease Lawsuit, ed., *Hansen Byō Mondai Koremade to Korekara [The Hansen's Disease Problem: Up to Now and from Now On]* (Tokyo: Nihon Hyōron Sha, 2002).

²⁹ For example, one plaintiff's mother did not tell her son's grandparents. Interview with mother of plaintiff No. 19, Tokyo (June 9, 2009). Another victim did not tell her boss at the supermarket where she worked for fear that he would fire her. Interview with Asakura Mitsuko, hepatitis C plaintiff, Tokyo (May 21, 2009).

³⁰ For a self-critical examination of the widespread lack of media coverage of Hansen's disease, see Inoue Keiko, director, "Kūhaku—Jukkai to Hansen Byou Houdou [A blank space—reminiscences about Hansen's disease related reporting]," Kumamoto Broadcasting Company (RKK) (Dec. 15, 2001).

³¹ As an author, Shima had deeply criticized the LPL. At one point, his leprosarium director banned Shima's books.

³² Hansen's Disease Lawyers' Association, *Hirakareta Tobira [The Opened Door]*, 26.

The Leprosy Prevention Law of 1953 had been the basis for all decisions related to Hansen's disease policy in Japan. Officials at the MHW and policy-makers conceived of leprosy primarily as an infectious disease that endangered society. As a result, officials relied heavily on the doctors' Japan Leprology Association (JLA) and leprosarium directors for medical advice.³³ Both groups had vested interests in maintaining and enlarging the leprosarium system in Japan. Forced to enter the leprosaria, persons with Hansen's disease came to depend on the state for housing, basic living needs, and all medical care.³⁴ Such dependency gradually tamed the Federation of National Leprosarium Patients (FNLP), which had formed in order to protest the proposed new LPL in 1951 to 1953. After the FNLP agreed to work with the state as the legitimate voice of the Hansen's disease community, the FNLP successfully negotiated for significant improvements in the medical care and living conditions within the leprosaria, even though the FNLP continued to periodically adopt adversarial stances toward the authorities.³⁵ Such access, however, came at the cost of the FNLP's independence.

One of the biggest challenges for those victims who wanted to seek redress from the state, therefore, was breaking free from the closed decision-making structures and dependency on the state that had prolonged their victimization and their inability to claim their rights as citizens. Finally, in April 1991, the FNLP filed a petition with the MHW, calling for the revision of the LPL. They were bolstered by the congruent opinions Otani Fujio, the retired former director general of the Health Services Bureau of the MHW with longtime experience on Hansen's disease policy, and the JLA in 1994.³⁶ In response, the LPL was officially abolished on March 27, 1996. Many patients were relieved that the government would continue to provide for their medical and living needs in spite of the abolition of the LPL. Others had hoped that the state would publicly admit that it had violated the human rights of persons affected by Hansen's disease in order to prevent such abuse from recurring and to help them rejoin society.

³³ At the MHW (later the MHLW), the Tuberculosis and Adult Diseases Division (later the Tuberculosis and Infectious Diseases Control Division) in the Health Services Bureau supervised and coordinated all leprosy policy. The National Hospitals and Sanatoria Division worked alongside to manage the leprosaria facilities, medical staff, and budgets. Hajime Sato and Minoru Narita, "Politics of Leprosy Segregation in Japan: the Emergence, Transformation and Abolition of the Patient Segregation Policy," *Social Science & Medicine* 56, no. 12 (2003): 2529–2539.

³⁴ Doctors with any knowledge of leprosy were extremely rare outside of the leprosarium system throughout the postwar period because the LPL served to ghettoize both leprosy patients and caregivers. The availability of medical care *outside* the leprosaria continues to be a concern for persons affected by Hansen's disease, even though they can freely come and go from the leprosaria. Interview with Naka Shūichi, person affected by Hansen's disease, Kumamoto (May 15, 2009). See also Otani, *The Walls Crumble*, 145–146.

³⁵ After the FNLP failed to prevent the passage of the LPL in 1953, the Federation's next campaign for more relaxed leprosy control policies occurred in 1961, when the U.S. authorities revised Okinawa's leprosy laws in accordance with the WHO's recommendation for out-patient treatment. The number of people treated as out-patients rose from 80 to 1,035 in Okinawa from 1954 to 1971 while the out-patient figure fell from 1,456 to 599 in Japan. In 1953 and thereafter, the FNLP cited human rights and scientific opinion to justify their demands for a revision of the LPL. However, growing fear of societal prejudice and economic hardship among leprosarium residents diminished support for an abolition of the LPL. Furthermore, the authorities relaxed their enforcement of the LPL from the late 1970s onward. "Verification Committee Report," 47. Otani, *The Walls Crumble*, 2.

³⁶ The JLA publicly called for the abolition of the LPL for the first time. The JLA statement reads: "any and all justifications for the current law have been lost, and therefore... from a medical perspective, [it] should be repealed... The reason why the JLA has not taken a lead in the efforts to have the LPL repealed and has failed to admit to the errors of the policies regarding Hansen's disease lies in the fact that the Association's core consisted of those involved in the leprosaria... The Association deeply regrets that it has ignored the realities and permitted the existence of the LPL for so long." Cited in Kitano, "The Price of Isolation." See also Otani, *The Walls Crumble*, 4.

Despite such divided opinions among victims, the abolition of the LPL in 1996—the same year that hemophilia patients were compensated for having contracted HIV from tainted blood products—showed that the government recognized the problem with its leprosy control policies. The abolition of the LPL therefore opened an important window of opportunity for Hansen’s disease patient activism. On the one hand, the FNLP had secretly agreed in negotiations about the abolition of the LPL not to sue the government in order to ensure that the state would continue to provide for the roughly 5,000 persons affected by leprosy.³⁷ On the other hand, a group of lawyers in Kyushu, spurred to action by Shima’s letter, were preparing a case against the Japanese government. These lawyers had uncovered evidence of gross human rights violations in a survey they conducted of 1,391 leprosarium residents. A bold but wary group of 13 plaintiffs filed the first collective Hansen’s disease lawsuit against the Japanese government in the Kumamoto District Court on July 31, 1998. In deference to its member’s divergent opinions, however, the FNLP adopted a position of *seikan* (watchful waiting) toward the impending lawsuits.³⁸ The key challenges thereafter were to increase the number of plaintiffs and mobilize supporters, in order to expand the scope of the conflict.

Hepatitis C-Tainted Blood Products—Separate new information emerged in 2002, from an internal inquiry at the MHLW, investigative journalism, and a group of lawyers’ research, to make drug-induced HCV a social issue. Hepatitis is common in Japan. Roughly 3.5 million Japanese are infected with some form of hepatitis, and of those, approximately 885,000 have hepatitis C.³⁹ Of these, an estimated 10,000 people contracted HCV through tainted blood products. Many of these people with HCV had little idea of how they contracted the disease until media coverage forced the MHLW to publicize its internal investigations. As with Hansen’s disease policy, a small group of officials, doctors, and drug makers had steered decisions regarding the approval of pharmaceuticals such as plasma derivatives. The eruption of the drug-induced HIV scandal in the mid-1990s, however, had put the MHW and drug makers on the defensive. As a result, the health authorities did begin to assess the damage by quietly requesting individuals to come in for HIV testing if they had received clotting factor in surgery or labor.⁴⁰ In March 2001, the MHLW advertised the names of 803 hospitals and clinics that had used non-heat-treated blood products between 1972 and 1988 so that patients could voluntarily receive hepatitis C testing, although the government did not pay for the tests.⁴¹

Evidence that the government and drug makers had covered up the extent of the blood-borne HCV infections, however, meant that the government could easily sweep aside this issue. *News Japan*, the late-night news program on Fuji TV, had been running an unprecedented series entitled “Investigating Hepatitis C” since April 2001 and received hundreds of calls and letters

³⁷ Interview with Yahiro Mitsuhide, lawyer, Fukuoka (May 12, 2009).

³⁸ Interview with Yasuhara Yukihiko, lawyer, Tokyo (May 7, 2009). Federation of National Leprosarium Patients, *Fukken e no Nichigestu [The Years to the Restoration of our Rights]* (Tokyo: Kouyou, 2001), 133.

³⁹ The five forms of the hepatitis virus are only related by the fact that they all cause inflammation of the liver.

⁴⁰ The Diet member with hemophilia, Ienishi Satoru (DPJ), formally submitted questions to the government on Nov. 17, 2000 about the fact that the MHW survey on the “4th route” HIV infections (not through sexual contact) only included tests for HIV. Diet member Ienishi called this a “grave omission” because the government knew about HCV infections through blood products. One mother I interviewed recalled taking her son to be tested for HIV and HCV in 1996, but she was not told why. Interview with the mother of plaintiff no. 19, Tokyo (June 9, 2009).

⁴¹ Iwasawa, *Onnatachi no Tatakai*, 47.

from viewers asking for more information about their HCV infections.⁴² On March 18, 2002 *News Japan* broke the story that their tests on preserved bottles from 1987 of the coagulant fibrinogen had been found to be tainted with HCV.⁴³ The next day, the *Yomiuri Shimbun* revealed that in 1977 the U.S. FDA had withdrawn approval for the hepatitis-tainted fibrinogen, which the Japanese MHW continued to approve until 1988.⁴⁴ The health minister hurriedly admitted that the state's regulators had been lax in their oversight of blood products in the 1980s and that an inquiry into the issue would ensue.

The MHLW inquiry resulted in an evasive report released in late August 2002 stating that the authorities' response had been insufficient but that the MHW could not be held responsible for the infections.⁴⁵ At the same time, a group of lawyers from the HIV lawsuits had been considering a lawsuit against the state for failing to protect Japanese citizens from blood products suspected to have been tainted with HCV.⁴⁶ Concerned about cost of hepatitis treatments, the Japanese Federation of Liver Disease Patient Associations (*Nikkankyō*) had urged this group of lawyers to form the Drug-Induced Hepatitis Study Group in November 2000. Although they were reluctant to launch a legal battle, which would undoubtedly be protracted, against the health authorities, these lawyers did submit a written demand for reduced hepatitis treatment costs and an inquiry into drug-induced HCV infections to the MHW in late 2000. Thus, as the Fuji TV investigative reporting team and a few other isolated reporters continued to cover the hepatitis C issue in depth, the team of lawyers prepared for litigation against the government and drug companies after the government's evasive report was released.

The estimated 10,000 HCV victims, most of whom had no idea why they had HCV until 2002, lived scattered around Japan and therefore could not organize on their own. Instead, the lawyers advertised free victim-consultations in many media outlets, ultimately leading to two initial lawsuits filed by 16 plaintiffs in the Tokyo and Osaka district courts on October 21, 2002. As the hemophilia patients with HIV had before them, all of these first victims sued anonymously for fear of the social stigma of their disease. The lawyers who mobilized them brought extensive experience with lobbying and public relations from the drug-induced HIV days and thereby greatly facilitated the victims' campaign for recompense for their HCV infections. The MHLW's internal report on HCV indicated that the government recognized the problem, but the ministry's evasion of responsibility catalyzed the legal community to launch the HCV victim movement, which would remind many of the HIV scandal of the previous decade.

CONFLICT EXPANSION AND STATE RESPONSIVENESS

As posited in the introduction of this project, bottom-up conflict expansion tends to produce the most extensive responsiveness from the state. I argue that this is because victim

⁴² Iwasawa Michihiko and a team of Fuji TV reporters produced this series. It was launched because a freelance non-fiction writer, himself infected with hepatitis, had started investigating HCV infections in Japan. He concluded that the state was at fault and should pay for the treatment for those infected. *Ibid.*, 60.

⁴³ The doctor in Aomori prefecture who had secretly hid several bottles of fibrinogen produced from the same lot gave Iwasawa and his team several bottles of the drug. The *News Japan* team then had PCR analysis done to confirm that they were tainted with HCV. This was the first actual proof of the route of infections. *Ibid.*, 76-83.

⁴⁴ *Yomiuri Shimbun* (March 21, 2002).

⁴⁵ MHLW, "Fibrinogen Seizai ni yoru C-gata Kanen Virus Kansen ni kansuru Chousa Houkokusho [Report on the Investigation into Hepatitis C Infections from the Product Fibrinogen]," n.d., <http://www.mhlw.go.jp/houdou/2002/08/h0829-3.html>. (accessed April 2, 2010).

⁴⁶ *Nikkankyō* is an abbreviation of *Nihon Kanzoubyō Kanja Dantai Kyōgikai* and the Study Group's Japanese name is *Yakugai Kanen Kenkyūkai*.

groups mobilize public opinion, which in turn catalyzes politicians to engineer redress packages and pressure the bureaucracy and cabinet to apologize. This section traces how the Hansen's disease and HCV conflicts expanded over the course of the victims' litigation against the state. The number of victims participating, attendance at rallies or protest events, media coverage, signature petition drive figures, and supporter group activism together serve as indicators of the bottom-up mode of conflict expansion. I demonstrate that lawsuits are useful for 1) elucidating evidence of victimization and state denials, 2) mobilizing fellow victims, 3) turning a discrete grievance into a social issue, and 4) garnering publicity at key turning points in the courtroom. Lawsuits alone could permit the state to manage and minimize a conflict, as the HCV case shows at certain points. But victims' use of the judicial and the political routes in parallel ensured that public concern for their conflicts spread and put pressure on the government.

In this section, as I trace conflict expansion across five key stages in each movement, I examine how public interest in the Hansen's disease and hepatitis C issues grew and attracted politicians. Moreover, the HCV and Hansen's disease movements illustrate how the homogeneity of media coverage and consumption, as well as the small and local nature of most non-victim activist groups in Japan, facilitated these victims' bottom-up conflict expansion efforts. The final section of this chapter analyzes how the combination of broad-based public attention to these issues and the actions of key politician allies ultimately compelled the state to respond to victim groups' demands for redress in full.

Tactics and the Expansion of the Hansen's Disease Issue

Once the original 13 plaintiffs filed complaints against the state in Kumamoto, the difficult struggle to hold the state accountable for the LPL began. The lawsuits proved crucial in defining the Hansen's disease issue as a social issue rather than a purely medical issue, in linking the victims' personal grievances up with universal principles, in eventually attracting publicity, and in fostering a novel representative organization without links to the state within the Hansen's disease community. This section details how litigation had these effects and how these dynamics helped the victims to expand the scope of their conflict. I will focus specifically on five critical periods of conflict expansion leading up to the state's response in May 2001. At each of these turning points, the involvement of the Hansen's disease community and public interest grew, each time making the Hansen's disease issue more and more difficult for the state to disregard.

For Shimura and his two fellow plaintiffs, stepping into the Kumamoto District Court on July 31, 1998 to file their lawsuit was the first time they had ever exercised their right to be in a court of law.⁴⁷ The legal goals of the plaintiffs' side were 1) to show that medical knowledge should have led the government to end its policy of isolating persons affected by Hansen's disease 36 years earlier, 2) to detail how much and what type of harm the government's policy caused to patients, and 3) to overcome the 20-year statute of limitations for claiming damages. As over 100 Kyushu lawyers prepared for the legal battle, they also worked to get supporters into the courtroom and to the rallies often held outside the court.⁴⁸ Many of the plaintiffs would speak of their victimization for the first time ever in that courtroom.⁴⁹

Shima first framed the government's leprosy control policies as violations of the patients' constitutional rights, but the lawyers involved bore most of the burden of mobilizing victims and

⁴⁷ Interview with Kunimune Naoko, lawyer, Kumamoto (May 15, 2009).

⁴⁸ Shimura, *Watashi no Tomurai Gassen [My Avenging Battle]*, 65.

⁴⁹ For descriptions of each plaintiff's testimony, see Hansen's Disease Lawyers' Association, *Hirakareta Tobira [The Opened Door]*, 132-191.

even strategizing throughout most of the litigation phase. Partially, this was because the deep organizational resources of the FNLP were unavailable. After each day in court, plaintiffs using their legal names held press conferences outside the Kumamoto courthouse. Instead of the national news media, local media and the local editions of Japan's major papers made up the bulk of such early media coverage. Originally interested in human rights and state accountability from the Minamata disease issue, a handful of small civil society groups and students at the University of Kumamoto supported the earliest plaintiffs.⁵⁰ Increasing the number of plaintiffs, however, proved extremely difficult because many leprosarium residents saw the lawsuit as biting the hand that fed and housed them—the state.⁵¹ In some leprosaria, the patients' associations under the FNLP barred lawyers from even entering some leprosaria.⁵² Organizationally, the small nascent groups of plaintiffs that organized to support one another remained distinct and even sometimes in conflict with the branches of the FNLP at each leprosarium since resistance to the lawsuits was strong.

Stage 1: The Sogano-Effect and the Tokyo Lawsuit—The first expansion in the victims' conflict with the state occurred in March 1999, when Sogano joined as a plaintiff in Kumamoto and a parallel lawsuit was filed in the Tokyo District Court.⁵³ Yahiro, a lawyer from Kyushu who had been involved since Shima's letter in 1995, made it his personal mission to convince Sogano to become a plaintiff and to launch a Hansen's disease lawsuit in Tokyo. Sogano Kazumi had been the president of the FNLP from 1983-1991, had traveled to all leprosaria to convince residents to support the abolition of the LPL, and was therefore a respected leader within the Hansen's disease community. From his home at the Oshima leprosarium, he watched the original 13 plaintiffs file in Kumamoto with ambivalence because he knew of the FNLP's tacit agreement not to sue the state after the LPL was abolished. Sogano only decided to become a plaintiff after he read how the government was evading responsibility in the Kumamoto courtroom. In fact, the government's statements so incensed Sogano that he convinced many previously hesitant victims to become plaintiffs with him.⁵⁴ Table 4.1 illustrates the dramatic increase in the number of plaintiffs in March 1999, thanks to Sogano who declared that he wanted to “augment the voice of those demanding that the state take responsibility.”⁵⁵

Yahiro believed that launching a lawsuit in Tokyo was essential if they wanted to affect the policy-making process and get full redress.⁵⁶ Only by taking the battle to Tokyo could the Hansen's disease movement garner the attention of the national media, the bureaucracy, and the Diet. Thus, filing the lawsuit in Tokyo was a strategic decision, he said. The lawyers and plaintiffs recognized that obtaining a favorable verdict in the notoriously conservative Tokyo District Court was unlikely, but the key objective in Tokyo was to change policy rather than win a favorable verdict. The lawsuit in Tokyo would significantly help the victims launch the political portion of their movement. The judicial press club would certainly cover the Hansen's

⁵⁰ Interview with Komatsu Hiroshi, an professor and activist, University of Kumamoto (May 13, 2009).

⁵¹ Hansen's Disease Lawyers' Association, *Hirakareta Tobira [The Opened Door]*, 51 ff.

⁵² Interview with Kunimune Naoko, lawyer, Kumamoto (May 15, 2009). Interview with Itai Masaru, lawyer, Kumamoto (May 15, 2009).

⁵³ Interview with Yamamoto Shimpei, lawyer, Tokyo (Nov. 11, 2008).

⁵⁴ Yahiro personally gave Sogano a copy of the government's court statement denying responsibility for the anachronistic LPL, which incensed Sogano. Plus, Yahiro told Sogano that more plaintiffs would make a favorable ruling in Kumamoto more likely. Interview with Yahiro Mitsuhide, lawyer, Fukuoka (May 12, 2009).

⁵⁵ Federation of National Leprosarium Patients, *Fukken e no Nichigestu*, 137.

⁵⁶ Most of the information in this paragraph is based on my conversations with Yahiro. Interview with Yahiro Mitsuhide, lawyer, Fukuoka (May 12, 2009).

disease lawsuit in Tokyo, but one lawyer asked a reporter-friend at the *Mainichi Shimbun* to personally cover the start of the Tokyo lawsuit.⁵⁷ Kodama Yuji, one of the first Tokyo plaintiffs, had written in May 1996 that the Hansen’s disease community must “learn from the HIV case [and] demand a clear statement of the government’s responsibility.”⁵⁸ Toyota Makoto, a veteran lawyer for the weak who had been involved in the Minamata, SMON, and HIV cases, became the leader of the lawyers’ group in Tokyo. A third collective lawsuit was filed at the Okayama District Court by 11 Hansen’s disease victims from the leprosaria near Okayama in July 1999. As the litigation spread, the lawyers divided tasks amongst themselves, forming teams to manage interactions with the Diet and with the media.⁵⁹ Thus, the lawyers carefully orchestrated this initial phase of conflict expansion. Table 4.1 illustrates the expansion to Tokyo just three days before the “Sogano-effect” hit Kumamoto.

Table 4.1: Number of New Plaintiffs at each Stage of the Three Hansen’s Disease Lawsuits

Date Filed	Kumamoto District Court (number of new plaintiffs)	Date Filed	Tokyo District Court (number of new plaintiffs)	Date Filed	Okayama District Court (number of new plaintiffs)
7/31/1998	13	--	--	--	--
9/29/1998	18	--	--	--	--
12/8/1998	14	--	--	--	--
3/29/1999	82	3/26/1999	21	--	--
6/2/1999	20	7/12/1999	10	7/27/1999	11
8/26/1999	15	--	--	--	--
12/16/1999	82	11/15/1999	16	--	--
1/27/2000	37	2/10/2000	30	--	--
4/12/2000	110	4/13/2000	16	4/25/2000	11
6/9/2000	43	--	--	--	--
10/19/2000	14	8/31/2000	19	9/26/2000	9
2/14/2001	60	--	--	12/19/2000	5
3/14/2001	37	3/2/2001	14	3/30/2001	14
4/13/2001	17	--	--	--	--
5/10/2001	27	--	--	5/8/2001	16
5/21/2001	403	5/21/2001	300	5/21/2001	221
6/22/2001	203	6/12/2001	142	6/15/2001	64
--	--	6/28/2001	81	--	--
7/6/2001	83	7/17/2001	8	7/17/2001	9
--	--	7/24/2001	4	--	--
8/10/2001	23	--	--	--	--
Total	1,301		661		360

⁵⁷ Esashi had been at the Oita desk of the *Mainichi Shimbun* in the late 1980s, as the HIV litigation was getting started. The Oita lawyer, Tokuda, was a key lawyer on the HIV case. Tokuda had helped form the *Yakugai AIDS to Jinken wo Kangaeru Kai* [Association to Think about Drug-Induced AIDS and Human Rights] in Oita in about 1987. Then in 1999, a few months before the Tokyo Hansen’s disease lawsuit began, Tokuda contacted Esashi again. Interview with Esashi Masayoshi, *Mainichi Shimbun*, Tokyo (June 17, 2009).

⁵⁸ Interview with Yamamoto Shimpei, lawyer, Tokyo (Nov. 11, 2008); Hansen’s Disease Lawyers’ Association, *Hirakareta Tobira [The Opened Door]*, 31.

⁵⁹ Interview with Akyukyo Machiko, lawyer, Tokyo (May 30, 2008).

Stage 2: The Facts Emerge—November 1999 to April 2000 represents the second phase of conflict expansion in the Hansen’s disease conflict, and the participation of victims and the communities around the leprosaria grew. Justice stepped into a Japanese leprosarium for the first time in November 1999, when the three judges from the Kumamoto District Court went to the nearby leprosarium, as requested by the plaintiffs’ lawyers.⁶⁰ Especially after Dr. Otani shocked the Kumamoto court in August 1999 by declaring as the state’s witness that the LPL had been a “mistake,” news of the plaintiffs’ arguments and the state’s defense in court spread within the Hansen’s disease community. For example, the second major increase in the number of plaintiffs occurred after a Ryukyu University professor took his students to one of the leprosaria in Okinawa and had them explain the progress of the Kumamoto court thus far.⁶¹

The victims who had friends outside the leprosaria, or where energetic lawyers and human rights scholars were nearby developed more active support groups (*shien dantai*) early on.⁶² The public interest in Kumamoto and across Kyushu was high, obviously, but the northern leprosaria lacked both lawyers and supporters. For the Tokyo plaintiffs, personal friends formed supporter organizations and helped the victims overcome initial opposition within the leprosaria to their litigation. One of the main aims of filing another lawsuit in Okayama in July 1999 had been to mobilize local supporters because there were two island leprosaria in the area.⁶³ The plaintiffs’ groups and supporter groups in each locale had to rapidly learn public relations skills for press conferences and rallies and also how to best appeal to the public with stories from their own lives.⁶⁴ Most of these supporter groups consisted of 10 to 20 people at most and they never amassed into a national organization. The supporters handed out leaflets, organized events and symposia, and often just helped the elderly victims get to and from the courthouse. By December 2000, public interest and support had risen so much in Kumamoto that a rally to mark the end of the court’s hearings drew 1,000 people, a number that the lawyers thought impossible just two months earlier.⁶⁵ No longer were the lawyers leading the struggle. Hansen’s disease victims and supporters in the communities nearby had joined in to stoke the fires of the conflict. Extensive local media coverage of the Kumamoto trial and the beginning of a parallel lawsuit in the Tokyo District Court finally attracted the national mainstream media’s attention in Spring 2001.

Stage 3: The End of the Hearings in Kumamoto—The Hansen’s disease conflict reached the third stage of conflict expansion in the spring of 2001, as the Kumamoto hearings ended and the court moved toward a ruling. By that time, supporters and other people wanting a seat in any

⁶⁰ While showing them the unlabeled urns of patients’ cremated remains, Shimura related to the judges that Hansen’s disease victims could not return to their families, even after death. Eventually the judges from Kumamoto, Tokyo, and Okayama would visit all 13 national leprosaria, which was truly unprecedented. Hansen’s Disease Lawyers’ Association, *Hirakareta Tobira [The Opened Door]*, 16.

⁶¹ Sixty-four of the 82 who filed in Kumamoto in December 1999 and 107 of the 110 who filed in April 2000 were from Okinawa. By the end of April 2000, the three lawsuits included over 500 plaintiffs, which represented over 10 percent of the nation’s Hansen’s disease community. Reaching 10 percent had been a key target of the lawyers’ group. *Ibid.*, 69-72.

⁶² *Ibid.*, 95-104. See also Association to Support the Hansen’s Disease Lawsuit, *Hansen Byō Mondai Koremade to Korekara [The Hansen’s Disease Problem: Up to Now and from Now On]*.

⁶³ Hansen’s Disease Lawyers’ Association, *Hirakareta Tobira [The Opened Door]*, 87.

⁶⁴ In the early phases of litigation, many victims did not want their names or faces appearing in the media for fear of negative repercussion to or from family members. As the lawsuits and support for it grew, however, the victims’ own voices could come to the fore more. Interview with Kitano Ryuichi, *Asahi Shimbun*, Kumamoto (May 9, 2009)

⁶⁵ Interview with Kunimune Naoko, lawyer, Kumamoto (May 15, 2009), Hansen’s Disease Lawyers’ Association, *Hirakareta Tobira [The Opened Door]*, 256-259.

of the three courtrooms had to take turns because demand was so high. National-level plaintiffs and lawyers organizations really only became active in this stage, after which negotiations with the state seemed increasingly likely. Still, newsletters and other updates had circulated amongst all the local groups of plaintiffs, lawyers, and supporters previously. Lawyers also shared best-practices, evidence, and insights from their trials. With the conflict reaching a new phase, the lawyers from the three lawsuits met to plan how to achieve a comprehensive resolution to the Hansen's disease issue. At a retreat in January 2001, they decided to pursue a resolution through the Diet, formalizing and strengthening the plaintiffs' groups, attracting more media attention, and generally expanding the movement, but they did not even consider the possibility that the state would not appeal the Kumamoto ruling.⁶⁶ The lawyers' and victims' attempts to raise awareness among Diet members bore fruit when in April 2001 a group of 101 Diet members from all parties met to announce the new *Hansen Gikon*, spearheaded by DPJ Diet members.⁶⁷ Not only was the Diet responding, but the entire Hansen's disease community finally supported the lawsuits. The FNLP had adopted a position of "watchful waiting" and did not actually throw its weight into the fight until April 2001, when its members voted to "do everything possible to bring about a favorable ruling."⁶⁸

Stage 4: The Kumamoto District Court's Ruling—The Hansen's disease conflict expanded a fourth time when the Kumamoto District Court announced its historic ruling on May 11, 2001. The previous evening a Kumamoto rally, entitled "I want to return to my hometown," had drawn over 2,000 people. The following morning, the Court ruled that the MHW and the Diet were at fault for failing to ameliorate conditions of Hansen's disease victims by ending the state policies of isolation and stigmatization before 1996. The ruling called on the state to pay 1.82 billion yen (about \$20 million) in compensation to Hansen's disease sufferers. All media provided blanket coverage of the event. One victim revealed her given name for the first time in decades in front of television cameras.⁶⁹ As another victim noted:

"The most painful thing for me was that we couldn't have children. This was the crime of the government. That's why we wanted to fight and regain our human rights in court. When the Leprosy Prevention Law was abolished in 1996, nothing changed. No change in the community's attitude, no change in anything. The change [came] at the time of the Kumamoto District court case. The government apologized officially for their mistake, and it was only then when things started to move forward. ... Through this court case, we started to become different. We started to feel different. Each one of us started to recover our humanity. We started to change. People started to leave the leprosarium, people started to resume communication with their families, people started to go freely to the local health facilities. None of this was seen before the Kumamoto District lawsuit."⁷⁰

The Kumamoto ruling was the first ruling in Japanese history to hold the Diet responsible for a legislative omission. The Kumamoto ruling was unusually short, and within Yahiro's promise of three years—the court reached a ruling in just 2 years and 10 months. In response, the plaintiffs and lawyers submitted demands to the government for: 1) newspaper, radio, and TV

⁶⁶ *Ibid.*, 271.

⁶⁷ Called the Parliamentarian Group to Advance a Final Resolution to the Hansen's Disease Issue or *Hansenbyou Mondai no Saishuukaiketsu wo Susumeru Kokkai Giin Kondankai* or for short, *Hansen Gikon*.

⁶⁸ Interview with Yasuhara Yukihiro, lawyer, Tokyo (May 7, 2009). Interview with Ota Akira, person affected by Hansen's disease, Kumamoto (May 14, 2009).

⁶⁹ Hansen's Disease Lawyers' Association, *Hirakareta Tobira [The Opened Door]*, 293.

⁷⁰ Anwei Law, "Nishimura Tokio: Person Affected by Hansen's Disease, Oral History Excerpt (Translation by Nao Hoshino, Hiroe Soyagimi and Vivian Pang)," May 2003, <http://www.idealeprosydignity.org/OralHistoryWeb/Japan-Nishimura.html>. (Accessed Sept. 20, 2008).

ads publicizing the state's apology and measures to restore patients' honor, 2) pension provision for all Hansen's disease sufferers, 3) expansion of medical and nursing care at leprosaria, and institutionalized deliberations with the government.⁷¹

Stage 5: Preventing an Appeal—At this point, the main objective was to convince the state not to appeal the ruling but rather to begin settlement discussions for all former patients. This effort marked the peak of the victims' conflict expansion. After gathering in Tokyo to strategize two days after the Kumamoto ruling, the victims and supporters encouraged citizens from around the country to fax, mail, or email the government calling for no appeal. Groups of plaintiffs made the rounds to seek face-to-face interviews with politicians.⁷² Several plaintiffs appeared live on Chikuji Tetsuya's *News23*, which would have been unthinkable five years earlier.⁷³ Few people affected by Hansen's disease had been outside leprosaria walls in decades. Hence, their "coming out" to join the more activist original plaintiffs in a sit-in at the prime minister's residence drew much public attention. One victim even launched a hunger strike on May 11, which continued until Koizumi promised not to appeal the ruling.

Overall, the most effective conflict expansion tactic was to put the victims first. Victims developed confidence, had real names and faces that ordinary Japanese could relate to, and told their own pitiable stories to the public.⁷⁴ Initially, state officials pointed to technical problems in the court's ruling and led many to believe that the state would appeal the ruling on grounds of such "grave legal problems."⁷⁵ Yet, after two weeks of intense debate and concerted lobbying by the victims and lawyers, Koizumi decided *not* to appeal the Kumamoto ruling, partially for political reasons but also because the victims had such extensive public support. After examining conflict expansion in the HCV case, I will return to the Hansen's disease case for an explanation of how and when and why the state responded.

Tactics and the Expansion of the Hepatitis C Issue

On October 21, 2002, sixteen people infected with HCV filed lawsuits in Osaka and Tokyo, demanding compensation from the state and three drug companies. Thus began the difficult struggle to hold the state and drug companies responsible for their victimization. Their litigation helped to prove that the hepatitis C infections constituted preventable drug-induced damage (*yakugai*) that the state regulators could have curtailed, had they heeded international opinion and responded with greater alacrity.⁷⁶ This framing emphasized the state's negligence and the fact that the state seemed more interested in protecting drug makers than citizens. The lawsuits made hepatitis C a political issue.⁷⁷ The HCV victims used their litigation to appeal to universal principles, win public support, shed light on evidence of the government's negligence, and thereby expand the scope of their conflict in order to gain redress.

This section traces how the HCV victims accomplished bottom-up conflict expansion. I will focus on five important periods leading up to the state's capitulation in December 2007,

⁷¹ *Yomiuri Shimbun* (May 24, 2001).

⁷² Hansen's Disease Lawyers' Association, *Hirakareta Tobira [The Opened Door]*, 305.

⁷³ Interview with Kitano Ryuichi, *Asahi Shimbun*, Kumamoto (May 9, 2009).

⁷⁴ Interview with Itai Masaru, lawyer, Kumamoto (May 15, 2009).

⁷⁵ "Koizumi Apology."

⁷⁶ Katahira defines *yakugai* as "health damage caused by drugs on a social scale because the information to show their harmful effects is neglected or ignored (or, interrupted, concealed or distorted), in other words, an artificial, or a socially made, suffering which can be avoided from the first if no such an action is taken." Interview with Professor Katahira Kiyohiko of Toyo University, Tokyo (Sept. 30, 2008).

⁷⁷ Interview with Sakaguchi Chikara, former minister of health, labor, and welfare, Tokyo (July 9, 2009).

discussed in the next section. Similar to Hansen's disease, litigation served an important role in that process. In contrast to Hansen's disease, however, with the HCV issue the state had more opportunities to try to minimize or manage the conflict along the way. This reality proved frustrating to the victims and sometimes detrimental to public support. The state's blame had been clearer in the Hansen's disease case. Nevertheless, by December 2007 the government could no longer afford to ignore the HCV issue.

The victims, lawyers, and government interlocutors all learned from the preceding HIV and Hansen's disease conflicts over redress. For instance, the HIV lawsuit had pioneered the option of assigning numbers to plaintiffs to protect their identities, and the first HCV plaintiffs in Osaka and Tokyo opted to sue anonymously. Yet appealing to the public for sympathy requires personal testimonies of victimization, lawyers with experience in earlier victim movements told me.⁷⁸ The first HCV plaintiff to reveal her real name, Yamaguchi Michiko, researched the prior lawsuits related to HIV and other drug-induced disasters at her local library before deciding to file suit. Yamaguchi was wary of opening herself and her family up to the publicity of using her real name, but she came to feel that she was fighting for justice, not just for herself, and also for other victims and future generations of Japanese.⁷⁹ Additionally, the lawyers learned from prior redress movements how to coordinate arguments among the courtrooms around Japan. They set up text mailing-lists, established teams to manage interactions with the media and with politicians, and shared evidence used in court.⁸⁰ Meanwhile, the government also learned ways of limiting its legal responsibility, as seen by the frustratingly long court process in the HCV case. Particularly until Yamaguchi filed suit with her real name in April 2003, the government prevented the HCV conflict from posing any threat to the political establishment.

Stage 1: Real Names and Real People's Stories—Thus, the collective lawsuit filed by 19 victims in Fukuoka on April 18, 2003 marked the first meaningful expansion of the HCV conflict, albeit mostly a local expansion of interest in the issue. There were now 64 total plaintiffs nationwide. The lawyers, civil society groups, and scholars in Fukuoka were still flush from the Kumamoto victory in the Hansen's disease case the previous year. Students and various patient groups joined the initial plaintiffs on the day they filed their complaint and the local TV stations and newspapers covered the event. Yamaguchi Michiko's brave use of her real name inspired several other plaintiffs in Fukuoka to do so in 2004, and these women would become the core leaders of the victim movement. Having a plaintiff with a real name who could talk with the media and tell her own story proved immensely important in the HCV case, just as it had with Hansen's disease. Most of the real-name plaintiffs came from Kyushu, so public and media interest in the HCV lawsuits began to grow, starting in Fukuoka. In particular, Fukuda Eriko, a young and photogenic victim and one of these Fukuoka plaintiffs, would become one of the most recognizable faces of the movement after she revealed her real name.⁸¹ Due to the high-entry barriers to the national news and the lack of plaintiffs using their legal names in other parts of the country, however, press coverage of the HCV conflict was confined to Kyushu media outlets, just as it had been in the early stages of the Hansen's disease case.

The court process was arduous, and gave the state and drug makers many opportunities to capitalize on the power differential between the defendants and the plaintiffs. Generally, it is very difficult to prove bureaucratic negligence in court, unlike the clearer damage of roads or

⁷⁸ Interview with Itai Masaru, lawyer, Kumamoto (May 15, 2009).

⁷⁹ Interview with Yamaguchi Michiko, HCV plaintiff, Tokyo (June 16, 2009).

⁸⁰ Interview with Suzuki Toshihiro, lawyer, Tokyo (May 27, 2008).

⁸¹ She was elected to the Diet in August 2009 as a DPJ politician and part of the DPJ's landslide victory.

airports that displace local residents or the human rights violations in the Hansen's disease case.⁸² Moreover, since the government shared responsibility for the HCV infections with the drug makers, the government had more tools at its disposal to deflect blame. Consequently, the defendants (the government and drug companies) argued that 1) fibrinogen was effective as a drug, 2) the doctors who prescribed it were following standard medical practice at the time, and 3) when the drug was re-evaluated for approval by the MHW regulators there were no data that made them question the effectiveness of the drug. Therefore, they pleaded no fault. In addition, proving that any single plaintiff had received fibrinogen or another tainted coagulant proved exceedingly difficult, since the law only required medical clinics to keep patients' charts for five years. This meant that the victims' testimony constituted the primary form of evidence. The defendants resisted releasing data about which hospitals had prescribed fibrinogen, so the lawyers used the painstaking process of freedom of information requests to force the defendants to release information.⁸³ The plaintiffs' side also had trouble convincing doctors to testify on behalf of the victims.⁸⁴ To address such challenges, the lawyers from all five lawsuits shared research and evidence among themselves and sometimes even had the same witness go to multiple courts. Since coming by the evidence would be difficult, garnering public support to pressure the state would be an essential tactic for the HCV victims.

Stage 2: A National HCV Plaintiff Organization—Therefore, the HCV victims adopted a more deliberate approach to conflict expansion in May 2006, which marked a second turning point for the movement. In anticipation of a ruling from the Osaka court, plaintiffs from across Japan met in Tokyo to strategize. To elicit grass-roots support, they decided, the victims' voices had to come to the foreground. Moreover, the court battle could take years still, so they needed to adopt a political approach alongside the judicial one. Some of the Fukuoka plaintiffs, including Yamaguchi Michiko, who was elected leader of the national plaintiffs association, had studied previous medical disasters in Japan, such as the HIV case.⁸⁵ Diet members' understanding and support was crucial for a political resolution for redress and to ensure that their medical treatment costs would be covered by the state.⁸⁶ So when the Osaka ruling assigned blame to the state and pharmaceutical firms, but only for some of the victims and for a limited period of time, the plaintiffs were ready and protested in front of the MHLW in Tokyo. They still attracted relatively little public attention, however, as evidenced by their "cool reception" at their first press conference in the MHLW press club.⁸⁷ Yamaguchi realized then that she might be well-known in Fukuoka, but that their issue had not yet received sufficient coverage in Tokyo.⁸⁸ Despite the victims' efforts, the government appealed the Osaka ruling in June 2006. Outrage within the community made 31 additional victims sue the government in August 2006, bringing the total number of plaintiffs nationwide to 127.

Stage 3: Escalating the Political Battle and Bringing in the DPJ—By November 2006, the victims had developed more experience with conflict expansion tactics so that public and political attention to the HCV issue grew in this third stage. The Fukuoka court had issued a

⁸² Interview with Toyota Makoto, lawyer, Tokyo (July 1, 2009).

⁸³ Interview with Ayukyo Machiko, lawyer, Tokyo (May 30, 2008).

⁸⁴ The lawyers apparently contacted over 100 doctors before they found their first expert witness. Iwasawa, *Onnatachi no Tatakai*, 136.

⁸⁵ Interview with Yamaguchi Michiko, HCV plaintiff, Tokyo (June 16, 2009).

⁸⁶ Iwasawa, *Onnatachi no Tatakai*, 183.

⁸⁷ *Ibid.*, 185.

⁸⁸ Interview with Yamaguchi Michiko, HCV plaintiff, Tokyo (June 16, 2009).

ruling and assigned responsibility to the state for failing to act in 1980 upon the FDA's withdrawal of approval for fibrinogen. Although the ruling did not assign blame to the state for clotting factors other than fibrinogen, the ruling was more extensive than the Osaka ruling. Since the state appealed the Fukuoka ruling, too, the victims refocused their efforts on Tokyo. Ms. Fukuda found a particularly sympathetic ally in Yamanoi Kazunori, a DPJ Diet member and former nurse. He raised the hepatitis C issue in a Diet subcommittee in November 2006 and from then on gave the victims extensive support. At times his small Diet members' office would become a home-away-from-home for the plaintiffs.⁸⁹ Overall, the DPJ would become ardent supporters of the HCV victims, as part of the party's populist platform. Compared to the LDP, the DPJ had a large number of actual victims, lawyers, and others with victim movement experience in its ranks. "Team DPJ" provided significant support for the HCV victims.⁹⁰

One of the main tactics of the plaintiffs at this stage was to demand a meeting with the health minister. They were repeatedly rebuffed, because, ultimately, they were fighting the MHLW in courts around the country. The plaintiffs had not yet achieved momentum as the Hansen's disease movement had. Indeed, events outside their control removed the hepatitis C issue from the public's radar screen in early 2007. First, the health minister referred to women as "baby-making machines" and then the MHLW was accused of having misplaced 50 million pension records. These fiascoes distracted the media from the hepatitis C issue.

Stage 4: Protests and Publicity—Not all was lost, since the spring of 2007 would put the HCV redress movement back on track and substantially expand the victims' conflict. The March 2007 ruling from the Tokyo District Court assigned legal responsibility to the state for failing to prevent HCV infections through factor IX and used the politically charged word *yakugai* (drug-induced suffering) for the first time.⁹¹ The Tokyo ruling again limited the timeframe for which the state could be held responsible. When the health minister refused again to meet with plaintiffs, they escalated to hold a sit-in in Hibiya Park next to the MHLW. Fuji TV provided live coverage, some plaintiffs halted their daily treatments in protest, and several Diet members stopped by to see them, including Kawada Ryuhei, who had been the face of the HIV victims' movement. The second and third day of the sit-in attracted more political attention, especially from the opposition DPJ and Komeito, which was part of the ruling coalition.⁹² Then, after one of the plaintiffs died in April, the others staged a "die-in" to demand that the government provide comprehensive redress. In June over 400 plaintiffs, lawyers, and supporters gathered to march toward the prime minister's residence to demand a meeting with Prime Minister Abe. Though they did not achieve a meeting, HCV was mentioned in the prime minister's daily press conference that evening for the first time.

Events beyond the HCV issue once again foiled the victims' momentum. After more gaffes and disasters in his Cabinet, Abe's embattled government faced a historic defeat by the DPJ in the upper house of the Diet in July 2007. In addition, while the Nagoya court ruling that summer was the first *not* to draw distinctions among the victims, the Sendai ruling in September was the least favorable ruling yet for the victims. Plaintiff activism and support for the lawsuit

⁸⁹ Interview with Yamanoi Kazunori, DPJ Diet member, Tokyo (May 21, 2009).

⁹⁰ Interview with a DPJ staffer, Tokyo (May 23, 2008).

⁹¹ The Factor IX drug called Christmassin, which is what infected Fukuda Eriko and a small subset of other victims with HCV, is different from fibrinogen (factor I). Fibrinogen deficiency is most often acquired in cases of severe blood loss, including trauma or child birth. Factor IX deficiency is genetic causes hemophilia B in men, but the clotting factor is also sometimes prescribed to women to facilitate coagulation.

⁹² Iwasawa, *Onnatachi no Tatakai*, 211-217.

had been weakest in Sendai, which may have contributed to the unfavorable ruling.⁹³ The incensed plaintiffs staged another sit-in outside the MHLW to demand a meeting with the health minister but on the third day of the sit-in Prime Minister Abe suddenly resigned. This news dealt a severe blow to the victims, who felt that Abe had betrayed them.⁹⁴

With its newfound power, however, the DPJ proved excellent partners for the victim claimants. Indeed, the HCV victims also gave the DPJ a tremendous opportunity to distance itself from the LDP and define the DPJ as the party of the people. Alongside pension reform, the HCV issue was useful for the DPJ's efforts to reform the bureaucracy because the HCV issue so clearly illustrated the problems with the MHLW. Thus, the DPJ-led upper house proposed a HCV Assistance Measures Law in October 2007. The lawyers on the HCV case, especially Yamanishi, consulted frequently with DPJ politicians during the fall of 2007 to lay the groundwork for a comprehensive political solution. Only 10 percent of the plaintiffs were using their real names, however. As a result, the roughly two dozen who had publicly revealed their identities bore the brunt of the lobbying and public appeals burden in late 2007.

Stage 5: The December Battle—Consequently, the final stage of conflict expansion was by far the most substantial, and it occurred in late fall 2007 for several reasons. First, since the movement needed public support, Yamanishi and another Osaka lawyer decided to re-release the “418 List”, which included the names and infusion dates for those infected with HCV, as recognized by the former-Green Cross and submitted to the MHW in 2001.⁹⁵ Its re-release was choreographed for maximum impact, since the lawyers and plaintiffs notified contacts in the media and a DPJ politician raised the list in the lower house budget committee meeting. The health minister seemed truly surprised, probably because the bureaucrats who prepare him for such meetings had not anticipated this tactic.⁹⁶ As a result, all the news media covered the list, dubbed the “list of life.” The conflict also expanded at this stage because the DPJ's support for the HCV victims and public concern for the issue were mutually reinforcing. Among members of the DPJ's Hepatitis Headquarters, many politicians drew parallels with the HIV scandal of the 1990s and castigated the bureaucrats called to the Headquarters' hearings. The DPJ's Kan Naoto, the former health minister who had discovered the crucial files in the HIV case in the basement of the MHW, reenacted his publicity stunt by taking journalists into the basement of the MHLW.

Most importantly, the LDP also realized that it would suffer politically if it did not address the HCV issue. The Tokyo media had clearly started to side with the plaintiffs.⁹⁷ Health Minister Masuzoe started to urge his fellow LDP members not to continue evading responsibility and sensed a chance to personally contribute to resolving a problem. To create these conditions, the plaintiffs worked hard to expand the scope of their conflict by appealing to the public, to politicians from all parties, and to the media. The plaintiff leaders spent most of December 2007 in Tokyo, away from their families. With few plaintiffs using their real names, the burden of engaging the media and the public fell to five women, including Yamaguchi Michiko and

⁹³ Interview with Asakura Mitsuko, HCV plaintiff, Tokyo (June 9, 2009).

⁹⁴ Interview with Yamaguchi Michiko, HCV plaintiff, Tokyo (June 16, 2009).

⁹⁵ The MHLW had given its press club copies of this list in 2002, when releasing the results of the MHLW's internal inquiry but the press had not publicized it. The “418 list” demonstrates that the Green Cross knew that its drug was infecting patients with HCV and that it knew who was infected. It also shows that the MHLW received this information but failed to inform the infected individuals. This list was crucial for the ultimate resolution of the HCV issue. Interview with Esashi Masayoshi, *Mainichi Shimbun*, Tokyo (June 17, 2009).

⁹⁶ Iwasawa, *Onnatachi no Tatakai*, 239.

⁹⁷ *Ibid.*, 211-217.

Fukuda Eriko.⁹⁸ Another march from the MHLW to the prime minister’s office to demand a meeting with the prime minister failed to produce the desired meeting, but all the major TV stations covered the 300 victims and supporters live.⁹⁹ The victims also handed out brochures and collected signatures in the Ginza in December. Some of the plaintiffs noticed a marked difference in the public’s attitude toward the HCV issue, as passers-by recognized their faces from TV.¹⁰⁰ In just one weekend, the plaintiffs gathered 45,000 signatures. A striking change from six months earlier, this final conflict expansion push compelled the state to comprehensively redress the HCV victims’ suffering.

EXPLAINING STATE RESPONSIVENESS

Both the Hansen’s disease and hepatitis C victims ultimately received comprehensive redress from the Japanese government. The state enacted policies that clearly admitted responsibility for the victims’ suffering, allotted resources for material compensation and financial assistance, stipulated non-material measures to restore the victims’ honor, and fundamentally altered the way policies were made in that issue area. This section seeks to explain how the public outrage that these groups of outsiders had stoked up against the state compelled the state to respond in such an extensive fashion.

Specifically, I argue that the expanded scope of their conflicts pushed the state to 1) grant the victims voice and legitimacy, 2) place their issues on the political agenda, 3) change policy, and 4) implement policies in coordination with the victims. Table 4.2 briefly summarizes the key decisions that mark each of these four phases of state responsiveness after issue recognition, which I discussed above. May 2001 marked a key turning point in the Hansen’s disease movement because the ruling and the victims’ amassed public support had fundamentally changed the balance of power between the state and the victims. Similarly, the HCV victims finally broke onto the political agenda in late December 2007. In discussing the proximate causes leading up to each state response below, I will demonstrate how growing public interest in these issues gave certain politicians reason to adopt the victims’ cause and pressure the prime minister and the bureaucracy to make concessions that would cumulate into full redress for the victims. This section first discusses the Hansen’s disease issue and then the hepatitis C issue.

Table 4.2: Summary Chart of the Key Decisions Leading to Comprehensive Redress

Phases of Responsiveness	Hansen’s disease	Hepatitis C
<i>Recognize the issue</i>	Leprosy Prevention Law abolished (1996)	MHLW conducts an internal inquiry on HCV infections (2001-2002)
<i>Grant voice/ legitimacy</i>	Health minister meets with plaintiff leaders (5/14/2001)	Health minister apologizes publicly for the first time at press conference (12/20/2007)
<i>Place issue on agenda</i>	PM Koizumi decides not to appeal Kumamoto ruling (5/23/2001)	PM Fukuda promises a political resolution (12/22/2007)
<i>Change policy</i>	Hansen’s Disease Compensation Law passed (6/22/2001)	Special HCV Relief Measures Law passed (1/11/2008)
<i>Implement policy</i>	<i>Kyōgikai</i> includes victims; Hansen’s Disease Basic Law passed (6/28/2008)	Inquiry committee includes victims; Hepatitis Basic Law passed (12/4/2009)

⁹⁸ Interview with Suzuki Toshihiro, lawyer, Tokyo (May 27, 2008).

⁹⁹ Iwasawa, *Onnatachi no Tatakai*, 211-217.

¹⁰⁰ Interview with Sakata Kazue, HCV plaintiff, Tokyo (June 25, 2009).

The State's Response to the Hansen's Disease Victims

Granting voice and legitimacy—Just three days after the Kumamoto District Court announced its ruling, a group of plaintiffs and their lawyers finally met with Health Minister Sakaguchi Chikara of the LDP's coalition partner, the Komeito. Despite being in charge of the ministry just deemed responsible for causing decades of suffering for persons affected by Hansen's disease, Sakaguchi had come to support the victims' crusade against his own ministry.¹⁰¹ Agreeing to meet with the victim representatives signaled that a Cabinet member recognized the victims' legitimacy and granted them a voice. Although the Hansen's disease victims had legitimately voiced their grievances in the three courtrooms, they were never previously recognized by the state—the defendant in these cases.¹⁰² The Hansen's disease lawyers knew that gaining high-level meetings would give the victims legitimacy in the eyes of other politicians and would give the victims an opportunity to articulate their need for redress forcefully.¹⁰³ Upon entering Sakaguchi's office, Sogano, as leader of the plaintiffs, declared that the victims would not accept an apology from the minister without first receiving the state's pledge not to appeal the Kumamoto ruling.¹⁰⁴ To Sakaguchi, one victim related her experience of being forced to have an abortion at seven months and hearing her healthy daughter cry before the leprosarium doctors killed the baby and put it in formaldehyde. While weeping, the minister told the plaintiffs that he was supposed to inform them that the state would appeal the ruling.

Although their meeting with Sakaguchi did not produce immediate results, it did open doors for other high-level meetings that enabled them to expand the number of politicians involved in their conflict. Throughout mid-May, the plaintiff leaders met with the minister of justice (whose ministry was in charge of handling the lawsuit process), the leaders of both houses of the Diet, and attended a hearing of the *Hansen Gikon*, where 123 Diet members voted unanimously to press the MHLW and MOJ not to appeal the ruling.¹⁰⁵ Roughly 50 victims and an equal number of lawyers also fanned out to persuade individual Diet members to oppose any appeal of the ruling. The Hansen's disease lawyers also delivered briefings to Diet members in order to counter the MOJ bureaucrats' briefings to Diet members in support of an appeal.¹⁰⁶ The horrific stories of many of the Hansen's disease victims deeply affected many Diet members, including Sakaguchi.¹⁰⁷ Later reports suggest that Sakaguchi may have threatened to resign from

¹⁰¹ In his contributions to Koizumi's weekly email newsletter, Sakaguchi criticized the MHLW for its lack of common sense in dealing with the Hansen's disease issue, as well as other medical disasters. He complained that "the common characteristic underlying each case is that the ministry does not take any measures unless concrete results from research or technical inspections come out... That is the weakness of the ministry's intellectual process." Kyodo News (Dec. 11, 2001) citing from Chikara Sakaguchi, *Takenoko Isha: Sabetsutekina Iryou wo Mezashite [Inexperienced Doctor: taking aim at discriminatory medicine]* (Tokyo: Koubunsha, 2001). Interview with Ayukyo Machiko, lawyer, Tokyo (May 30, 2008).

¹⁰² The state recognized the FNLP as a legitimate representative of the Hansen's disease community for decades, but the FNLP represented patients rather than *victims* of Hansen's disease.

¹⁰³ Some of the lawyers knew Sakaguchi from his involvement in the HIV case. Lawyer Suzuki Toshihiro could call the minister directly during the spring of 2001. Interview with the lawyer Suzuki Toshihiro (May 28, 2008).

¹⁰⁴ Two lawyers, Yahiro and Toyota, apparently told Sogano to reject Sakaguchi's apology. Interview with Kobayashi Yoji, lawyer, Fukuoka (May 12, 2009). The description of this interview is based on the account in Hansen's Disease Lawyers' Association, *Hirakareta Tobira [The Opened Door]*, 305.

¹⁰⁵ *Ibid.*

¹⁰⁶ *Ibid.*, 308.

¹⁰⁷ He described how he emphasized to the Chief Cabinet Secretary that he opposed any appeal, even though his ministry favored it. Sakaguchi had also spoken with Dr. Otani in January 2001 and been convinced of the

Koizumi's precarious new cabinet, if the government appealed the Kumamoto court ruling.¹⁰⁸ With their voice heard and their legitimacy secured and with newfound allies, the victims pressed for the Hansen's disease issue to be placed on the political agenda.

Placing the Hansen's disease issue on the political agenda—Another way the political elites can respond to victim advocacy is by signaling that they will do something about the Hansen's disease issue, which is what Prime Minister Koizumi did on May 23, 2001. On that afternoon, nine plaintiffs met with Prime Minister Koizumi and told him of their experiences as persons affected by Hansen's disease. One woman, close in age to the prime minister, pointed out that the difference in their life situations and health was a mere stroke of luck—Koizumi might have been struck with Hansen's disease and spent his life in a leprosarium. Knowing the public mood, several members of the media had convinced Koizumi to refrain from appealing at dinner the previous evening. Thus, the victims' meeting was the result, not the cause of Koizumi's decision.¹⁰⁹ In mid-May, the lawyers had started targeting Koizumi because they decided that his leadership was essential to achieving a resolution.¹¹⁰ Koizumi's declaration on May 23rd and his choreographed official apology to a group of Hansen's disease victims two days later placed comprehensive redress fully on the political agenda in Japan.

Pressure from various politicians and Koizumi's own calculus were the proximate causes of this breakthrough, but the victims' conflict expansion efforts had created a situation in which appealing the ruling was no longer an option.¹¹¹ Koizumi, as the head of a new and rather precarious government, concluded that forfeiting the state's right to appeal would improve his approval ratings because public opinion supported the victims. Public approval ratings for Koizumi's cabinet jumped to 80 percent after he decided not to appeal the ruling.¹¹² In addition, the victims gained support from several LDP heavyweights such as Hashimoto Ryutaro, who has a leprosarium in his district, and Nonaka Hiromu, who had suffered similar discrimination as a Burakumin (outcaste). Both politicians thought that Hansen's disease was a key historical issue that needed the rapid resolution that only Koizumi's political leadership could provide.¹¹³ So Nonaka set up a meeting with Aso Taro, who was then chairman of the LDP's policy bureau and had been resistant to meet the victims, with the expectation that Aso would pass the victims' demands along to Koizumi.¹¹⁴ Meanwhile, over 100 victims and 400 supporters were holding a sit-in outside the prime minister's residence. Lawyers were also canvassing the leprosaria to gather new plaintiffs. On May 21st over 900 more victims filed suit against the government.

Two days after he decided not to appeal the Kumamoto ruling, Koizumi firmly set the political agenda on a course for comprehensive redress. He offered a sweeping official apology to Hansen's disease sufferers, stating that the government's policies had violated patients' and former patients' human rights and that the government would strive to restore victims' honor and

importance of thinking about Hansen's disease as a social issue and not just a medical issue. Interview with Sakaguchi Chikara, Komeito Diet member, Tokyo (July 9, 2009).

¹⁰⁸ Sakaguchi denies ever explicitly threatening to resign to me, but the media reported it widely and it shaped the course of political discussions. Interview with Esashi Masayoshi, *Mainichi Shimbun*, Tokyo (June 17, 2009).

¹⁰⁹ Interview with Yahiro Mitsuhide, lawyer, Fukuoka (May 12, 2009).

¹¹⁰ Interview with Yasuhara Yukihiko, lawyer, Tokyo (May 26, 2008).

¹¹¹ On May 12, 2001 all the major newspapers ran editorials urging the state not to appeal the ruling. Hansen's Disease Lawyers' Association, *Hirakareta Tobira [The Opened Door]*, 303.

¹¹² Kitano, "The Price of Isolation."

¹¹³ Interview with Noma Kei, lawyer, Tokyo (May 29, 2008).

¹¹⁴ The victims and lawyers handed Aso a list of the pros and cons of not appealing the Kumamoto ruling. Interview with Noma Kei, lawyer, Tokyo (May 29, 2008). Interview with Itai Masaru, lawyer, Kumamoto (May 15, 2009).

promote their welfare henceforth. In addition to monetary compensation, the Japanese government would provide health care, launch an educational campaign to “restore honor and dignity to the victims of the disease,” remodel the Hansen’s disease museum, and open a regular discussion forum between MHLW officials and Hansen’s disease sufferers.¹¹⁵ Koizumi’s historic statement guided politicians’ subsequent efforts to draft a Hansen’s Disease Compensation Law.

Enacting policy changes—On June 22, 2001, the Diet unanimously passed a compensation law for the Hansen’s disease victims, thereby granting them full redress.¹¹⁶ The law pledged medical care and 8 to 14 million yen in compensation to every resident of the leprosaria, regardless of nationality. As a result, by August 2001, over 2,000 persons affected by Hansen’s disease had filed lawsuits against the Japanese government. The law had a clear statement of the government’s responsibility for the victimization of the Hansen’s disease community, and in July 2001 the minister of health or vice minister visited each leprosarium and apologized directly to the residents. The state and interested parties also settled the lawsuits in the form of a Basic Agreement in July 2001, followed by negotiations over people who had either never lived in leprosaria or had left the leprosaria before 1996.¹¹⁷ Compensation for the bereaved families of persons affected by Hansen’s disease was another topic of negotiations. An independent Verification Committee Concerning the Hansen’s Disease Issue began meeting in October 2002 to investigate state policy toward Hansen’s disease victims. It includes victims and lawyers from the Hansen’s disease lawsuit on it. These actual policy changes are the most tangible form of state responsiveness. In all these policies, the state was responding to the victims and their supporters in the general public.

Implementing policy in coordination with victims—The final way in which the state responded to victims’ demands for redress was to fundamentally alter the principles by which it made policy decisions and deliberately include the victims’ voices in decision-making. The public’s interest in Hansen’s disease subsided relatively quickly after June 2001, but the victims used the size of their conflict in 2001 to institutionalize concessions from the state. As a result of the compensation law, the Hansen’s disease community formed the Council on Measures related to the Hansen’s Disease Issue (*Kyōgikai*), which included representatives from the national plaintiffs’ association, the FNLP, and the national lawyers’ group. They had a unified negotiating team to interact with the MHLW, as well as four sub-committees focused on a) the restoration of victims’ honor, b) protection of those still residing in the leprosaria, c) issues related to societal reintegration, and d) fact-finding. They later added a sub-committee to address the future of the leprosaria. At each decision-point, the FNLP-plaintiff-lawyer team produced formal lists of demands, written by the lawyers but debated by the FNLP, plaintiffs, and non-residents. Learning from the victims’ failure to elicit such institutionalized access in the HIV case, the Hansen’s disease *Kyōgikai* managed to secure a commitment from the MHLW to meet with the plenary *Kyōgikai* at least once per year.¹¹⁸ Such access has cost the Hansen’s disease community some of its independence from the state, but their discussions with MHLW bureaucrats remain

¹¹⁵ “Koizumi Apology.” (accessed April 5, 2010).

¹¹⁶ The full title of the law is *Hansenbyou Ryouyoujo Nyuushoshani taisuru Hoshoukin no Shigo nado ni kansuru Houritsu* [Law Concerning the Compensation of Hansen’s disease Sanatoria Residents].

¹¹⁷ Most interlocutors I spoke with cited the system for compensating and aiding non-residents and bereaved families as their biggest success after the Kumamoto ruling. E.g. Interview with Kobayashi Yoji, lawyer, Fukuoka (May 12, 2009); Interview with Yasuhara Yukihiko, lawyer, Tokyo (May 7, 2009); Interview with Yahiro Mitsuhide, lawyer, Fukuoka (May 12, 2009); Interview with Yamamoto Shimpei, lawyer, Tokyo (November 8, 2008).

¹¹⁸ Interview with Yasuhara Yukihiko, lawyer, Tokyo (May 7, 2009).

quite confrontational.¹¹⁹ Subsequent key victories for the *Kyōgikai* include 1) the establishment of a system of compensation for people who left the leprosaria before 1996 or who had never lived in the leprosaria, 2) the issuance of a written commitment from the state concerning all items agreed upon at each year's plenary meeting, 3) aid for bereaved families, 4) the fact-finding work of the independent Verification Committee, and 5) the Basic Law passed in 2008.

After the compensation law, the Japanese government implemented policies to restore the dignity of those affected by Hansen's disease and the Hansen's disease community has helped to implement these policies. For example, students must learn about the Hansen's disease issue in school to understand human rights and discrimination, and persons affected by Hansen's disease helped to design the teaching guide that the MHLW posts online.¹²⁰ Public surveys in one prefecture found that over 95 percent of respondents knew about the Hansen's disease in both 2003 and 2007, indicating that Hansen's disease awareness activities remain effective. Korean acceptance of people with Hansen's disease is much lower, as discussed in Chapter 5. Moreover, many leprosaria—oases of lush greenery—have opened their doors to the local community, hosting cherry blossom viewing parties or a preschool.¹²¹ In proposing that the leprosaria become multi-use facilities or medical facilities for local communities, however, the Hansen's disease community has encountered bureaucratic intransigence. In spite of an atmosphere favoring budget and personnel reductions within the Japanese government, the MHLW argued that the law that replaced the LPL in 1996 stipulates that only existing patients could remain in the leprosaria, precluding broader medical uses for the leprosaria facilities. So the victims and lawyers finally decided to change their approach and just campaign for a new law entirely.¹²² Thus, in August 2007, was born the movement for a Hansen's Disease Basic Law.

The victims had exhausted the legal route after Kumamoto and the bureaucratic route through the *Kyōgikai*, so targeting politicians seemed like the best way to realize a Basic Law. Thus, the Hansen's disease community once again sought widespread public support. By the spring of 2008, they had collected 930,000 signatures in nationwide petition drives for a Basic Law.¹²³ They also lobbied politicians, especially those in the *Hansen Gikon*. Lobbying politicians in Japan can be likened to pushing switches to get light bulbs to turn on. In the Hansen's disease case, lawyers say they knew which light would turn on when they pushed which switch, unlike in the hepatitis C case when no lights seemed to turn on anywhere regardless of their pushing many switches due to the divided Diet.¹²⁴ Lawyers for the Hansen's disease patients, usually with victims, met with politicians frequently, sometimes even daily with different Diet members, in the course of their advocacy after 2001. When going to meet with Komeito politicians, the lawyers made sure to bring along victims who were members of Soka Gakkai, the Buddhist organization that underpins the Komeito. The lawyers usually also carried the latest Diet member directory and pay particular attention to the profession each Diet member practiced before being

¹¹⁹ Participant observation at annual *Kyōgikai* meeting, Tokyo (June 22, 2009).

¹²⁰ Ministry of Health Labor and Welfare, "Hansenbyō Mondai wo Tadashiku Tsutaeru Tameni: Hansenbyō no Mukōgawa [For correctly communicating the Hansen's disease problem: Hansen's disease from the other side]," 2008, <http://www.mhlw.go.jp/houdou/2003/01/h0131-5.html> (accessed February 18, 2009).

¹²¹ Author's visits to Tama Zenshouen outside Tokyo and Kikuchi Keifuen outside Kumamoto in 2009.

¹²² Interview with Yamamoto Shimpei, lawyer, Tokyo (Nov. 11, 2008).

¹²³ Interview with Yahiro Mitsuhide, lawyer, Fukuoka (May 12, 2009).

¹²⁴ Interview with Suzuki Toshihiro, lawyer, Tokyo (May 28, 2008).

elected. The most helpful politicians were usually ex-doctors or ex-lawyers or ex-bureaucrats who readily understood the issue area.¹²⁵

Eventually, on June 11, 2008 the Diet passed the Hansen's Disease Basic Law, which set in law all arrangements worked out between the state and Hansen's disease patients during the previous seven years.¹²⁶ The key aims of the new basic law were to clarify state responsibility for the victimization of the Hansen's disease community and to include measures by which the leprosaria could be used by localities. Most significantly, the basic principle of the law, for the first time articulated so strongly in the main body of a law, was *higai kaifuku*, or recompense for past harm. Kodama Yuji, a former head of the national plaintiffs' association, called the basic law "a weapon we have won through our efforts" but pointed out that they still had many details to hammer out with national and local governments.¹²⁷ Time is running out, however. As of 2009, just 2,609 people remain in Japan's thirteen national leprosaria, and their average age is 80.3.¹²⁸ In the end, victims' successful lawsuits and the social conflict they engendered led to meaningful government accountability and redress for decades of officially-sanctioned mistreatment, which the state had tried to sweep under the rug of history when it abolished the LPL in 1996.

The State's Response to the Hepatitis C Victims

Granting voice and legitimacy—For several years after the Tokyo and Osaka lawsuits were filed, the government effectively deflected blame in court and publicly, having learned to do so from previous drug-induced disasters. The government undermined the credibility of the HCV victims with authoritative reports and highly technical legal arguments. As the state and court rulings limited the range of dates for which the government could be held responsible, the victims struggled to gain a public voice. Prime Minister Fukuda finally first hinted at a resolution to the HCV issue in late October 2007 when he cryptically told a press conference that "it would not be appropriate to say that the state was not responsible."¹²⁹ Moreover, Health Minister Masuzoe finally met with the plaintiffs in November 2007.

Overall, however, and compared to the Hansen's disease case, the political establishment in Tokyo was slower to grant voice and legitimacy to the victims of the hepatitis C infections, partially because they were more numerous. The HCV victims had also been infected through a variety of routes, the court rulings were more mixed, and their demands for medical care coverage and redress would require extensive new budgetary allocations.¹³⁰ By early December, the HCV plaintiffs and their lawyers had rejected the compromise proposed by the Osaka High Court process because the government continued to discriminate among the plaintiffs based on

¹²⁵ For example, Diet member Fujii Hiroshita, who led the *Hansen Gikon*, is a former Ministry of Finance bureaucrat who became interested in Hansen's disease because he was the MOF official in charge of budget negotiations with the FNLP and MHW in the 1970s, when Hansen's disease patients were campaigning to have their living stipends increased. Unusually for a bureaucrat at the time, he decided to personally visit ten leprosaria in the 1970s, even though he was at the MOF, not the MHW. Therefore, he had personally experienced the conditions that Hansen's disease patients suffered and this knowledge stayed with him after he became a Diet member.

¹²⁶ Interview with Yahiro Mitsuhide, lawyer, Fukuoka (May 12, 2009).

¹²⁷ *Asahi Shimbun* (May 5, 2009).

¹²⁸ "Hansenbyou no Rinkushuu [Collection of Hansen's Disease Links], Data."

¹²⁹ Iwasawa, *Onnatachi no Tatakai*, 211-217.

¹³⁰ Hepatitis C is a chronic liver illness that is treatable but not curable and treatments are expensive. Interferon treatments are only paid by national insurance for up to 48 weeks, but 48 weeks is the average length of treatment required for hepatitis C sufferers, so many have to undergo longer treatments and do not get reimbursed for the expensive therapy. Interview with Suzuki Toshihiro, lawyer, Tokyo (May 27, 2008).

when they received the blood product and on what type of product they received.¹³¹ Then, Health Minister Masuzoe offered to pay a one-time lump sum settlement to the national plaintiff group (without any admission of government responsibility for the infections) and have the plaintiffs divide the money amongst themselves.¹³² This proposal stoked the flames of the political pressure the plaintiffs had been cultivating. It showed that the state was still trying to avoid or limit its blame. As December progressed, ignoring these victims became less and less an option.

In particular, the opposition DPJ very actively granted voice and legitimacy to the HCV victims, and even other hepatitis victims. This put pressure on the ruling coalition. For example, DPJ leader Ozawa Ichiro met with plaintiffs in response to the collapse of the settlement negotiations in Osaka. In stark contrast, Prime Minister Fukuda declared on that same day he would “meet them when necessary, but [he did not] need to do that right now.”¹³³ The DPJ’s Hepatitis Headquarters held hearings and helped the victims arrange meetings with Diet members to lobby for redress.¹³⁴ In the upper house, the DPJ also proposed its own HCV special measures bill to pressure the ruling coalition.¹³⁵ As the plaintiffs made the rounds of the Diet members’ office buildings and the news and talk shows that December, their legitimacy grew.

Finally, on Dec. 20, 2007 Masuzoe publicly acknowledged the HCV victims and apologized for their infections but ducked out of the press conference to avoid talking with the victims directly. He avoided them because, earlier that day, the plaintiffs had rejected the plan that he and Prime Minister Fukuda had devised to offer a much larger lump sum of money to the collective plaintiffs group.¹³⁶ Fukuda was upset and facing pressure from the public, from the DPJ, from his coalition partner the Komeito, and even from within his party.¹³⁷

Placing the HCV issue on the political agenda—The DPJ had certainly put HCV redress on the political agenda, which it could do effectively because it controlled the upper house in 2007. However, Prime Minister Fukuda set comprehensive redress for HCV victims on the ruling coalition’s political agenda with his surprise apology on December 22, 2007. Fukuda had been chief cabinet secretary when Koizumi decided not to appeal the Kumamoto ruling for the Hansen’s disease issue in 2001. Consequently, Fukuda understood the significance of a top-down political decision to side with the victims, even if he was somewhat slow to take such initiative.¹³⁸ Fukuda did not independently conceive of the idea for the political gesture, however. Instead, LDP powerhouse Yosano Kaoru discerned that something had to be done based on public opinion. Fukuda’s approval ratings were falling and decisive action on the HCV issue would bolster the prime minister’s leadership image.¹³⁹ Yosano consulted with his contacts at the

¹³¹ On November 7, 2007 the Osaka High Court urged the state to negotiate a settlement with the victims.

¹³² Interview with Shimizu Kenji, *Mainichi Shimbun*, Tokyo (June 11, 2009).

¹³³ Yukiko Takanashi, Atsuko Kinoshita, and Jiro Ikeguchi, “Political Initiative Needed in HCV Case,” *The Daily Yomiuri*, December 15, 2007.

¹³⁴ The Hepatitis Headquarters in the DPJ was led by former health minister Kan Naoto. It is formally called DPJ Headquarters to Promote Policies to deal with HBV and HCV. Interview with Staff of DPJ, Tokyo (May 23, 2008)

¹³⁵ Interview with Yahiro Mitsuhide, lawyer, Fukuoka (May 12, 2009).

¹³⁶ They had proposed increasing the lump sum payment from 800 million to 3 billion yen while still limiting the state’s responsibility. The plaintiffs rejected the proposal on the spot decrying the state’s attempt as “just throwing money at us.” Iwasawa, *Onnatachi no Tatakai*, 211-217.

¹³⁷ Interview with Yahiro Mitsuhide, lawyer, Fukuoka (May 12, 2009).

¹³⁸ Interview with Ayukyo Machiko, lawyer, Tokyo (May 30, 2008).

¹³⁹ A *Nikkei Shimbun* public opinion survey showed that 46 percent of respondents did not support the Fukuda Cabinet. “Nikkei Shimbun Opinion Polls (conducted Dec. 14-16, 2007)” (Mansfield Foundation translation, December 2007), <http://www.mansfieldfdn.org/polls/2007/poll-07-34.htm> (accessed July 20, 2010).

MOJ and then hand-wrote a proposal in the car on the way to see Prime Minister Fukuda.¹⁴⁰ Yosano and the handful of other LDP heavyweights present supported the idea that the LDP and Komeito should begin drafting a HCV measures law to provide a political solution to the HCV issue. Fukuda was convinced, in part because he had played a similar role as Yosano concerning the Hansen's disease redress in May 2001. The next morning Fukuda held an unscheduled press conference to declare that he, as leader of the LDP rather than leader of the government, wanted to prepare legislation to assist all HCV victims. Plummeting poll numbers forced Prime Minister Fukuda to put redress on the political agenda by apologizing on December 25, 2007, but the plaintiffs were concerned because Fukuda had failed to state whether he would clearly articulate the government's responsibility for their infections in the proposed law.¹⁴¹

Enacting policy changes—Compared to the Hansen's disease issue, enacting legislation proved more difficult. In particular, the government was understandably reluctant to make the sweeping statements of responsibility that the plaintiffs sought.¹⁴² The plaintiffs from the five lawsuits told Fukuda that, in order to truly provide them with relief, the government must clearly state its responsibility for the mass infections in the bill that lawmakers were planning. Though most politicians agreed that the state bore "administrative and political" responsibility, the ruling coalition's Hepatitis C Task Force balked at incorporating any references to the state's "legal" responsibility or an apology into the bill.¹⁴³ Throughout December, therefore, the wording of the state's responsibility remained vague. As a result, the plaintiffs focused their lobbying efforts on the ruling coalition's HCV Task Force after Fukuda's apology.¹⁴⁴

Compared to the clarity of the Hansen's disease issue, the different categories of people infected with HCV made drafting legislation difficult. For example, as the health, labor, and welfare committee in the Diet discussed the Special Measures Law early January 2008, they called on the leader of the resurgent national association of hemophilia patient groups to consider the views of the hemophilia community.¹⁴⁵ Likewise hepatitis B victims were lobbying politicians at the same time. However, thanks to Yamaguchi Michiko's deft diplomacy and clear message that the victims desired uniform redress for all persons unjustly infected with hepatitis, the HCV movement did not splinter in late December and early January. Plaintiffs and lawyers lobbied tirelessly to ensure that the ruling coalition's draft incorporated their demands.

¹⁴⁰ Interview with Iwasawa Michihiko, Fuji TV, Tokyo (June 3, 2009).

¹⁴¹ Hiroshi Yumoto and Shozo Nakayama, "Poll Worries Prompted Government HCV U-turn," *The Daily Yomiuri*, December 25, 2007.

¹⁴² The plaintiffs and lawyers met in Tokyo on Dec. 24, 2007 and agreed on a joint statement urging the government to clarify its responsibility, using the phrases "reflects on causing more than 10,000 people to contract the hepatitis C virus" and "assumes responsibility for providing uniform compensation to all victims." See "State to hold Itself Liable in Hepatitis C Bill," *Japan Times*, December 25, 2007.

¹⁴³ "Courts to Decide Hepatitis C Aid Recipients," *Japan Times*, December 27, 2007.

¹⁴⁴ Interview with Yahiro Mitsuhide, lawyer, Fukuoka (May 12, 2009).

¹⁴⁵ Sano Ryuusuke started the National network of Hemophilia Associations in 2007 to revive patient activism after the community had been so deeply divided since the 1996 HIV settlement. Ryuusuke Sano, "Hemofilia Tomo no Kai Zenkoku Nettowaaku nit suite [About the National Network of Hemophilia Associations] Comment No. 2998" (CHPNet, September 30, 2008), http://log.chpnet.info/bbs3_pre/pslg2998.html#2998 (accessed March 24, 2010). Kentaro Kitamura, "Hemofiria Tomonokai Zenkoku Nettowaaku no Kessei [The Formation of the National Network of Hemophilia Associations]," in *6th Annual Conference* (presented at the Shogai Gakkai [Disability Studies Association], Ritsumeikan University, 2009), <http://www.arsvi.com/2000/0909kk.htm>. (accessed March 20, 2010).

Consequently, in early January 2008, both houses of the Japanese Diet unanimously passed the Hepatitis C Special Measures Law.¹⁴⁶ The law included an admission of government responsibility for causing harm to those infected with HCV through fibrinogen or factor IX products and for failing to prevent that harm from spreading. The bill also stipulated how much monetary relief (between 12 and 40 million yen per person) for those who contracted hepatitis C from contaminated blood products. Nevertheless, only about 10 percent of the estimated 10,000 people who were infected with HCV through tainted blood products would be able to access redress because the law required the certification of victimhood to be proven in court with medical charts or pharmacy order records, which few victims had.¹⁴⁷ The government did, however, reveal the names of hospitals where tainted blood products and blood were used so that other victims could come forward and apply for state aid during the 5-year allowable window. The law called on drug makers to contribute to the fund for payments to victims once the plaintiffs and drug-makers settled, which happened in fall 2008.¹⁴⁸ As of May 2010, over 1,700 victims had filed suit and 82 percent of them had successfully concluded settlement negotiations with the state and drug makers to receive monetary relief and recognition as a HCV victim.¹⁴⁹

Implementing policy in coordination with victims—The MHLW established regular meetings with the victims to coordinate policy implementation based on the redress law. However, the scope of these interactions is narrower than in the Hansen’s disease case, in part because the LDP vice-minister with whom the victims interacted was not particularly motivated to take the political initiative to compel the bureaucracy into action.¹⁵⁰ The institutionalized forum also includes hemophilia patients infected with HCV and individuals who contracted hepatitis B from mass inoculations using the same needle. As a result, the HCV victims’ voice is more diffuse than in the Hansen’s disease case. A HCV victim also sits on the independent fact-finding commission set up to investigate the epidemic and the government’s responsibility.¹⁵¹

Ultimately, the HCV victims pressured the new DPJ government to engineer the unanimous passage of a Hepatitis Policy Basic Law in November 2009. It provided a more comprehensive system for subsidizing the treatment of all forms of hepatitis and established a policy advisory panel, which will include HCV victims on it. Bolstered by widespread public awareness of the drug-induced hepatitis issue, the HCV victims and victims of other types of

¹⁴⁶ The full title of this law is *Tokutei fibrinogen seizai oyobi tokutei ketsueki gyōko dai9 inshi seizai ni yoru Cgata kanen kansenhigaisha wo kyūusai suru tame no kyūufukin no shigo ni kansuru tokubetsu sochi hō* [Act on Special Measures concerning the Payment of Benefits to Relieve the Victims of Hepatitis C Infected through Specified Fibrinogen Concentrates and Specified Coagulation Factor XI Concentrates] (law no. 2, 2008).

¹⁴⁷ The 2008 law also did not include the estimated 1.4 million HBV victims who contracted hepatitis through blood transfusions or shared needles. Almost 500 of these victims have been engaged in 10 collective lawsuits against the government, which finally agreed to begin settlement talks in May 2010. In 2006 the Supreme Court found the government responsible for failing to prevent five victims’ infections and for failing to respond appropriately. The lack of concrete actions by the government after this ruling and the expansion of the HCV conflict prompted hundreds of other victims to file suit against the government. The HBV conflict continued into 2010.

¹⁴⁸ The Mitsubishi Tanabe’s payment burden (up to 100% for certain dates and products). Plaintiffs agreed to abandon claims against the drug companies as part of that settlement. See Mitsubishi Tanabe Pharma Corporation, “Standard for our company’s payment burdens related to fees required for benefit payments and other operations, based on the Special Relief Law concerning the Payment of Benefits to the Patients of Hepatitis C,” April 10, 2009, <http://www.mt-pharma.co.jp/e/release/nr/2009/pdf/eMTPC090410.pdf> (accessed June 3, 2010).

¹⁴⁹ Koga Katsuhige (lawyer), blog (posted May 19, 2010), <http://lawyer-koga.cocolog-nifty.com/fukuoka/cat938809/index.html> (accessed June 3, 2010).

¹⁵⁰ Interview with Esashi Masayoshi, *Mainichi Shimbun*, Tokyo (June 17, 2009).

¹⁵¹ Interview with Sakata Kazue, HCV plaintiff who sits on the committee, Tokyo (June 25, 2009).

hepatitis jointly lobbied for this bill over the course of 18 months.¹⁵² In the end, therefore, Japan's HCV victims successfully compelled the government to grant them comprehensive redress by amassing public support for their cause as victims of state policy.

CONCLUSION

The Hansen's disease and HCV redress movements in Japan illustrate the power of bottom-up conflict expansion for initially powerless victim organizations that challenge the state to take responsibility for harming them. The government had not been held accountable for these harmful policies previously because these were highly specialized policy arenas in which decisions required technical expertise and usually involved very little input from ordinary Japanese. Yet, courageous individual victims and eventually their fellow sufferers came forward to raise public awareness of the government's wrongdoing. The localized networks of activists that make up the bulk of civil society organizations in Japan and the homogeneous content and consumption patterns of news media facilitated the victim groups' efforts to raise and sustain public awareness of their victimization.

Most importantly, litigation helped the victims to frame their cause in terms that the public identified with and to grab media attention at particular milestones in the court process. The victims' collective lawsuits also cemented the credibility of plaintiffs as innocent victims and brought incontrovertible evidence of state wrongdoing to light. As a result, the Hansen's disease and hepatitis C victims in Japan achieved comprehensive redress from the government. I traced the expansion of each conflict across five crucial stages to show how the build-up of public support for the victim groups gradually forced the government to grant increasingly extensive concessions, cumulating to comprehensive redress. As I will discuss in the conclusion, the conflicts over HIV-tainted blood, Hansen's disease, and finally hepatitis C also show how precedent victim movements alter the parameters faced by subsequent victim movements.

In Chapter 5, I analyze the parallel Hansen's disease and hepatitis C redress movements in Korea. These conflicts show how limited or top-down conflict expansion—as opposed to bottom-up conflict expansion—results in lesser forms of state responsiveness. I will also illustrate how the less favorable advocacy sector and news media environment frustrated the Korean victim groups' efforts to expand public support. In addition, litigation was less effective in Korea because the resources to effectively use the judicial route are more widely available in Japan. Most importantly, however, Chapter 5 demonstrates that differing modes of conflict expansion explain within-country variations, as well as cross-national differences, in state responsiveness. Korea's Hansen's disease victims achieved partial redress because they managed to pursue top-down conflict expansion. Meanwhile, the HCV conflict remains narrow and the victims have therefore only elicited negotiated settlements from the government.

¹⁵² Participant observation at the DPJ Hepatitis Headquarters' meeting, Tokyo (May 21, 2009).

CHAPTER 5 THE LIMITS OF ACCESS: KOREAN VICTIMS' QUESTS FOR REDRESS

INTRODUCTION

On paper, Korean leprosy control policies were amended in 1963 to forbid the forced confinement and sterilization surgeries that had been used since the Japanese colonial era. In practice, however, into the 1980s, Korea's Hansen's disease community still suffered some of the same human rights abuses as their Japanese counterparts. Moreover, harsh social prejudice and sometimes lethal discrimination against Koreans with Hansen's disease forced leprosy sufferers to hide their disease or live apart. In spite of the similar victimization of Japan and Korea's Hansen's disease communities, they received different degrees of redress from their governments. As discussed in Chapter 4, the Japanese received comprehensive redress, while the Korean victim movement received partial redress through a special law passed in 2007.

As it had in Japan, hepatitis C (HCV)-contaminated clotting factor infected over half of Koreans with hemophilia in the 1980s and 1990s. Although the HCV infections did not extend beyond the hemophilia population the way they had in Japan, the factor-borne HCV epidemic in Korea, as it was in Japan, was partially due to the sluggish reaction of the government authorities, who also sought to protect the domestic pharmaceutical industry. Despite similar blood-borne HCV epidemics in other advanced nations, the ROK government and drug makers continue to deny responsibility. Hence, in contrast to the comprehensive redress given to HCV victims in Japan, Korean HCV victims have only elicited pieces of a negotiated settlement, in the form of expanded insurance coverage, from the Korean government.

Despite virtually identical victimization, why have the Korean victims achieved less substantial redress than their Japanese counterparts? Furthermore, why was the Korean Hansen's disease victim movement relatively more successful than the Korean HCV redress movement? I argue that the patterns of conflict expansion explain both the cross-national and the cross-issue variations in state responsiveness. In contrast to the widespread public outcry that Japan's HCV and Hansen's disease victims sparked against the government, the narrower scope of these conflicts in Korea resulted in more modest success for the Korean victim groups. I argue that the main reason for the Korean groups' comparatively limited success is that they were less able to mobilize public pressure for the government to respond to their demands for redress.

Moreover, when compared, these two examples of Korean victim redress movements highlight the effects of different modes of conflict expansion on levels of state responsiveness. In 2004 and 2005 elderly Korean leprosy patients, who had lived through Japanese colonial rule, successfully sued the Japanese government for redress based on Japan's 2001 Hansen's disease compensation law. This helped the Korean Hansen's disease community to use top-down conflict expansion in its pursuit of redress for postwar victimization from the ROK government. While the Korean Hansen's disease victims successfully attracted legislative champions who engineered partial redress, Korea's HCV victims have had trouble shaming the government and attracting the sympathy of politicians or the general public to push for redress.

Overall, three forces constrained the Korean victim groups' conflict expansion efforts. First, in neither issue area did a new organization form to aggregate the victims' demands specifically for redress. Without much divergence from the relationships that these disease communities long had with the government, the victims found it difficult to persuasively hold the government accountable. Consequently, these cases demonstrate the limits of institutionalized access for redress movements. The second and third constraining factors are the media and activist civil society in Korea. As discussed in Chapter 3, these filter groups facilitate victim

movements in Japan but frustrate them in Korea. Specifically, media content and consumption patterns in Korea enabled small bursts of publicity but hampered victim groups' efforts to sustain public interest in their campaigns for redress. In addition, these redress movements found few sympathetic allies amid Korea's politicized activist groups, which tend to focus on politically "hot" issues or the concerns of the majority. Thus, these Korean victim groups have been less successful than their Japanese counterparts at shaming the state and amassing public support to pressure the government.

Against this backdrop, litigation has proven marginal to Korea's Hansen's disease victims and frustrating to the HCV victims. Since Korean Hansen's disease sufferers sued the Japanese government, the Korean public first conceived of the Hansen's disease issue as a colonial era problem. This external target of blame arguably limited public outrage toward the ROK government. Moreover, in the absence of domestic litigation, the Hansen's disease victims were unable to use their identity as plaintiffs to establish a new organizational voice to articulate their redress demands. Despite launching a lawsuit, the HCV victims have had difficulty attracting supporters to narrow the power gap between themselves and the defendants. The government and drug maker have stalled, used legal technicalities and the statute of limitations to avoid fault, and refused to release evidence to the plaintiffs. Moreover, low plaintiff involvement in the litigation process hampered the victims' ability to carve out a fresh organizational niche for their redress movement. Unlike the Japanese movements, these Korean victims were less able to utilize litigation as an effective tool for bottom-up conflict expansion.

This chapter first situates these redress movements in their political and historical context. Korea's Hansen's disease and HCV victim redress movements emerged in the midst of a decade of progressive politics. Various societal groups were holding the government accountable and exerting influence over policy to unprecedented degrees. Although the Hansen's disease and HCV victims also sought to change government policy, their issue framing did not resonate well with the public or with most politicians. In short, Korean victim groups have not benefited from more open politics as much as their Japanese counterparts have. Second, I compare the top-down conflict expansion of the Hansen's disease victims and the limited conflict expansion of the HCV victims to understand the power and the challenges of litigation and other tactics in the Korean context. Finally, this chapter analyzes state responsiveness across five phases of policy-making. I show how differences in the pressure that victim groups mobilize against their government explain variations in the degree of redress each movement achieves.

SITUATING THE HANSEN'S DISEASE AND HEPATITIS C VICTIM REDRESS MOVEMENTS

Like their counterparts in Japan, the Hansen's disease and hepatitis C victims in Korea began their quest for redress from the authorities as weak outsiders. Korean society has long marginalized people affected by Hansen's disease and hemophilia patients, particularly those infected with HIV or HCV.¹ Shunned by their families, many people affected by Hansen's disease became vagrants or beggars, derogatively called *mundungi* (lepers).² Hemophilia patients were often unable to hold down jobs or lead normal lives due to the general lack of clotting

¹ See, for example, Eunjung Kim, "Cultural Rehabilitation: Hansen's Disease, Gender, and Disability in Korea," *Wagadu* 4 (Summer 2007): 108-124.

² Older Koreans recall seeing beggars with leprosy roaming the countryside and villagers throwing stones at them or strewing salt on the ground to "prevent" infection. Parents often warned children to stop crying "otherwise the lepers will come and get you" until the 1960s. Interview with Chae Gyu-tae, Hansen's disease doctor, Seoul (Jan. 30, 2009).

factor to treat their bleeding episodes before the mid-1980s. Although these marginalized groups have gained some acceptance in normal Korean society, neither redress movement has been able to affect the social and political changes that their counterparts in Japan did, as discussed in Chapter 4. This section, therefore, details the victimization in each issue area, the origins of which resemble the causes of victimization in Japan's cases. I then discuss the historical and political context of both Korean victim movements and explain the timing of the state's initial recognition of these problems.

The Political Causes of Victimization

The victimization of Koreans with Hansen's disease and hemophilia patients infected with hepatitis C resulted from insular policy-making and inconsistent or even arbitrary policy implementation. As in Japan, industrialization and modernization took precedence in decisions related to Korean policies on diseases and the blood supply. Emerging from the Korean War in 1953, the ROK authorities retained Japan's colonial era leprosy control policies. The Korean government instituted an Infectious Disease Prevention Law in 1954, which mandated quarantining anyone affected by Hansen's disease.³ Since Korea suffered from poor sanitation, poverty, and vagrancy, managing the spread of leprosy through institutionalization made sense for public health reasons at the time.⁴ After World War II and the Korean War, Korea's level of economic development was lower than Japan's had been after World War II. As a result, the expensive clotting factor concentrates to treat hemophilia became available only in the late 1970s, which was later than in Japan. Yet state-led economic development, particularly under President Park Chung-hee (1961-1979), proceeded rapidly and even minorities like leprosy and hemophilia patients saw some benefits in their daily lives and medical care. In the pharmaceutical industry, the Green Cross Corporation (GCC) received preferential government treatment as Korea's pioneer in the development of blood derivatives. Economic growth and modernization, symbolized by the emergence of GCC as a globally competitive drug company and by the removal of leprosy from normal society, took precedence in policy-making over the welfare of patients with these diseases.

Fundamentally, policy decisions related to infectious diseases and the blood supply occurred with relatively little contention or accountability for most of the postwar era in Korea. Authoritarian governance further ensured smooth formulation and implementation of policies without interference. As in Japan, a few select interests decided policies related to Hansen's disease and blood safety. Regarding Hansen's disease, officials from the Ministry of Health and Welfare (MOHW), the doctors and staff of Korea's leprosy hospitals and Sorokdo National Leprosarium, and officials from the Center for Disease Control (KCDC) formulated and implemented policies. In the case of policies affecting hemophilia sufferers, the MOHW, KCDC, the Food and Drug Administration (KFDA), and representatives of the drug maker GCC dominated. A few months after the National Health Insurance system was launched and began

³ The law is titled *Jeonyeombyeong Yebang Beop* (law no. 308, February 2, 1954) in Korean.

⁴ In 1953, there were 17,458 registered (and institutionalized) Hansen's disease patients and an unknown number of unregistered persons afflicted with the disease. By 1960, public health authorities listed 24,055 Hansen's disease patients, of whom 10 percent lived outside leprosaria. When forced isolation was abandoned in 1963, there were 30,146 registered patients and that number rose to 37,571 in 1970 before declining thereafter. Institutionalization or at least registering people affected by Hansen's disease were the ROK government's main goals related to leprosy after the Korean War because disease surveillance was a crucial first step to controlling the spread of leprosy. The government, however, lacked the resources to institutionalize all those affected by Hansen's disease.

partially covering the costs of hemophilia treatment in 1989, GCC began selling Korea's first domestic clotting factor. Soon thereafter GCC came to dominate the factor market, in part because it could lobby the insurance authorities to restrict coverage for imported factor.⁵ The ROK government managed diseases and pharmaceuticals, relying on industrialization and modernization as the primary decision criteria. Many decisions related to both diseases were characterized by arbitrary, negligent, and even out-right harmful state policies, which combined with deep-seeded social prejudice to cause enduring victimization to these communities.

Partially due to such insular policy-making, the suffering of Korea's Hansen's disease community did not end after World War II and the Korean War. Japan's draconian leprosy control policies applied also to persons affected by Hansen's disease in Korea, after Japan annexed the peninsula in 1910.⁶ After liberation in 1945, no coherent Korean policy toward leprosy existed until the 1954 Infectious Disease Prevention Law, which stipulated that anyone affected by Hansen's disease should be institutionalized.⁷ Between 1953 and 1963, however, the forced confinement of those affected by Hansen's disease was never universally implemented due to the government's lack of resources. Consequently, small communities of persons affected by leprosy (resettlement villages or *jeongchakchon*) emerged in remote parts of the country. As of 2008, about 15,000 people affected by Hansen's disease lived in Korea, with 35 percent still living in resettlement villages, 10 percent in leprosaria, and the rest in ordinary society, usually hiding their disease.⁸ Unlike Japan, the ROK did officially revise its leprosy policy in 1963 in accordance with the WHO recommendations. Nevertheless, multifaceted human rights violations against the Hansen's disease community continued throughout the postwar era due to the authorities' inconsistent and unaccountable decisions.

While Japan's LPL clearly violated the human rights of Hansen's disease sufferers, the exact nature of the responsibility of the Korean government for the above human rights abuses is less obvious.⁹ Basically, the ROK government failed to prevent societal abuse and even

⁵ Green Cross Corp. controls about 85 percent of the factor VIII market in Korea, even though the Anti-Monopoly and FTC Law limits any single firm from controlling more than 50 percent of any market. The presence of retired MOHW bureaucrats on its board of directors enhances the influence of GCC. Coupled with the Korea Hemophilia Foundation, which GCC founded in 1991, GCC exerts a powerful voice in policy matters related to hemophilia.

⁶ Under Japanese colonial rule (1910-1945), Koreans affected by leprosy endured many of the same human rights violations that Japanese affected by leprosy did. Japanese experts and western missionaries introduced medical institutionalization to Korea. During Japanese colonial rule, patients were sterilized or forced to abort, confined against their will, and subjected to medical experiments without their consent. Forcefully sent to the far southern island of Sorokdo, Koreans with Hansen's disease were additionally forced to perform hard labor for construction projects. Retreating Japanese authorities massacred eighty-four Sorokdo residents after defeat in 1945.

⁷ Between 1945 and 1953, many residents of Sorokdo remained in the leprosarium, while others moved to the mainland to set up villages in remote areas. The U.S. occupying forces introduced Promin to treat leprosy and rounded up over 6,000 vagrant leprosy sufferers to send to Sorokdo in 1947. In the chaos leading up to the Korean War, several groups of people with leprosy were murdered (16 killed in Gokseong in 1948, another 47 in Mokpo in 1949). Sterilization continued, as before 1945, for those patients wishing to cohabitate. Round-ups of vagrant patients continued intermittently. The period from 1945 to 1953 was characterized by ill-enforced and arbitrary leprosy control policies. For more, see Keun-shik Jung, "Hansenin Ingwon Shiltae Chosa [A Study of the Human Rights of Persons Affected by Hansen's Disease]" (National Human Rights Committee Korea, December 2005).

⁸ In 2008, there were 89 resettlement villages in Korea. Among the 14,684 leprosy sufferers, 5,137 live in resettlement villages, 1,335 live in medical facilities, and 8,212 (55.9 percent) live in normal society. Data from Hanvit Welfare Association, <http://www.ehanvit.org/guide/situation.html> (accessed April 16, 2010).

⁹ Interview with Jung Geun-shik, SNU professor, Seoul (Jan. 19, 2009).

massacres of persons affected by Hansen’s disease,¹⁰ failed to prosecute violations of the revised Infectious Disease Prevention Law,¹¹ and largely left the Hansen’s disease community to fend for itself after 1963. While many of the resettlement villages were initially formed voluntarily, the government welcomed their development because they were less expensive than maintaining leprosaria. Periodic roundups of Hansen’s disease sufferers, particularly vagrant or begging individuals, continued as a result of the close cooperation between public health officials and Hansen’s disease community leaders. Forced abortions or vasectomies also continued, in some cases into the 1980s.¹² In short, Koreans affected by leprosy felt little difference after leprosy control policies were formally reformed in 1963.¹³ One former patient said that he and others were never even told about the 1963 reform, whereas everyone in Korea’s Hansen’s disease community knew about the Japanese abolition of the LPL in 1996.¹⁴ Basically, the Korean government did nothing to atone for past abuses or ameliorate widespread social prejudice against people with Hansen’s disease until after the leprosy issue exploded in Japan in 2001.

Even more clearly, entrenched relations among policymakers, experts, and the pharmaceutical industry prevented the Korean government from quelling the HCV epidemic among hemophilia patients. While most other advanced industrialized countries were grappling with HIV and HCV-tainted blood products, Korea focused on developing the GCC as a domestic producer of coagulation factor. In theory, domestically produced plasma derivatives were considered cleaner than ones imported from abroad because HIV was not nearly as common in Korea at the time. But the GCC lagged behind the world’s largest makers of blood products in its virus-inactivation technologies. In addition, the Korean National Red Cross (KNRC), which managed the blood supply, was decentralized and slow to respond to evidence of HIV, HCV, and HBV contamination in whole blood. Thus, during the late 1980s and early 1990s, roughly 650 of Korea’s 1,800 hemophilia patients contracted HCV from tainted blood derivatives (see table 5.1). Today, over half of people with hemophilia over the age of 20 are infected with HCV.

Table 5.1: HCV Infection Rates in Korea in 2008 (percentage, and number of individuals)¹⁵

2008	HCV infected	Not HCV infected	Unknown	Total
Hemophilia A	37.3% (553)	59.1% (874)	3.6% (53)	1,480
Hemophilia B	28.8% (212)	65.0% (212)	6.1% (20)	236
Total	35.8% (648)	60.1% (1,086)	4.0% (73)	1,806

¹⁰ For instance, local residents of Bittori Island, who killed 26 cured patients and injured 70 others as these persons affected by leprosy attempted to settle on the island in 1957, received only three-year sentences. In addition, in 1992, police raided a resettlement village after a local newspaper reported rumors that leprosy sufferers had kidnapped and murdered 5 school boys for their livers, historically believed to be good for treating leprosy. After the 5 boys’ bodies were found buried elsewhere a decade later, neither the local authorities nor the newspaper apologized.

¹¹ In fact, the ROK government enacted administrative guidelines (*shihaeng gyuchik*) for the Infectious Disease Prevention Law in Aug. 1977, which required that all vagrants or beggars affected by leprosy be forcefully sent to leprosaria. Officially, administrative regulations included the following provisions until Dec. 1993: prohibitions against leprosy patients entering public places and schools, a requirement that the corpses of leprosy patients be cremated, and prohibitions on the removal or reburial of leprosy victims’ corpses.

¹² Jung, “NHRCK Hansen’s Disease Report.”

¹³ Interview with Kim Jeong-haeng, Sorokdo Self-Governing Council President, Sorokdo (Aug. 14-15, 2009).

¹⁴ Interview with Lee Se-yong, person affected by Hansen’s disease, Chungcheongbukdo (July 23, 2009).

¹⁵ Korea Hemophilia Foundation, *2008 Hyeolubyeong baekseo [2008 Hemophilia White Paper]*, (July 1, 2009), 30.

The health authorities, the KNRC, and GCC still deny responsibility for these infections. The HCV infections and the 25 HIV infections among people with hemophilia occurred years after the rest of the advanced industrialized world knew about and had addressed viral transmission in plasma-derivatives by developing virus inactivation techniques. So why did Korea's regulators fail to prevent these episodes of viral transmission in the late 1980s and early 1990s? Furthermore, while AIDS panic swept Korea, HCV and the affected hemophilia patients were ignored by the government. Powerful voices in the pharmaceutical industry and the KNRC also strove to downplay the HIV and HCV issues until 2002-2004. In short, the insularity of policy-making prevented the government from rapidly responding to and preventing these blood-borne epidemics.

Korea's insulated, inconsistent, and negligent policies related to leprosy and blood products exacerbated the problems victims of these diseases were already facing. The lack of policy-making transparency inherent in any authoritarian system of government certainly facilitated this victimization. Yet, just as in Japan, insulated decision-makers' prioritization of modernization and economic development over the welfare of minority groups was the root cause of this victimization. Not only did people afflicted with Hansen's disease suffer from the debilitating effects of the bacteria, but they also faced arbitrary, negligent, and sometimes outright illegal treatment by health officials and ordinary members of society. Korean hemophilia patients infected with HCV faced dual chronic illnesses that were difficult and costly to treat, while also coming to realize that the government could have prevented their infections with proper regulation of the blood supply and the pharmaceutical industry.

A Changing Political Context

Since the mid-1980s Korean society has been coming to terms with the repercussions of authoritarianism and rapid economic development. Just as economic stagnation motivated Japanese citizens to hold their government accountable, so the newly open political arena after democratization in 1987 encouraged many societal groups in Korea to push for state accountability, a key tenet of democratic governance.¹⁶ Authoritarian rule had harmed many categories of Koreans, and democratization gradually opened up channels for them to voice their grievances. Indeed, one observer noted that Korea has a backlog of victims' issues to tackle, which may explain why the Hansen's disease and HCV issues have not gained much public attention. Early accountability politics mainly concerned civil and political rights, including for labor unions, women, and political prisoners.¹⁷ Some issues remained off-limits despite democratic opening because they related to national security, as we shall see with the abductions issue in Chapter 6.¹⁸ The organizational structure of activist groups, which were often nationally organized coalitions of groups only united by their desire for democratization, also precluded

¹⁶ Interview with Kim Sunhyuk, professor at Korea University, Seoul (June 10, 2008).

¹⁷ Hagen Koo, *State and Society in Contemporary Korea* (Ithaca: Cornell University Press, 1993).

¹⁸ In addition, The Inhyeokdang Incident, a well-known example of the regime's abuse of power, was not addressed until 2007. The Inhyeokdang (People's Revolutionary Party) Incident refers to the case of 8 pro-democracy student activists being executed within 24 hours of being deemed guilty by the Supreme Court on trumped-up charges of pro-North Korean and anti-governmental activities in 1975. After the National Intelligence Service established an independent commission to investigate past injustices by authoritarian governments, a Seoul District Court cleared the activists' names and ordered the government to pay 3.3 B won to each family as compensation in 2007. This revision of prior judicial decisions sparked some calls for an abolition of the death penalty in Korea. More importantly, the 2007 ruling is a representative example of the court disregarding the statute of limitations. Ji-sook Bae, "Campaign Starts to Scrap Death Penalty," *The Korea Times*, September 18, 2007.

some issues from gaining attention. Universalistic principles trumped particularistic grievances. Nevertheless, the victims of the authoritarian period who sought redress for political repression became important precedents for the Hansen's disease and other subsequent victim movements.¹⁹

The range of issues that gained the attention of NGOs and advocacy groups gradually increased. The mass protests for democracy in 1987 left a highly mobilized society that soon began to search for new causes. Thus, advocacy groups started to address social and economic injustice issues in the late 1990s. These nationally organized groups with professional staff began to campaign for the rights of foreign workers, sexual minorities, the disabled, and sex workers. By the end of the 1990s, Korean NGOs and activist organizations tended to be more generalist and large, in contrast to Japanese activist groups. As civil society diversified in its focus and gained influence, however, gaining supporters for specific grievances grew more difficult.²⁰

Dealing with Korea's fraught history and human rights remained thorny political tasks. After Kim Dae-jung's election in 1997, which marked Korea's first democratic transfer of power to the opposition, society and political elites began to grapple with the government's abuses of power in the postwar era in earnest. Endowed with moral legitimacy after having survived imprisonment, attempted assassinations, and exile at the hands of previous authoritarian leaders, President Kim Dae-jung (1997-2002) launched the National Human Rights Commission (NHRCK) in May 2001. This independent but politically-appointed body would receive and investigate claims of human rights violations committed by both governmental and private sector entities.²¹ Although its recommendations have no legal force, they could serve agenda-setting functions in Korea's political realm. Just as Korean advocacy groups had, the NHRCK focused first on complaints about the treatment of prisoners, the harsh National Security Law, and other political and civil rights issues. The NHRCK announced a shift in focus in 2006, to "women, the elderly, children, the disabled, and homosexuals" as well as "those discriminated against due to the government's improper administrative measures."²²

President Roh Moo-hyun (2002-2007), also a progressive politician with an interest in human rights, established the Truth and Reconciliation Commission of Korea (TRCK) in 2005 to investigate past abuses by governmental authorities. During its five-year mandate it has investigated mass killings before and during the Korean War by ROK and U.S./ UN forces, suspicious deaths and dubious convictions under past dictators, state-sanctioned massacres of civilians, and other human rights violations by the state. This was not the first time the government addressed citizens' demands for redress, but it was the most institutionalized forum. Under President Kim Young-sam the National Assembly had enacted a Guchang Special Law in 1996 to grant redress to the victims of the Guchang Massacre.²³ In 2000, the National Assembly

¹⁹ For example, the families of those injured or killed in the May 1980 Kwangju protests and their brutal suppression sought redress after democratization. The National Assembly held public hearings on the "Kwangju Democratization Movement" in 1988-89. The government enacted the Kwangju compensation law in 1990, but many victims and families felt that the Roh Tae-woo administration was just trying to settle the issue with financial aid instead of a full inquiry and true accountability. President Roh Tae-woo (1987-1992) had been a high-level general in the military clique that seized power in the coup that precipitated the Kwangju incident.

²⁰ Katharine H.S. Moon, "Resurrecting Prostitutes and Overturning Treaties: Gender Politics in the "Anti-American" Movement in South Korea," *The Journal of Asian Studies* 66, no. 01 (2007): 142.

²¹ The chair of the NHRCK and four members are appointed by the president. The National Assembly appoints four other members and the Supreme Court appoints the final three members.

²² Kim Rahn, "Rights Watchdog Broadens Mission," *Korea Times*, March 14, 2006.

²³ The Guchang Incident occurred on February 6-9, 1951 when the ROK army killed over 700 unarmed civilians during searches for guerilla fighters in a mountainous region. A representative of that district publicized the issue

also passed a Special Law for Investigating the Jeju Island April 3rd Incident and Recovering the Victims' Honor to offer redress to the bereaved families and survivors of the 1948 massacre.²⁴ Neither special law granted compensation, but they did establish fact-finding commissions and memorial construction plans, much as the Hansen's Disease Special Law would in 2007. President Roh Moo-hyun also officially apologized in April 2006 to victim families for the state's role in the April 3rd incident. Establishing the TRCK was part of Roh Moo-hyun's commitment to rectifying Korea's tragic authoritarian past, and a response to pressure from victim families and human rights activists.²⁵

Before democratization, sporadic evidence of the regimes' abuses of power and inhuman treatment of certain groups in society had certainly emerged, but authoritarian governments suppressed any grievances that would tarnish the state or possibly threaten the regime.²⁶ After 1987, the government could no longer use outright oppression to quiet grievance groups, but it did employ subtle political and bureaucratic tactics to minimize the threat each issue would pose to the stability of the regime. For example, the Korean government curtailed the formal authority of both the NHRCK and the TRCK in order to limit the extent of accounting it would be forced to do for past wrongs. The TRCK has no authority to punish perpetrators, only the authority to investigate petitions by bereaved families and other citizens. Like the NHRCK, it can recommend that the government change or enact certain policies, but these are only suggestions. Such tactics resemble the Japanese government's historic tendency to grant preemptive concessions or privatize groups that sought to hold the state accountable.

The issues considered by the NHRCK and TRCK, as well as by the government generally since democratization, have mostly addressed the excesses of Korea's military dictatorships and the various victims of the national division of the Korean peninsula. Toward the end of the 1990s, issues related to women, the disabled, and other disadvantaged groups slowly gained consideration. However, neither the Hansen's disease community nor the hemophilia community began their quests for redress with much public or political attention. They were outsiders, deemed defective and even a public health threat by the rest of society. One 2004 survey of Hansen's disease sufferers revealed that 83.5 percent of respondents viewed living in resettlement villages as a way of escaping social prejudice.²⁷ Many people affected by Hansen's disease resisted moves to address past victimization publicly because they feared adverse effects

shortly after the killings occurred but the government made only symbolic gestures toward redress. The Guchang Incident Special Law was enacted in 1996 to restore the victims' honor. The incident was raised again by the TRCK.²⁴ For instance, on April 3, 1948 (dubbed the 4/3 incident) ROK military forces killed an estimated 30,000 civilians on Jeju island in an effort to purge left-wing elements. The U.S. military authorities supported the massacre.

²⁵ Kim Dong-choon, "The Truth and Reconciliation Commission of Korea: Uncovering the Hidden Korean War," *The Asia-Pacific Journal*, March 1, 2010.

²⁶ For example, the families of those killed in civilian massacres before and during the Korean War established the National Association of Bereaved Families of Korean War Victims during the brief window of democratic government in 1960-61 to press the government to investigate the deaths of their loved ones. Once the military reassumed control of the government in 1961 under Park Chung-hee, however, the leaders of this association were arrested as communist sympathizers and threats to the state. Subsequent efforts to question the government's role in killings, human rights abuses, and dubious convictions elicited surveillance and deemed "guilty by association" by the police and Korean Central Intelligence Agency (KCIA). See Kim Dong-choon, "The Truth and Reconciliation Commission of Korea: Uncovering the Hidden Korean War," *The Asia-Pacific Journal*, March 1, 2010.

²⁷ Yun-hyeong Gil, "Hansenbyeonghwanja... sawoichabyeol eun bulchiinga [Hansen's disease patients... Is social prejudice incurable?]," *Hankyeoreh Shinmun*, January 31, 2005.

on their families and their lives.²⁸ Although Koreans with leprosy were not as cut off from their families as Japanese leprosy patients were, 63 percent still reported that they either had no contact or merely telephone/ letter contact with their families, if they even had a family.²⁹ Similarly, some hemophilia patients and their families sought to maintain anonymity during the HIV and HCV lawsuits because they fear social prejudice; some families even stopped coming to the office of the patient association.³⁰ The media and general public mostly either maligned or ignored both disease communities.³¹ This reality made achieving issue recognition difficult.

ACHIEVING INITIAL RECOGNITION OF THE HANSEN'S DISEASE AND HEPATITIS C ISSUES

Nonetheless, the Korean Hansen's disease and HCV victims mobilized to collectively hold their government accountable. How did they overcome the evident hurdles to collective action? How did they frame their grievances against the ROK government and other responsible parties? By answering these questions, this section sets the stage for my subsequent analysis of the effects of different patterns of conflict expansion on state responsiveness. As discussed in Chapter 2, victims must overcome psychological, political, and social impediments to collective action. Even though the ROK government accepted no responsibility for the victims' plight initially, the state's recognition of each issue did spark some publicity and help galvanize each set of victims. This section details the power dynamics and main actors in each issue area before showing how initial issue recognition opened a window of opportunity for victim activism.

Hansen's Disease—Koreans affected by Hansen's disease would probably never have launched their campaign to reclaim their human rights if the Japanese Hansen's disease movement had not occurred. Indeed, Japanese lawyers from the Hansen's disease movement acted as issue entrepreneurs to mobilize the Korean leprosy victims. Flush with the victory against the Japanese government in 2001, several human rights lawyers traveled to Sorokdo (Korea's main leprosarium) in 2003 and suggested that Korean victims of the Japanese colonial authorities' harsh leprosy policies apply for compensation from Tokyo.³² The Japanese government had a history of *not* granting official compensation for other colonial era and wartime victims, such as the women used as military sex slaves or Korean atomic bomb victims. Yet the lawyers sensed a chance to leverage the historic 2001 Hansen's disease compensation

²⁸ For instance, Lim Du-seong (future National Assembly member) had to consider his family before he could take up leadership roles. In the end, his daughter's engagement was broken off by the fiancé's family when Lim Du-seong "came out" as a Hansen's disease sufferer by becoming president of the Hanvit Welfare Association in 2003. Interview with Lim Du-seong, National Assembly member, Seoul (Feb. 5, 2009).

²⁹ Survey of 6,328 members of the Hansen's disease community by Hanvit Welfare Association in 2008. National Assembly, "Hansenin pihaesgeon pihaeja myeongyehobok mit bosang deung e gwanhan beopryul' ipbeop gongcheonghoe [Public Hearing for the Revised Hansen's Disease Victim Assistance Law]," February 20, 2009.

³⁰ Interview with Kim Yong-ro, KOHEM, Seoul (July 27, 2009) and Interview with Kim Yong-hwan, former KNRC whistle-blower, Seoul (Feb. 13, 2009).

³¹ One exception to the media's disregard for the Hansen's disease issue was a documentary produced by Kim Heui and Kang Myeong-gon of the MBC in Kwangju, called "Ah, Sorokdo!" It aired locally in Dec. 2001 and nationally in Feb. 2002. The Kumamoto ruling in Japan really sparked the producers' interest in Hansen's disease in Korea.

³² Chamgil, one of Korea's largest volunteer groups devoted to helping people affected by leprosy, organized an symposium in August 2003 and invited the Japanese lawyer Tokuda Yasuyuki, who had been a key player in Japan's Hansen's disease redress movement. Chamgil's website is <http://www.chamgilseoul.or.kr/>. (accessed April 16, 2010).

law to achieve redress for at least one group of colonial victims.³³ Initially, 28 Korean victims applied, and by 2004 that number had grown to 117, with an average age of 81.2.³⁴

For assistance in mobilizing elderly victims on Sorokdo, the Japanese lawyers first contacted several members of the Gwangju branch of *Minbyun* (Lawyers for a Democratic Society) and then the human rights committee of the Korean Bar Association (KBA).³⁵ The Korean legal community doubted the likelihood of actually receiving compensation from Tokyo, at first, and was quite ignorant of Hansen's disease.³⁶ Nevertheless, several Japanese lawyers convinced one member of the KBA's human rights committee, Park Chan-un, to visit Sorokdo.³⁷ After personally witnessing the suffering of persons with Hansen's disease in this manner, Park Chan-un and several colleagues formed the Korean lawyers' group for the Sorokdo issue in early 2004. When the Japanese MHLW rejected victims' claims for compensation, the victims filed an administrative lawsuit in the Tokyo District Court in August 2004. Although only Japanese lawyers could represent the victims in the courtroom, they relied on Korean lawyers to communicate with victims, collect evidence, and mobilize supporters in Korea.³⁸ In short, the movement to seek redress from the Korean government for its inhumane treatment of persons affected by leprosy might not have even started without the Japanese lawyers' efforts.³⁹

In fact, discourse within the Korean Hansen's disease community and ordinary society about leprosy sufferers' human rights and redress for past injustices had been rare before such talk emerged in Japan. Unlike their Japanese counterparts, many Koreans affected by leprosy lived outside the leprosaria. Facing intense discrimination, they developed a society apart, based on self-reliance and self-governance and centered on the resettlement village system. Views on the resettlement villages differ widely. On the one hand, some consider them crucial vehicles for independence, financial security, and dignity, in that they protected the leprosy community from social prejudice. For example, Jeong Sang-gwon, a longtime leader of Korean Hansen's disease community, helped in 1994 to found IDEA International, which promoted such ideals of dignity for those affected by leprosy worldwide. He advocated that other countries mimic Korea's resettlement village system because it was excellent for establishing self-sufficiency.⁴⁰ In

³³ Indeed, some of the lawyers involved in the Koreans' Hansen's disease battle in Japan were also lawyers for other colonial era victims suing the Japanese government for damages. Many also knew Takeo Eichi, the scholar who had uncovered Japanese documents in the mid-1990s about human rights abuses against leprosy sufferers on Sorokdo before 1945 and was active in promoting the interests of Korean A-bomb survivors. Interview with Kunimune Naoko, lawyer, Kumamoto (May 15, 2009).

³⁴ Six applicants passed away in 2004. Sorokdo Compensation Lawyer Group, "Lawsuit Announcement," August 23, 2004, <http://www15.ocn.ne.jp/~srkt/sojyo.html>. (accessed April 16, 2010)

³⁵ *Minbyun* (*Minjusahoireul ui han byeonhosa moim*) is a well-known professional association of human rights lawyers and cause lawyers, founded just after democratization. They have played an active role in causes such as consumer protection, women's rights, environmental protection, and economic justice. President Roh Moo-hyun (2002-2007) was a *Minbyun* lawyer. For more, see Patricia Goedde, "From Dissidents to Institution-Builders: The Transformation of Public Interest Lawyers in South Korea," *East Asia Law Review* 4 (2009): 63-90.

³⁶ Interview with Kim Jeong-haeng, Sorokdo Self-Governing Council President, Sorokdo (Aug. 14-15, 2009)

³⁷ Interview with Kunimune Naoko, lawyer, Kumamoto (May 15, 2009). Interview with Park Chan-un, lawyer, Seoul (June 4, 2008).

³⁸ To skirt regulations against foreign nationals serving as lawyers in the Tokyo District Court, some Korean lawyers acted as official translators in the court room. Interview with Park Chan-un, lawyer, Seoul (June 4, 2008). Interview with Kunimune Naoko, lawyer, Kumamoto (May 15, 2009).

³⁹ Interview with Lim Doo Sung, National Assembly member (GNP) and leader of Hanvit, Seoul (Feb. 5, 2009).

⁴⁰ IDEA stands for the International Association for Integration, Dignity, and Economic Advancement and was established in 1994. It was the first international organization comprised of persons affected by leprosy. IDEA International does not explicitly seek restitution for past human rights violations. Japan's Hansen's disease

contrast, others claim that the resettlement village system institutionalized the marginalization of the leprosy community and prevented their integration into society.⁴¹ Scholars, particularly at Jeonnam National University in Jeolla province near a leprosarium, started studying the resettlement villages, prewar and postwar leprosy policies, and human rights abuses in the mid-1990s but these scholarly articles were not widely read.⁴² As a result, most observers credit the Japanese lawyers with turning Hansen's disease into a human rights issue in Korea.

On top of the closed nature of politics in the authoritarian period, the structure of the Hansen's disease community in Korea and its relationship to the government also delayed serious discussions of human rights and redress for past injustices. Those affected by Hansen's disease and living in resettlement villages or Sorokdo formed the Hansung Cooperative Association (HCA) in the late 1960s to represent their interests to the government.⁴³ The central government willingly delegated authority to the HCA, which governed the Hansen's disease community, operated credit and business services, and negotiated with the state on issues related to Hansen's disease until the HCA's collapse in 2002 as a result of bankruptcy.⁴⁴ HCA and its successor, the Hanvit Welfare Association (hereafter Hanvit), achieved significant victories in negotiations with the state over the decades, but the price of their institutionalized access was a loss of autonomy. Over half of Hanvit's budget comes from the state and the rest from donations by corporations or individuals, often persons affected by Hansen's disease.⁴⁵ As we will see below, KOHEM receives no direct government funding, though it is supported by the Korea Hemophilia Foundation, which receives support from the state and drug makers. The Hansen's disease community became dependent on the government, and HCA was the channel through which the benefits flowed. Like their counterparts in Japanese leprosaria, Koreans with leprosy generally saw their medical care improve and their standard of living increase. The government took credit for these improvements, as exemplified by the relatively regular visits by President Park Chung-hee's wife to leprosy villages. HCA had and Hanvit has excellent access to the

community is only peripherally involved in IDEA. Under the leadership of Jeong Sang-gwon, who was also president of HCA, Korea's leprosy community has been active in IDEA. Koreans affected by leprosy have also been motivated by Christian zeal to help others suffering from leprosy around the world, both through IDEA and other missionary organizations. Interview with Jeong Sang-gwon, former HCA president, Seoul (July 24, 2009). For an analysis, see Jae-hyung Kim, "Hanguk hansenindanche eui haeoe wonjo saeop model eui hyeongseong e gwanhan sahoehakjeok yeongu [A Sociological Study of the Formation of Models for Foreign Aid Projects among Korea's Organizations of People with Hansen's Disease]" (Master's thesis, SNU, 2007).

⁴¹ Interview with Park Chan-un, lawyer, Seoul (June 4, 2008).

⁴² SNU sociologist and the principal investigator of the NHRCK report on the human rights of people affected by Hansen's disease, Jeong Geun-shik, was originally a professor at Jeonnam National University. Many of Prof. Jeong's students became involved in the Korean Hansen's disease redress movement.

⁴³ The Korean Hansen's Federation first formed in 1969 among resettlement village leaders. It strove to improve discipline within the resettlement villages and enhance their self-sufficiency. It also acted on behalf of the central and local governments in curbing vagrancy among people with leprosy. In 1972 it was renamed the Hansung Cooperative Association and registered with the MOHW in 1975 as the recognized organization for the Hansen's disease community. The HCA collapsed and was reconstituted into the Hanvit Welfare Association in 2003.

⁴⁴ HCA went bankrupt in 2002. HCA had established animal feed and fertilizer factories in the late 1980s to supply the chicken and pig livestock operations that were the backbone of the resettlement village economy. With the liberalization of the Korean economy during the 1990s, however, the feed factories faced increasingly difficult financial straits. Financial assistance from the ROK government after 1988 and donations from within the Hansen's disease community kept these factories afloat for a few years, but they went bankrupt in the early 2000s. As a result, the name of HCA and the leadership of the Hansen's disease community had to change.

⁴⁵ Interview with U Hong-seong, chief administrator of Hanvit Welfare Association, Seoul (Jan. 30, 2009)

government, but entrenched dependence has made many Hansen's disease leaders hesitant to directly criticize the ROK government.⁴⁶

Many, but not all, members of the community view HCA and Hanvit positively. Membership is automatic, so members feel relatively little personal connection to Hanvit.⁴⁷ For example, one man compared Hanvit to one's extended family—you may not always get along with everyone and may resent them at times, but it is still good that they exist.⁴⁸ Others criticize the centralized, patriarchal, and almost authoritarian decision-making patterns within HCA and Hanvit, even though Hanvit's local chapters always vote on important decisions.⁴⁹ Persons with Hansen's disease in Korea numbered about 15,000 in 2008, and Hanvit takes pride in representing the entire community in all its diversity.⁵⁰ A complex mixture of politics, business, and Christianity defined the community's leadership.⁵¹ Although different persons and factions have led over the years, they all come from a relatively wealthy subgroup within an otherwise quite poor community. Most of these leaders are also elders in their churches, and, therefore, highly respected. Conservative Christianity helped to maintain order within the resettlement villages and to encourage those affected by leprosy to pursue self-improvement.⁵² With 97.3 percent of the leprosy community Catholic or Christian, it is no wonder that Christianity and Hanvit leadership are so intertwined.⁵³ As the only organization recognized by the state as the legitimate voice of the Hansen's disease community, HCA and Hanvit leaders worried that blaming the state could jeopardize the access and leverage that they had developed over time.

For this reason, the Hansen's disease issue in Korea was initially framed around the responsibility of the Japanese government for colonial era abuses. As this did not challenge the ROK government, Hanvit supported the redress movement by elderly Sorokdo residents. Hanvit leader, Lim Du-seong, went to Tokyo to observe the court proceedings, and the lawyers worked through and with Hanvit to contact potential plaintiffs and gather evidence for the lawsuit. As a large and established organization, Hanvit had influence in Korea and was able to provide

⁴⁶ Interview with Jeong Sang-kwon, former leader of the Hansen's disease community and founder of IDEA International, Seoul (July 24, 2009). Interview with O Ha-na, researcher, Seoul (Jan. 28, 2009).

⁴⁷ I do not wish to imply that the character and even structures of HCA and Hanvit are identical. In fact, there has been much variation over the years in the way these Hansen's disease organizations interact with the political realm. However, authority has generally been centralized and the organizations quite conservative, enforcing strong discipline on the Hansen's disease community, particularly in the resettlement villages. Interview with Jeong Sang-kwon, former leader of the Hansen's disease community and founder of IDEA International, Seoul (July 24, 2009).

⁴⁸ Interview with Kang Chang-seok, author and poet in the Hansen's disease community, Sorokdo (Aug. 14, 2009)

⁴⁹ Interview with Jeong Geun-shik, SNU sociologist, Seoul (Jan. 19, 2009). Interview with Lee Se-yong, person affected by Hansen's disease, Chungcheongbukdo (July 23, 2009). Interview with Cho Yeong-seon, lawyer, Seoul (Feb. 11, 2009). Interview with Gil yun-hyeong, Hankyoreh journalist, Seoul (Jan. 22, 2009).

⁵⁰ In Korea the number of new cases of Hansen's disease diagnosed each year is declining. New cases numbered 1,292 in 1970, but just 41 in 2003. Swift detection and treatment means that most new patients can lead normal lives, rather than going to live in resettlement villages or leprosaria. Consequently, the inhabitants of the resettlement villages are aging. According to a survey in 2004, the average age of resettlement village residents was 66. Gil, "Hansenbyeonghwanja... sawoichabyeol eun bulchiinga [Hansen's disease patients... Is social prejudice incurable?]."

⁵¹ Interview with Lim Seong-a, secretary for IDEA Korea, Seoul (Aug. 1, 2009).

⁵² Interview with Jeong Sang-gwon, former president of HCA, Seoul (July 24, 2009).

⁵³ According to a survey by the Pew Forum on Religion and Public Life in 2006, 42 percent of ordinary Koreans were unaffiliated, 25 percent Protestant, 22 percent Buddhist, 10 percent Catholic, and 1 percent other. The Pew Forum on Religion and Public Life, "Spirit and Power: A 10-Country Survey of Pentecostals," October 2006, 92, <http://pewforum.org/newassets/surveys/pentecostal/pentecostals-08.pdf>. (Accessed April 21, 2010). Hanvit Survey National Assembly, "Public Hearing on the Revised Law."

invaluable logistical assistance. In the end, the lawsuit in Japan proved crucial in raising awareness of the ROK's mistreatment and neglect of Hansen's disease sufferers during the postwar period. Surprisingly, Hanvit joined the movement for redress from the ROK government relatively early on. Unlike the FNLP in Japan, Hanvit leaders felt that playing an active role would help them to steer the course of the conflict, maintain unity among leprosy sufferers, and retain Hanvit's position as the sole organizational voice for the Hansen's disease community. Hanvit's activism meant that there was less pressure to increase the number of supporters in the general public. Indeed, Hanvit's *modus operandi* was top-down conflict expansion, which made bottom-up conflict expansion difficult.

Hepatitis C-Tainted Blood Products—As in Japan, several separate sources of information emerged between 2002 and 2004 to enable the HCV redress movement to coalesce. These included: 1) media coverage about new research on HIV infections among hemophilia sufferers, 2) new evidence of HIV and HCV contamination in the blood supply, and 3) publicity about a lawsuit by hemophilia patients infected with HIV. As in Japan, hepatitis transmissions through blood transfusions and other medical procedures were common, especially among older generations, but many infected people are not sure how they contracted the disease. The ROK government has resisted conducting a national survey about the prevalence of HCV or the routes of infection, but scholars estimate that around 1 percent of the general population has been infected with HCV.⁵⁴ Among hemophilia patients, however, over one in three are infected with HCV today. In contrast, just 25 hemophilia patients have HIV/ AIDS. Yet since HIV is a more internationally prominent and publicly feared disease, it is not surprising that recognition of the HCV infections could only emerge in the wake of the HIV-tainted blood scandal.

The Korean health authorities realized that viruses like HIV and HCV could be transmitted through whole blood or plasma derivatives prior to the discovery of the first infections among hemophilia patients. Indeed, when Korea's first non-hemophilia-related case of HIV was announced in 1985, hemophilia doctors and the nascent hemophilia patient association were already holding seminars about preventing HIV, HCV, and HBV infections from blood products.⁵⁵ In most of the advanced industrialized world, widespread HIV and HCV infections in hemophilia populations sent governments scrambling to respond to the epidemic.⁵⁶ The Korean MOHW only formally began investigating HIV-tainted blood products from 1992 to 1994, after about a dozen infections were discovered among Korean hemophilia patients.⁵⁷ The inquiry

⁵⁴ Roughly 5 percent of Koreans are infected with hepatitis B but a nationwide campaign to promote HBV vaccinations began in the mid-1980s and has helped contain the spread of the disease. Interestingly, the Green Cross Corp. developed the world's third HBV vaccine (Hepavax B) in 1983 and began exporting it later in that decade. Hai-Rim Shin, Soon Young Hwang, and Chung-Mo Nam, "The Prevalence of Hepatitis C Virus Infection in Korea: Pooled Analysis" 20, no. 6 (December 2005): 987.

⁵⁵ Mothers of hemophilia patients founded Han Maeum Hoe in December 1984 and began advertising in newspapers and on television to gather patients and families throughout 1985. This was Korea's first hemophilia patient organization and it cooperated with doctors and public health authorities to register patients across the country. Han Maeum Hoe was eventually renamed KOHEM. Korea's first known case of HIV was discovered in June 1985. The infected person was a foreigner. KOHEM, "KOHEMhoe Yeonhyeok [KOHEM Chronology]," n.d., <http://www.kohem.net/>. (accessed April 23, 2010).

⁵⁶ For a comparative perspective, see Eric A. Feldman, "Blood Justice: Courts, Conflict, and Compensation in Japan, France, and the United States," *Law and Society Review* 34, no. 3 (2000): 651–701.

⁵⁷ All Korea's HIV infections among people with hemophilia stemmed from factor IX blood products. Twenty of Korea's 25 HIV-positive hemophilia patients have hemophilia B and the other 5 have hemophilia A but require factor IX treatment. Two of the 25 HIV-infected hemophilia patients contracted the virus abroad and the rest in

focused on Green Cross Corp.'s production processes. One member of the expert committee recommended in vain that the government force GCC to suspend factor production until the investigation was completed since he believed that faulty implementation of new heat treatment techniques at the GCC was to blame for the infections.⁵⁸ Yet, the committee concluded in 1994 that it could not pinpoint the cause of the infections.

Disbelief at this timid conclusion propelled one HIV researcher, Cho Yeong-geol, to start conducting genetic analyses of preserved blood samples from all HIV positive individuals (both hemophilia patients and otherwise) who came for yearly check-ups, as required by Korea's infectious disease control policies.⁵⁹ In 2002, a journalist from the *Dong-A Ilbo* reported on Dr. Cho's research detailing the common origins of Korean hemophilia patients' HIV infections.⁶⁰ This media coverage caused the issue of tainted blood to re-emerge, marking the first key development that enabled the HCV victims to seek redress. Dr. Cho and his co-authors demonstrated that at least 12 of the infected hemophilia patients' viruses matched one paid Korean donor's HIV. They suggested, therefore, that the use of that donor's tainted blood to produce clotting factor domestically in the early 1990s (i.e. by GCC) had caused infections in a group of young people with hemophilia. In response to media coverage of Dr. Cho's research and to KOHEM's appeals, the MOHW launched a committee to investigate HIV infections among hemophilia patients in September 2002.⁶¹ While closely resembling the MOHW investigation in 1992-1994, this inquiry signaled that the government recognized the tainted-blood product issue, even if it did not take responsibility for it. These developments also sparked a lawsuit by the HIV-infected hemophilia patients against the Green Cross in February 2003.

Second, news that tens of thousands of units of contaminated blood had mistakenly been transfused and therefore infected several citizens shocked the nation in 2003-2004.⁶² The Korean National Red Cross (KNRC) blood system started using a national computer database (Blood Information Management System) to enhance the safety of the blood supply in 2003.⁶³ Several employees of the KNRC, however, noticed with this new integrated database substantial

Korea. About half of those infected with HIV were under the age of 15 when infected. Interview with Cho Yeong-geol, professor, Seoul (Aug. 11, 2009).

⁵⁸ Choe Kang-won, professor of internal medicine at SNU and a member of the inquiry committee, called its investigation a "farce" later in part because his suspicions about the GCC production process were dismissed. Dong-ho Shin, "Hyeolubyeong 10yeomyeong eiju kamyem [About 10 hemophiliacs infected with HIV]," *DongA Ilbo*, September 13, 2002.

⁵⁹ Interview with Cho Yeong-geol, professor, Seoul (Aug. 11, 2009).

⁶⁰ Dr. Cho and his co-authors conducted genetic analysis of the HIV infections of Korea's 25 HIV positive hemophilia patients. Their research showed the genetic uniqueness of one strain of HIV-1 among Koreans (called the Korean HIV-1 subclade B). This finding enabled them to identify which people with hemophilia had been infected from clotting factor imported from the U.S. and which had been infected through domestic clotting factor. They therefore traced the routes of infection for these hemophilia patients with HIV to the tainted blood used by the GCC to make coagulation factor in 1990. H. Sung et al., "Phylogenetic Analysis of Reverse Transcriptase in Antiretroviral Drug-Naive Korean HIV Type 1 Patients," *AIDS research and human retroviruses* 17, no. 16 (2001): 1551. Y. K. Cho et al., "Molecular Epidemiologic Study of a Human Immunodeficiency Virus 1 Outbreak in Hemophiliacs B Infected through Clotting Factor 9 after 1990," *Vox sanguinis* 92, no. 2 (2006): 113-120.

⁶¹ Dong-ho Shin, "AIDS kamyemja 3myeong hyeolaek hyeolubyeong chiryoje wonryoe seokkyeo [Blood from three HIV-positive persons used to produce clotting factor]," *DongA Ilbo*, October 1, 2002.

⁶² Bureau of Audit and Inspections, "Hyeolaek anjeon gwalli mit hyeolaek keomsa shisutem unyong bujeokjeong [Improprieties in the Operations of the Blood Safety Management and Blood Inspections Systems]," February 2004.

⁶³ The KNRC began conducting antibody screening for HCV on all blood donations in April 1991, which helped to reduce the number of infections through blood transfusions. Shin, Hwang, and Nam, "The Prevalence of Hepatitis C Virus Infection in Korea," 988.

evidence that there was HIV- and HCV-tainted blood distribution for both transfusions and the manufacture of clotting factor. After the central KNRC office responded with indifference to his and his colleagues' findings, Kim Yong-hwan blew the whistle on the KNRC and the tainted blood issue exploded into a public scandal.⁶⁴ His revelation sparked extensive media coverage, especially of cases of HIV and HCV infection through blood transfusions, which any person could need. In response, the KNRC and health authorities sought supplemental budgeting to fund the more sensitive nucleic acid testing (NAT) technology. The Board of Audit and Investigations (BAI) as well as the health and welfare committee of the National Assembly launched inquiries into the safety of the blood supply. These infections of HIV and HCV via blood transfusions helped to make the safety of blood products a social issue in 2004.

Third, the progress of the HIV victims' lawsuit against the GCC contributed to a slowly growing awareness of other blood-borne viruses, such as HCV. Hemophilia patients infected with HIV started preparing to file a damages lawsuit against the GCC in November 2002, just after Dr. Cho's findings were publicized. As with the Japanese HCV victims, many of the HIV positive hemophilia patients discovered a potential reason for their infections for the first time in reading about Dr. Cho's research. Dr. Cho cooperated with KOHEM during this tumultuous period, in spite of the personal cost to him, including the libel suit that the GCC filed against him. The overtly self-defensive approach of the GCC shocked many in the hemophilia community. Hemophilia patients' HIV infection rates were not as high as in Japan but Korean victims still faced stonewalling and little support from the government. The frustrations of the HIV lawsuit taught Korean HCV victims about how to hold the government and drug maker accountable.

The Korean hepatitis C victims were not as random a group of individuals as the HCV sufferers without hemophilia in Japan. In Korea, the only HCV victims seeking redress from the state are the roughly 650 hemophilia patients, who were infected through clotting factor in the 1980s and 1990s. Since all victims were part of an already-organized hemophilia community, they did not suffer from the same lack of organizational ties that the Japanese victims had. Through KOHEM, the Korea Hemophilia Association, the victims knew that others were also infected with HCV as they were. Beginning as a group of mothers in 1984, KOHEM served as a mutual support group for hemophilia families and periodically advanced hemophilia patients' interests in negotiations with the health authorities. For example, in the early 1990s KOHEM was involved in successfully pressing the Kwangju KNRC blood center to stop using plasma from paid donors.⁶⁵ In 1999-2000 KOHEM compelled the national health insurance system to cover part of the cost of foreign-made clotting factor because the GCC's factor was tainted with hepatitis A.⁶⁶ As such, KOHEM's expertise consisted of focused negotiations with the MOHW, the health insurance authorities, and the KFDA, not in launching public appeals for support.

Certainly, KOHEM alleviated some of the hurdles to collective action for Korea's victims because it had a loyal membership, funding, organizational experience, and some governmental contacts. KOHEM never received government funding, but it operates alongside the Korea Hemophilia Foundation (KHF), which was established by the GCC and is funded by

⁶⁴ Kim Yong-hwan and three concerned colleagues weighed taking the problem to the government or to the media. He detailed lax safety within the KNRC on the KBS news program *Chujeok 60bun*. Interview with Kim Yong-hwan, KNRC whistleblower, Seoul (Feb. 13, 2009).

⁶⁵ Interview with Kim Yong-ro, KOHEM, Seoul (Aug. 21, 2009). Interview with Kim Cha-hyeon, former director of the Kwangju Blood Center, Kwangju (Aug. 15, 2009).

⁶⁶ Hye-son Shin, "KFDA to Destroy 22 Batches of Tainted Hemophilia Drug," *The Korea Herald*, January 29, 2000.

drug makers and the government.⁶⁷ As such, amassing the willpower to file a lawsuit against the government and the GCC, both of which were integral to the victims' daily or weekly treatment regimes, was difficult. Fears of losing their medical care and insurance coverage or being stigmatized plagued the initial effort to demand redress. The GCC's libel lawsuit against Dr. Cho also had a chilling effect on Korea's hemophilia experts, many of whom receive research funding from the GCC or have personal ties to the GCC. The competing goals of securing safer treatment and of seeking redress have strained relationships within the hemophilia community.

The main challenge for HCV victims in Korea has been that KOHEM is simultaneously negotiating with the state for continued national insurance coverage and drug approvals while also fighting the state in court over the drug-induced HCV infections. Their need to negotiate with the government—indeed their access—has constrained the HCV victims' ability to shame the government in order to win public sympathy. As we shall see below, the HCV victims have pursued many different strategies, including public rallies or publicity campaigns to appeal for public support, but with little lasting success because of these competing goals.

THE STAGES OF CONFLICT EXPANSION

While bottom-up conflict expansion tends to produce the most extensive responsiveness from the state, limited or top-down conflict expansion generally leads to partial compromises rather than comprehensive redress. I argue that this is because limited and top-down conflict expansion involves less public outrage and therefore pressure against the government to respond to victims' demands. As such, the government retains enough maneuvering room to minimize the concessions it must make to victim redress organizations. This section traces how and why the Hansen's disease pursued top-down conflict expansion, letting victim leaders and a few politicians drive the conflict. I also explore how and why the HCV conflict has remained limited in its scope, with the authorities setting the agenda. Indicators of the predominant mode of conflict expansion include the attendance at rallies or protests, media coverage, public opinion polls, petition signatures gathered, and supporter group activism. Basically, this section and the next section on state responses to these movements show that patterns of conflict expansion explain within-country, cross-issue variations in levels of state responsiveness, in addition to the cross-national differences that are clear between this chapter and Chapter 4.

As discussed in Chapter 3, these case studies show that Korea's heterogeneous media content and media consumption patterns, as well as the dominance of large, professionalized advocacy organizations in the public sphere, make it difficult for Korean victim groups to expand public interest in their conflicts. In this section, I demonstrate that the extant patient associations and victims' inability to distinguish themselves organizationally also complicated concerted efforts to expand sympathy among the general public. I argue that Hanvit's dominance and the Japanese dimension of the Hansen's disease redress movement enabled Korean leprosy victims to pursue top-down conflict expansion, which ended up eliciting partial redress from the state. In contrast, Korea's HCV victims struggled to even achieve top-down conflict expansion, and have therefore only elicited piecemeal negotiated settlements so far. In the final section of this chapter, I evaluate how the lack of sustained, broad-based public attention to the Hansen's disease and HCV issues, plus the actions of the few politician allies they attracted, explains the level of state responsiveness to each victim redress movement.

⁶⁷ The KHF provides funding and logistical support to KOHEM. In 2008, aid from the KHF amounted to 200 million won. KOHEM's office in Seoul is directly beside the KHF, in a building owned by the Green Cross Corp. Korea Hemophilia Foundation, *2008 Hyeolubyeong baekseo [2008 Hemophilia White Paper]*, (July 1, 2009), 14.

Tactics and the Expansion of the Hansen's Disease Issue

Neither of the Korean victim movements pursued conflict expansion as effectively as their Japanese counterparts. The Korean Hansen's disease victims, however, were relatively more successful than the HCV victims because they marshaled more pressure against the government through public and political supporters. The initial boost that Korea's Hansen's disease community received from the quest for colonial era compensation proved crucial in enabling the victims to elicit as much as they did from the ROK government. Japanese lawyers brought issue framings that had been effective, evidence, and a model of a successful redress movement from Japan. The 2001 Hansen's Disease Law passed by the Diet became the exemplar for Korean lawmakers and activists to emulate. The uneven rulings of the Tokyo District Court in 2005 stoked public outrage at the Japanese government and forced the ROK government to pay attention. Yet, the Japanese dimension of the Korean Hansen's disease redress movement also had pernicious effects. The early focus on blaming the Japanese government diverted public and media attention away from the responsibility of the Korean government for its postwar treatment of leprosy sufferers. In addition, while grassroots supporters held the Japanese government responsible, Hanvit and a lawmaker engineered a bill to supply partial redress. In the absence of widespread pressure, the government ultimately only admitted responsibility for a circumscribed set of victimization episodes and agreed to provide welfare and medical assistance rather than compensation. The stages of conflict expansion that produced these partial results have less cumulative effect because the redress process was divided between Japan and Korea. In addition, top-down and sometimes limited conflict expansion inherently entails more short-lived and isolated bursts of pressure on the government.

Stage 1: Demanding Compensation from Japan for pre-1945 Victimization—Since elderly Korean Hansen's disease sufferers were engaged in a lawsuit against the Japanese government for colonial era compensation, the Hansen's disease issue gained attention in Korea. Following on the Japanese Hansen's disease movement, it is not surprising that the Sorokdo lawsuit garnered much attention in Japan. In fact, many of the ethnic Korean members of Japan's Hansen's disease population and their ethnically Japanese friends resumed their conflict with the Japanese government once the Sorokdo lawsuit was underway.⁶⁸ Some networks of citizen supporters also re-mobilized to support the plaintiffs from Korea and Taiwan in 2004-2005.⁶⁹ One Korean plaintiff was surprised at how welcoming and supportive the Japanese were, especially compared to the Japanese authorities during the colonial era.⁷⁰ Public interest in Japan also surprised many Korean victims. As a plaintiff noted, "[we] are going to win the case thanks to Japanese lawyers, in contrast to the Korean government's lack of interest in this issue."⁷¹ The redress movement in Japan and the Sorokdo lawsuit in Tokyo gave the Korean Hansen's disease community a model for how to frame their cause, a network of experienced lawyers and scholars, and an example of a state taking responsibility for the consequences of its policies.

⁶⁸ Interview with Kim Ki-bun, staff member at the National Hansen's Disease Museum, Tama (April 23, 2009).

⁶⁹ For example, one supporter group in the Tokyo area provided transportation to the foreign plaintiffs and observed the court proceedings. By October 2005, there were so many supporters in Japan that the lawyers had to arrange a system whereby they could take turns observing inside the courtroom. Interview with Morimoto Miyoji, Hansen's disease sufferer and head of IDEA Japan, Tama Zenshōen (July 3, 2009).

⁷⁰ Interview with Kang U-seok, Sorokdo lawsuit plaintiff, Sorokdo (Aug. 14, 2009).

⁷¹ Yun-hyeong Gil, "Keunal, Sorokdo ga Useotta [Sorokdo Laughed that Day]," *Hankyeoreh* 21, May 24, 2005.

Hanvit, unlike the FNLP in Japan, took a leadership role in the Sorokdo lawsuit. Like most activist groups in Korea, Hanvit is more hierarchical and centralized than the FNLP ever was. The local branches of FNLP in each leprosarium exerted much more authority than any of Hanvit's regional or village-levels do. Consequently, once Hanvit committed to seeking redress, it could convince and mobilize much of the community living in Sorokdo or resettlement villages. Since Hansen's disease sufferers rarely interact with the general public, however, this mobilization capacity did not help bottom-up conflict expansion. Moreover, as the only organization of Hansen's disease sufferers in Korea, Hanvit serves as a clearinghouse for access to the community and therefore manages the Hansen's disease issue framing.⁷² This arrangement also helps to protect members of the community from excessive media coverage. Hanvit's active participation in the Sorokdo lawsuit bolstered the association's human rights credentials.

Nonetheless, as one observer noted, the greatest impetus for partial redress from the ROK government came not from below, not from above, but from the side—from Japan.⁷³ The Sorokdo lawsuit galvanized a small group of human rights scholars and lawyers in Korea, who subsequently launched an investigation into the ROK's governments' postwar Hansen's disease policy. In particular, the lawyer Park Chan-un, as Director General of the Human Rights Policy Bureau at the NHRCK from February 2005 to September 2006, instigated a massive investigation into the human rights of persons affected by Hansen's disease in Korea. This report and Park Chan-un's efforts to raise awareness of the Hansen's disease issue played a crucial role placing the issue on the political agenda. Growing interest, from both within the community and ordinary society, in the plight of Korea's Hansen's disease victims began because of the Sorokdo lawsuit. As Lim Du-seong said, "we could pursue redress because the Japanese Hansen's disease victims won [after the Kumamoto ruling]."⁷⁴ Thus, Hanvit lent its organization muscle to the slowly emerging but separate movement for domestic redress, as we shall discuss below. Conflict expansion, however, remained predominantly top-down.

Stage 2: The Hansen's Disease Human Rights Hearing at the National Assembly—On Oct. 11, 2004, an estimated 400 people affected by leprosy gathered at the National Assembly for the largest public gathering of victims of Hansen's disease in history. Park Chan-un, one of the lead Korean lawyers involved in the Sorokdo lawsuit and a commissioner on the NHRCK, organized the symposium in Seoul to raise awareness of the postwar human rights abuses against the Hansen's disease community. This forum was the first time that the ROK government's responsibility for the victimization of the Hansen's disease community was mentioned and the first time that Hansen's disease was defined as a social issue rather than just a medical issue.⁷⁵ Some victims gave anonymous testimony about the human rights abuses they had suffered, including job discrimination and forced sterilizations. Many of those affected by Hansen's disease still feared prejudice, and therefore wore masks and hats to hide their identities. The hesitancy of many victims to "come out" helps explain why this event drew little media coverage.⁷⁶ By chance, however, this public hearing piqued the interest of National Assembly

⁷² Members of the media arranged most interviews with persons affected by Hansen's disease by going through the Seoul office of Hanvit. Interview with Gil Yun-hyeong, Hankyeoreh journalist, Seoul (Jan. 22, 2009).

⁷³ Interview with Gil Yun-hyeong, Hankyeoreh journalist, Seoul (Jan. 22, 2009).

⁷⁴ Interview with Lim Du-seong, National Assembly member, Seoul (Feb. 5, 2009).

⁷⁵ Interview with Cho Yeong-seon, lawyer, Seoul (Feb. 11, 2009).

⁷⁶ PD Diary did run an investigative program on Hansen's disease after the public hearing at the National Assembly, which drew the attention of other reporters interested in human rights issues. Interview with Jeong Eun-soo, *Seoul Shinmun* reporter, Seoul (Feb. 6, 2009).

member Kim Chun-jin, who would subsequently spearhead the legislative process for redress, as discussed below. In fact, Kim Chun-jin drafted the bill in close coordination with Hanvit before the NHRCK report was even released. As such, the redress legislation was a top-down effort.

Meanwhile, the battle for compensation from the Japanese government continued, garnering much attention in Japan and even increasing amounts of public attention in Korea. Japanese lawyers orchestrated a petition drive in Japan, South Korea, and Taiwan to gather signatures to pressure the Japanese government to grant colonial era victims compensation under the 2001 Hansen’s disease law. The petition called on the Japanese government to revise its policy of excluding victims in Japan’s former colonies. Table 5.2 provides figures on how many signatures were collected in each country. The bulk of the Korean signatures gathered came from within the Hansen’s disease community.⁷⁷ The target of this emerging bottom-up conflict expansion, however, was the Japanese government, not the ROK government.

Table 5.2: Signatures Collected to Petition the Japanese Government to Grant Compensation to Colonial-Era Victims⁷⁸

Date petitions submitted in Tokyo	Japan (number of new signatures collected)	Korea (number of new signatures collected)	Taiwan (number of new signatures collected)	Total (for each round)
2/4/2005	18,893	8,486	0	27,379
4/13/2005	63,572	43,310	0	106,882
5/23/2005	38,921	24,740	528	64,189
7/19/2005	15,319	29,699	795	45,813
8/29/2005	3,294	15,340	21	18,655
10/18/2005	1,636	1,098	125	2,859
10/21/2005	530	12,590	0	13,120
TOTAL	142,165	135,263	1,469	278,897

Stage 3: Protesting the Uneven Rulings in Tokyo—The shocking news on Oct. 25, 2005 that two judges in the Tokyo District Court had handed down polar opposite rulings for the Taiwanese victims and the Korean victims led to a dramatic expansion of the Hansen’s disease conflict in Korea. The judge for the 25 Taiwanese plaintiffs ruled that Japan’s 2001 compensation law also applied to patients in leprosaria run by the Japanese colonial authorities in Asia. On the same day, the judge for the 117 Korean plaintiffs ruled that the MHLW was *not* responsible for compensating leprosy patients in its colonies. Most major Japanese news outlets decried the uneven rulings, as did the DPJ, the Komeito, the FNLP, Mindan (the Korean Residents’ Union in Japan), the members of Japan’s Hansen’s Disease Fact-Finding Committee, and various large interest groups in Japan.⁷⁹ The elderly Korean plaintiffs who had traveled to Tokyo and their lawyers were outraged at the divergent rulings.

⁷⁷ Personal communication with Kim Jae-hyung, researcher at SNU (May 2010).

⁷⁸ Naoko Kunimune, “Signature Petition Report,” n.d., <http://www15.ocn.ne.jp/~srkt/syomei.htm> (accessed April 16, 2010).

⁷⁹ Statements opposing the uneven rulings are collected at <http://www15.ocn.ne.jp/~srkt/syodantaiseimei.html> (accessed April 25, 2010). Groups that spoke out in favor of granting all Hansen’s disease victims in colonies compensation under the 2001 law include: the Japanese Medical and Dental Practitioners for Improvement of

An emergency meeting was called between the victims and lawyers in Seoul and Tokyo on the day this ruling was handed down to plan a large-scale demonstration in downtown Seoul.⁸⁰ The protest would enable the victims to ride the wave of media coverage in Korea to pressure both the Korean and Japanese government to engineer a political solution to the colonial era redress issue. Convincing actual victims to appear in public and stand up for their rights became an urgent goal of Hanvit.⁸¹ Between 1,000 and 2,000 persons affected by Hansen's disease converged on Seoul. Many of them had never been in public before. Most participants did not want to cause trouble, since they received significant welfare benefits from the government.⁸² Mainly, they were outraged at the injustice of the divergent rulings from the Tokyo District Court. Smaller demonstrations around Korea also occurred, but they attracted much less public attention, even near Sorokdo.⁸³ Throughout the winter, lawyers and a few victims also held small demonstrations outside the Japanese embassy in Seoul, including once even alongside the comfort women who protest there each Wednesday.⁸⁴

This period was the closest that the Korean Hansen's disease movement ever approached to bottom-up conflict expansion, only their target was the Japanese government and not the ROK government.⁸⁵ Events like the demonstration in October 2005 drew reporters who might otherwise ignore the Hansen's disease issue. Moreover, the uneven rulings made many members of the general public angry, and the unprecedented public appearance of so many Hansen's disease sufferers further guaranteed that this would be a "hot" story. However, it is said that the Korean media coverage is generally not deep and that outlets have short attention spans.⁸⁶

Thus, concern among the general public for the Hansen's disease issue never reached the sustained levels seen in Japan, even in the wake these uneven rulings. According to a NHRCK survey in 2005, most ordinary Koreans continued to harbor scientifically unjustified prejudices against persons affected by Hansen's disease. When asked about the prospect of a family member marrying a person affected by Hansen's disease, 86.7 percent responded that they would oppose the match. Furthermore, 78.9 percent of respondents said that they would be reluctant or even refuse to use facilities, like public bath houses and hairdressers, frequented by persons affected by Hansen's disease.⁸⁷ These results show that the Korean public has not grasped the core of the Hansen's disease problem—that it is treatable and not very contagious and that persons affected by leprosy deserve respect. Partially, this is due to the movement's focus on blaming the Japanese government for colonial era victimization, which was a popular topic considering the widespread anti-Japanese sentiment in Korea in the mid-2000s.

Following the demonstrations in Seoul, the NHRCK released its expansive report on the human rights of persons affected by Hansen's disease in December 2005. Hanvit helped provide

Medical Care (*Hōdanren*), the Hansen's Disease Citizen Scholars Association (*Hansen Shimin Gakkai*), the New Otani Buddhist Sect, the Japanese Federation of Bar Associations, a Catholic group, among others.

⁸⁰ Interview with Park Yong-rip, lawyer, Seoul (Aug. 20, 2009).

⁸¹ Interview with Lim Du-seong, National Assembly member, Seoul (Feb. 5, 2009).

⁸² Interview with Kim Jeong-haeng, Sorokdo Self-Governing Council President, Sorokdo (Aug. 14-15, 2009)

⁸³ Interview with Kang U-seok, Sorokdo lawsuit plaintiff, Sorokdo (Aug. 14, 2009).

⁸⁴ Interview with Park Yong-rip, lawyer, Seoul (Aug. 20, 2009). However, Hanvit leaders have strongly resisted linking the Hansen's disease issue with other victimization issues. Lim Du-seong apparently chastised lawyers for demonstrating with the comfort women because it was a completely different issue. Thereafter, the joint protests with the comfort women ceased. Interview with Lim Seong-a, secretary for IDEA Korea, Seoul (Aug. 1, 2009).

⁸⁵ Interview with Gil Yun-hyeong, Hankyeoreh journalist, Seoul (Jan. 22, 2009).

⁸⁶ Interview with Jeong Eun-su, Seoul Shimnun reporter, Seoul (Feb. 6, 2009).

⁸⁷ Jung, "NHRCK Hansen's Disease Report."

documents and introductions for SNU sociologist Jung Geun-shik and his team of researchers to the Hansen's disease community, because Hanvit saw that this investigation would benefit Koreans with leprosy.⁸⁸ Arguably, this third stage—with the combined force of heightened public interest and undeniable evidence of postwar victimization contained in the report—proved crucial for eventually passing the Hansen's Disease Special Law in Korea in 2007.

Stage 4: Japanese Compensation Arrives in Korea—Redress from the Japanese government for colonial era abuses added significant impetus to the slow process of realizing Korea's Hansen's Disease Special Law.⁸⁹ In a political resolution to the impasse created by the uneven rulings from the Tokyo District Court, the Diet amended Japan's Hansen's disease law on February 10, 2006 to make all colonial era victims eligible for compensation. The subsequent arrival in Sorokdo of compensation from the Japanese government in March 2006 sparked a fourth phase of conflict expansion, even though it was primarily within the Hansen's disease community. Skeptical members of that community who had doubted that they would win the battle in Japan were silenced by the first payments. Many members of the community and observers noted the impact of the compensation.⁹⁰ Persons affected by Hansen's disease gained confidence, and some felt empowered because they could donate their newfound wealth to help leprosy sufferers in less developed countries.⁹¹ Some members of the community did note the evils of such a large influx of money to an otherwise impoverished and undereducated group of individuals, but the overall impact was positive.⁹² Importantly, compensation signaled the Japanese government's atonement.

If the Japanese government had taken responsibility for the human rights violations against leprosy patients in Korea over 60 years before, then how much more should the Korean government accept responsibility for failing to protect the human rights of Hansen's disease sufferers in Korea since independence from Japan. Thus, the commitment of Hanvit to pass the Hansen's Disease Special Law grew in this fourth stage and sparked more political lobbying for a legislative solution. Lim Du-seong's right-hand man at Hanvit, U Hong-seon, played a particularly important role in coordinating this stage of conflict expansion. As a result, the two met with many National Assembly members, kept Kim Chun-jin's office informed, and organized photo exhibits at the National Assembly to draw attention to the Hansen's disease issue. The Korean Hansen's Disease Special Law draft had already been submitted when news of the uneven rulings broke and when the Korean victims received Japanese compensation in 2006. As such, the Japanese dimension did not affect the content of the Special Law but it did add impetus to Kim Chun-jin's efforts to see it enacted.⁹³

The Hansen's disease victims in Korea did not manage to build and sustain widespread public support as their counterparts in Japan had. The sporadic and fragmentary media coverage of the Korean Hansen's disease redress movements in both Japan and Korea did not help. In

⁸⁸ Interview with Lim Du-seong, National Assembly member, Seoul (Feb. 5, 2009).

⁸⁹ Interview with Park Yong-rip, lawyer, Seoul (Aug. 20, 2009).

⁹⁰ One recipient, Jang Gi-jin used the 8 million yen to pay for a surgery for a relative, to donate to his church, and to buy fruit and other things to improve his life. Interview with Jang Gi-jin, Sorokdo plaintiff, Sorokdo (Aug. 14, 2009).

⁹¹ Interview with Jeong Eun-soo, Seoul Shimnun reporter, Seoul (Feb. 6, 2009).

⁹² Some Sorokdo residents complained that some 40 percent (or about 170 people) could receive compensation due to lack of evidence that they had been in Sorokdo during the colonial era. Yun-hyeong Gil, "Gongheohada, Hansenin teukbyeolbeop [The Hansen's disease special law is empty]," *Hankyeoreh* 21, May 25, 2007. Others complained that the money diverted people's attention away from God and their simple lifestyle on the island.

Interview with Kim Jeong-haeng, president of the residents' association, Sorokdo (Aug. 14, 2009).

⁹³ Interview with Yu Gyeong-seon, Seoul (Aug. 19, 2009).

addition, few non-victim activist groups emerged to help expand interest in the issue from the bottom up. Hanvit's exclusive dominance over the redress process also frustrated any allies seeking to elicit public sympathy.⁹⁴ Thus, conflict expansion was generally top-down. Hanvit leaders and National Assembly member Kim Chun-jin designed the redress legislation, and some elite lawyers tried to raise awareness of the human rights of Hansen's disease sufferers. Yet such top-down efforts did not pose as great a threat to the government as general public outrage would have. In addition, the political allies driving the quest for redress sought a relatively quick solution that could be counted as a personal achievement rather than a comprehensive resolution. Hence, the victims only elicited partial redress, as I will discuss after tracing conflict expansion patterns in the HCV case.

Tactics and the Expansion of the Hepatitis C Issue

When compared with the conflict expansion of Korean Hansen's disease victims, who targeted different national governments at different stages and who often engaged in top-down efforts to raise awareness of their victimization, the Korean hepatitis C victims appear more focused but less effective. KOHEM has long targeted the health authorities and drug makers in its negotiations to ensure safe and reliable treatment and insurance coverage for the costs. Those infected with HCV sought to hold these same health authorities and drug makers accountable for their infections. Amassing public and political supporters in this quest, however, proved difficult for the victims. Indeed, the HCV victim redress movement struggled to mobilize victims, let alone public supporters. Korea's HIV-tainted blood scandal and the HIV-positive hemophilia patients' lawsuit against the GCC certainly enabled HCV victims to launch a redress movement. Yet powerful entrenched relations between the health authorities and GCC, plus an absence of public pressure on the government, have repeatedly undermined victims' advocacy.

Thus, the conflict expansion stages detailed below have been frustratingly non-cumulative and disjointed. Facing stonewalling from the health authorities and drug maker, KOHEM and HCV victims have had to compromise to achieve even minor gains. This case demonstrates that limited and temporarily top-down conflict expansion exerts relatively little pressure on the government. The result, as we shall see in the next section, is that state responses to victims' demands have been slow and circumscribed so as to minimize concessions. The government has refused to conduct an epidemiological survey of HCV infections, denied responsibility for the infections, supported the GCC, and dallied on most requests from KOHEM, even if they are not directly related to redress.

Stage 1: Korea's HIV Scandal and HIV Lawsuit—The day after the *Donga Ilbo* publicized Dr. Cho's research linking about a dozen hemophilia patients' infections to a single HIV-positive plasma donor, KOHEM jumped into action to expand the scope of this conflict and hold the government and drug maker accountable. This first stage of conflict expansion undeniably opened a window of opportunity for the HCV redress movement to coalesce. Yet the early focus on HIV also had deleterious effects on the HCV movement, just as the early focus on blaming Japan stymied Korean Hansen's disease victims' quest for redress from the ROK. On the positive side, the HIV movement provided evidence about the routes of infection, connections to activist and journalist allies, experience lobbying, and some public attention. Not only did the HCV lawyers receive all documents from the HIV lawsuit, but they could also cite

⁹⁴ Interview with a pastor, founder of the volunteer group for Sorokdo Pyeonghwa Nuri, Sorokdo (Aug. 15, 2009).

the official inquiries sparked by the HIV scandal as evidence later.⁹⁵ On the negative side, the HIV redress movement has strained relations between the hemophilia community on the one hand and the health authorities, the GCC, the KHF, and even doctors on the other. In addition, the hype surrounding the HIV infections drew public attention away from the more numerous HCV infections. Once it enacted reforms in response to the HIV-scandal, the government could also deflect blame by claiming it had already addressed the relevant problems.

Even so, the hemophilia community's efforts to hold GCC and health authorities accountable for the HIV infections laid the groundwork for the later HCV redress movement. In 2002, KOHEM members launched a consumer strike against the GCC, with public support from several provincial legislatures. In addition, they delivered documents to National Assembly member Kim Hong-shim, who was the member of the health and welfare committee responsible for monitoring blood-related issues.⁹⁶ KOHEM members also demanded meetings with MOHW officials and KFDA officials. Although KOHEM's primary goal was to ensure the safety of hemophilia patients by lobbying the government to provide alternatives to GCC's suspect factor, the patient association's efforts also sought to raise public awareness in order to put pressure on the government. KOHEM organized rallies at the KHF and the National Assembly calling for a thorough investigation of the authorities' failure to prevent the HIV and HCV infections.

Facing denials of responsibility, 16 HIV-positive people with hemophilia launched a damages lawsuit against the GCC on February 28, 2003. Many newspapers reported about the lawsuit, but they usually refrained from mentioning either the plaintiffs' names or the drug maker's name.⁹⁷ Dr. Cho's research played an important role in the plaintiffs' arguments, but ultimately the expiration of the statute of limitations and the difficulty of proving that the GCC's clotting factor was actually the source of the infections slowed the legal process significantly. The victims' main lawyer was also a young woman with significantly less prestige than the powerful older male lawyers for the defense.⁹⁸ Still, GCC's denials of responsibility, the government's stonewalling, and the HIV victims' activism inspired the victims of HCV to pursue information about their infections and to hold those responsible accountable for their mistakes.

Stage 2: Contaminated Blood Scandal and HCV Lawsuit in 2004—After the whistle-blowing against the KNRC, the contaminated blood scandal exploded and catalyzed Korea's HCV victims to file a lawsuit against the Korean government and GCC in July 2004. This second stage was the closest that Korea's HCV victims have been to bottom-up conflict expansion. The tainted blood scandal peaked in spring 2004 when the BAI released its critical evaluation of the KNRC, MOHW, and KFDA's management of the blood system and specifically noted HCV contamination in the blood.⁹⁹ Hemophilia patients were particularly

⁹⁵ Interview with U Gweng-pil, lawyer, Seoul (Aug. 21, 2009).

⁹⁶ National Assembly member Kim Hong-shim cooperated closely with KNRC whistle-blower Kim Yong-hwan. After Kim Hong-shim's departure from the National Assembly, a journalist introduced National Assembly member Ko Gyeong-hwa's secretary to Kim Yong-hwan. This connection would prove crucial during the 2005 legislative inspection of the government.

⁹⁷ For example, see Seon-u Kim, "AIDS oyeom hyeolubyemyak: hwanjadeul 32eok sonbaeso [Patients file a 3.2 billion won damages lawsuit for receiving hemophilia drug tainted with AIDS]," *Donga Ilbo*, February 28, 2003.

⁹⁸ Interview with Cho Yong-geol, HIV researcher, Seoul (Aug. 11, 2009).

⁹⁹ The BAI held the KNRC responsible for distributing 76,677 units of blood contaminated with HCV between 1998 and 2003. As a result, eight people had contracted HCV from blood transfusions and the KNRC would have to compensate them. Several hundred units of this HCV-contaminated blood had been used for clotting factor production. The findings led to the indictment of 27 KNRC employees (without arrest). The KNRC blamed the lack of funding from the government for technology to enhance the safety of the blood supply. And the GCC claimed

concerned because this report showed that tainted blood was still utilized to produce clotting factor. Imperfect implementation of heat-treatment technologies by GCC in the early 1990s had led to a mass of HIV infections among hemophilia patients, so how could those with hemophilia know that their factor was clean? Therefore, citing the “tragic results of authoritarian medical administration,” KOHEM and a small group of lawyers began recruiting plaintiffs from among the 650 hemophilia patients with HCV in June 2004.¹⁰⁰ After 23 victims filed their lawsuit in July 2004, the MOHW released a statement saying that no HCV infections of hemophilia patients during the 1990s could have been from tainted factor because heat-treatment was implemented in 1990.¹⁰¹ Consequently, one of the core battles of the HCV victims has been to prove that the government failed to adequately regulate factor production to prevent these 650 HCV infections. Evidence of negligence regarding the blood supply in general lent credence to the HCV victims’ argument.

Media coverage of the contaminated blood scandal in 2004 was intense but lackluster on the HCV victims’ lawsuit, despite the large number of plaintiffs. For instance, Kang Yang-gu, of the internet news site *Pressian*, wrote a scoop on the KNRC scandal that elicited over 1,000 comments.¹⁰² The instances of HIV infections from blood transfusions in 2003 and 2004 raised fears among ordinary citizens, any of whom could need a blood transfusion. Lawmakers responded to Korea’s version of “AIDS panic” by prioritizing blood safety as a topic for the legislative audits of the government in the fall of 2003, 2004, and 2005. This meant that revelations of blood mismanagement emerged in waves each fall. The media remained relatively uninterested in the HCV lawsuit, however.¹⁰³ The second group of victims to join the lawsuit in August, bringing the number of plaintiffs to about 80, garnered little media coverage. By October 2004, the number of plaintiffs had reached 102. One reason why the lawsuit failed to attract many non-victim supporters is that there are no victims who have become the face of the movement the way Mrs. Yamaguchi and Fukuda Eriko did in Japan.

KOHEM usually engages in activism without supporters, due to the particularistic nature of the disease and related demands. Yet in 2004 and sporadically thereafter it temporarily joined coalitions of activist groups. For instance, in June 2004, KOHEM joined a health NGO, the Korean Leukemia Patients’ Association, the AIDS Patients’ Association, and the Blood Donors’ Association to form the Citizen and Patient Alliance to Improve the Blood System. The goal of this short-lived coalition was to inform the public about the lack of safety in the Korean blood supply. They also demanded that the MOHW investigate blood-borne HIV *and* HCV infections and lobbied lawmakers to revise the Blood Management Law. Significantly for the hemophilia patients with HCV, this coalition pledged to support the nascent HCV lawsuit against the government and the GCC. What that pledge actually meant is unclear because there have been few supporters for the HCV lawsuit.¹⁰⁴ In reality, the coalition was a temporary marriage of

that its heat treatment and virus inactivation processes were effective so that it did not matter whether the blood used to produce clotting factor was contaminated. Bureau of Audit and Inspections, “BAI Report.”

¹⁰⁰ Their main lawyer, U Gweng-pil, had discovered hemophilia and HIV/ HCV infections while defending a traffic accident victim the previous year. That victim just happened to also have hemophilia, so the lawyer learned about the disease. Interview with U Gweng-pil, lawyer, Seoul (Aug. 21, 2009).

¹⁰¹ Yang-gu Kang, “Hyeolubyeong Hwanja 23myeong, jeokshipjaesae 10eok gyumo sonhaebaesang cheonggu [23 hemophilia patients file a damages lawsuit against the KNRC for 1 billion won],” *Pressian*, July 30, 2004.

¹⁰² Interview with Kim Yong-hwan, KNRC whistleblower, Seoul (Feb. 13, 2009).

¹⁰³ A Naver headline search returns just seven articles about the lawsuit’s launch, including several from medical news sites online. <http://www.naver.com> (searched March 14, 2010).

¹⁰⁴ Interview with Kim Yong-ro, KOHEM, Seoul (July 27, 2009).

convenience because the blood contamination scandal demanded a response. This coalition among equals diluted KOHEM's concrete and particularistic demands within a more diffuse agenda.¹⁰⁵ Still, public interest peaked in this second stage, even though the focus was primarily on HIV-tainted whole blood rather than HCV-tainted factor preparations.

Stage 3: Legislative Audits of Blood Safety in 2005—Blood safety remained a key issue during both the 2004 and 2005 legislative audits. Yet National Assembly member Ko Gyeong-hwa's revelations in 2005 particularly raised awareness of contaminated factor, albeit through the top-down conflict expansion. On September 5, 2005 she revealed that the Green Cross had circulated clotting factor made from contaminated blood, even though the GCC knew that the blood had been tainted.¹⁰⁶ Since Ko Gyeong-hwa's Grand National Party (GNP) was in the opposition at the time, she faced resistance from the bureaucracy when she requested official documents and evidence.¹⁰⁷ This made the information from KOHEM and the KNRC whistleblower all the more valuable. For example, to the MOHW minister, vice minister, and all bureau chiefs assembled to answer National Assembly members' queries in the legislative audit, Ko Gyeong-hwa specifically emphasized that close to 50 percent of people with hemophilia had HCV, whereas less than 1 percent of the ordinary population did.¹⁰⁸ She also called on the administrative director of KOHEM to testify about HCV among persons with hemophilia.

Meanwhile, KOHEM spearheaded a protest to raise public awareness of tainted blood products, which continued to be a problem one year after the KNRC scandal.¹⁰⁹ The HCV cause received a boost from the first rulings in the HIV lawsuit in July 2005. The court recognized the causal relationship between domestically produced clotting factor and HIV infections in people with hemophilia, but cited the statute of limitations (10 years) for only ordering GCC to compensate one victim.¹¹⁰ KOHEM released a statement urging both the GCC and the health authorities to apologize to the victims and their families, to accept legal responsibility for the infections, and to grant appropriate compensation.¹¹¹

The victims' voice had relatively little impact, however, because it was not backed by public pressure. Indeed, Ko Gyeong-hwa's audit of the government constitutes a classic case of temporarily expanding the scope of the conflict from the top-down. In the annual audits, lawmakers pick issues to investigate and then try to raise social awareness about them through

¹⁰⁵ Lussier and McCullough find that the presence of a lead organization helps coalitions or "horizontal networks" to avoid this problem of goal-diffusion. In KOHEM's activism, however, no single organization led. Danielle N. Lussier and Marcy E. McCullough, "Epidemic Breakpoint: Confronting HIV/AIDS in Russia's Regions," *Problems of Post-Communism* 56, no. 1 (February 2009): 43.

¹⁰⁶ KOHEM and especially Kim Yong-hwan, the KNRC whistleblower, had been coaching National Assembly member Ko Gyeong-hwa, through her secretary, on which information to demand from the government and KNRC. They also supplied extensive documentation about the blood supply and hemophilia. In fact, Kim Yong-hwan connected with Ko Gyeong-hwa's secretary via a mutual friend and then proceeded to supply her with lots of tips.

¹⁰⁷ Interview with Ko Gyeong-hwa, former GNP National Assembly member, Seoul (Aug. 4, 2009).

¹⁰⁸ "AIDS Kamyemja Hyeolaek, 26 se Yeoseongege Suhyeol. . . Yakpumeurodo Panmae [Blood from an HIV-Positive Person, Transfused to a 26-Year-Old Woman, Even Sold as a Drug]" Media Materials from the Office of Assemblywoman Ko Gyeong-hwa (Sept. 5, 2005).

¹⁰⁹ KOHEM "Hyeolaek oyeomsago chaebalbangjireul uihan gukmin gyutandaehoi [Citizens' Rally to Call for the Prevention of a Reoccurrence of Tainted Blood Disasters]," pamphlet, Seoul (September 13, 2005).

¹¹⁰ Yeong-ro Kim, "Hyeolaek Yurae Baireoseu (HIV, HCV) Sosong e Gwanhan Bogoseo (4) [Report on the Blood-Borne HIV and HCV Lawsuits (4)]," *Uri KOHEM [Our KOHEM]*, February 2010, 9-11.

¹¹¹ KOHEM, "Hyeolubyeonghwanja AIDS kamyem sonhaebaesang cheonggusosong pangyeole daehan hanguk KOHEMhoe seomyeongseo [Statement by KOHEM about the Ruling in the Damages Lawsuit by Hemophiliacs infected with HIV/AIDS]," (July 11, 2005) www.kohem.net (accessed July 24, 2009).

the audit. Ko Gyeong-hwa did not even know at the time of her initial statements in 2005, that the HCV victims were engaged in a lawsuit against the government and the GCC.¹¹² Although her revelations did spark media coverage of government negligence in its management of the blood system from *YTN* and *Pressian*, her challenge to the government did not specifically reference the ongoing HCV lawsuits.¹¹³ As a result, the media also failed to make the link to the lawsuit, name the GCC as a culprit, or even convey the medical fact that such a large percentage of people with hemophilia were infected with HCV.¹¹⁴ Due to the top-down nature of this stage of conflict expansion, therefore, the government retained leeway to avoid blame and minimize concessions to the HCV victims, as we shall see below.

Stage 4: Appeal of the Unfavorable Ruling in the HCV Lawsuit—After few developments in the victims' favor, the court ruled in September 2007 that the statute of limitations had expired for all 102 HCV victims, preventing any from claiming damages. The court also accepted the defendants' argument that GCC production processes did not merit investigation because GCC had been using heat-treatment. This contradicted the HIV ruling in 2005, which recognized the causal relationship between GCC-produced factor (which was allegedly heat-treated) and the HIV infections.¹¹⁵ The HCV verdict reaffirmed the great power differential between GCC, which had retired MOHW officials as board-members, and KOHEM. It did not help that few HCV plaintiffs were keenly involved in the lawsuit. Only about 20 regularly came to court.¹¹⁶

Nevertheless, 77 HCV victims rallied to appeal the unfavorable ruling in December 2007. That appeal is currently still underway in the Seoul High Court. If the HIV lawsuit, which is currently being heard by the Supreme Court, is any indication, then the HCV lawsuit could take much longer. For the HCV plaintiffs, the main objectives of this stage are 1) to compel the health authorities to conduct an epidemiological study of HCV and infection routes in Korea, 2) to extract documents and other evidence from the health authorities concerning factor production and the infections, and 3) to convince the court to disregard the statute of limitations.¹¹⁷ As of April 2009, the defendants and the KCDC still refuse to conduct a full epidemiological study of HCV infections in Korea, especially among hemophilia patients. Thus, the HCV lawsuit remains stalled in Korea. The HCV conflict has been characterized by generally limited conflict expansion punctuated by brief periods of top-down conflict expansion. The general absence of public pressure on the government is evident in the fact that the defendants (the government and GCC) are not even willing to consider the victims' call for a negotiated settlement out of court. Still, the HCV victims have extracted a few key concessions from the state, as discussed below.

EXPLAINING STATE RESPONSIVENESS

To date, the Korean Hansen's disease victims have received partial redress and the Korean HCV victims have received parts of a negotiated settlement. In granting partial redress, in other words, the state has acknowledged its responsibility for a limited number of instances of victimization, expended a limited amount of resources, and made some changes to the principles on which it formulates policy in response to the Hansen's disease redress movement. In the HCV

¹¹² Interview with Ko Gyeong-hwa, former National Assembly member, Seoul (Aug. 4, 2009).

¹¹³ Interview with Jeon Gyeong-su, former secretary of Ko Gyeong-hwa, Seoul (Aug. 6, 2009).

¹¹⁴ Interview with Ko Gyeong-hwa, former National Assembly member, Seoul (Aug. 4, 2009).

¹¹⁵ Yeong-ro Kim, "Hyeolaek Yurae Baireoseu (HIV, HCV) Sosong e Gwanhan Bogoseo (1) [Report on the Blood-Borne HIV and HCV Lawsuits (1)]," *Uri KOHEM [Our KOHEM]*, November 2009, 10.

¹¹⁶ Interview with U Gweng-pil, lead HCV lawyer, Seoul (Aug. 21, 2009).

¹¹⁷ Kim, "KOHEM Lawsuit Report 1," 9. Interview with U Gweng-pil, lawyer, Seoul (Aug. 21, 2009).

case, the government has acknowledged the victims' infections but not taken any responsibility for this victimization, expended some resources for their medical care, and continues to fight the victims in court. Unlike the parallel cases in Japan, the Korean government has not enacted policies that clearly admit responsibility for the victims' sufferings and provide compensation for that damage. This section analyzes why state responsiveness was less extensive in Korea than in Japan to such similar victimization.

I argue that the Hansen's disease and HCV victims' inability or lack of desire to expand the scope of their conflicts to include the general public explains the less extensive responses they received from the government. These victim redress movements pursued limited or sometimes top-down conflict expansion. Without the widespread support entailed in bottom-up conflict expansion, these victim movements were less effective at compelling the state to 1) grant the victims voice and legitimacy, 2) place their issues on the political agenda, 3) change policy, and 4) implement policies in coordination with the victims. Still, both sets of victims have wrung some concessions from the state. Table 5.3 summarizes the key developments in each of these four phases of state responsiveness, after issue recognition. At each juncture, the Korean government employed specific techniques for retaining control over the course of the conflicts and limiting the extent of concessions it would have to grant. October 2005 marked the peak of public interest in the Hansen's disease movement in Korea, which was largely dominated by top-down conflict expansion. The picture for the HCV victim movement is bleaker—public attention has generally been weak, except for a brief period in fall 2005. As I address the proximate causes and negotiations leading up to each decision below, I show that the absence of public pressure on political leaders constrained the responsiveness that either set of victims could elicit. I also demonstrate how the absence of novel organizational relations with the state hampered efforts to win redress.

Table 5.3: Summary Chart of the Key Decisions Comprising Partial Redress or Settlement

Phases of Responsiveness	Hansen's Disease—partial redress	Hepatitis C—negotiated settlement
<i>Recognize the issue</i>	Symposium held on Hansen's Disease at the National Assembly (10/11/2004)	MOHW Blood Product Safety Commissions (1992 – 1994) and (2002 – 2004)
<i>Grant voice/ legitimacy</i>	NHRCK report on Hansen's disease human rights released (December 2005)	KOHEM representative testified at MOHW hearing (fall 2005)
<i>Place issue on agenda</i>	Legislator Kim Chun-jin first proposes Hansen's disease legislation (9/2005)	Legislator Ko Gyeong-hwa spearheads legislative audit (fall 2005)
<i>Change policy</i>	Hansen's Disease Investigation and Assistance Law passed (10/17/2007)	Compensation Scheme for Blood-borne Infections passed but Blood Management Law revision attempt fails to pass (2005)
<i>Implement policy</i>	Fact-finding commission includes victims; special law revision proposed (Sept. 2009)	Ongoing negotiations with government (coverage for recombinant factor, epidemiological study of HCV)

The State's Response to the Hansen's Disease Victims

Granting voice and legitimacy—HCA and later Hanvit had long been recognized as the organization representing the Hansen's disease community. In that capacity, they achieved legitimacy and various small victories over the decades. To promote the dignity and human rights of Hansen's disease sufferers, HCA successfully convinced the government to start using

“Hansen’s disease” as the official term for leprosy in 1999.¹¹⁸ Hanvit’s legitimacy as the representative of those seeking redress, however, was not clear until the 2004 human rights symposium and the NHRCK investigation into the human rights of persons affected by Hansen’s disease. The lawyer Park Chan-un, who served on the NHRCK and was personally committed to realizing redress for these victims, had to convince other members of the NHRCK that Hansen’s disease was an issue worth considering.¹¹⁹ He orchestrated the visit by the chair of the NHRCK to Sorokdo to apologize for the government’s inconsistent, harmful, and negligent policies.¹²⁰ Although the NHRCK is not a ministry, this high-level apology to the victims was the first in history and granted the victims voice and legitimacy.

Placing the Hansen’s disease issue on the political agenda—Just two months before the NHRCK released its final report, National Assembly member Kim Chun-jin proposed a bill to grant redress to Hansen’s disease victims in September 2005. He had been working on the draft for over a year, but its submission to the National Assembly placed redress on the political agenda. This development also signaled the degree to which redress from the ROK government was driven by top-down conflict expansion. As a sign of the relative dearth of public awareness about Hansen’s disease, Kim Chun-jin first learned about the leprosy redress issue by chance. One of his colleagues on the health and welfare committee of the National Assembly had to suddenly back out of a commitment to speak at the first ever human rights symposium focused on Hansen’s disease in October 2004. So as Kim Chun-jin and his staff prepared to give an ersatz speech, they discovered the reality of the victimization of the Hansen’s disease community in Korea.¹²¹ Kim Chun-jin raised the Hansen’s disease issue in the legislative audit of the government in September 2004 to first propose it for the political agenda, but received vague and noncommittal responses from the MOHW and other National Assembly members. The more he and his staff explored this issue, the more they realized that a political solution was needed. From about November 2004 to April 2005, he drafted a law.

In fact, Kim Chun-jin’s staff and several top leaders within Hanvit drafted the Hansen’s Disease Special Law. Hanvit considered the opinions of all leaders of its branches in the community. The Hansen’s disease lawyers’ group did not participate in the process of drafting the bill, in part because Hanvit sought to retain control over the process since they represented the actual victims.¹²² As such, legal expertise was lacking from the process, in contrast to the active role of lawyers in Japan. The fact that Hanvit and Kim Chun-jin’s office drafted the special law meant that Kim Chun-jin and his secretaries ultimately decided what would remain in the bill. For example, Hanvit proposed using the April 3 Incident special law as a model, but Kim Chun-jin wanted to have a unique law.¹²³ However, the bill faced intense resistance from the MOHW on two points. First, the MOHW did not want to allocate the funds that comprehensive

¹¹⁸ The revision to the Infectious Disease Prevention Law was part of a broader campaign by HCA to convince government, church, and media leaders to use the term Hansen’s disease instead of leprosy. Interview with Lim Seong-a, secretary for IDEA Korea, Seoul (Aug. 1, 2009).

¹¹⁹ Interview with Lim Seong-a, secretary for IDEA Korea, Seoul (Aug. 1, 2009).

¹²⁰ Interview with Park Chan-un, lawyer, Seoul (June 4, 2008).

¹²¹ Kim Chun-jin was a dentist before becoming a National Assembly member, and he had volunteered at leprosaria. But he did not consider the state’s treatment of persons affected by Hansen’s disease as a human rights issue until the symposium. Interview with Yu Gyeong-seon, Seoul (Aug. 19, 2009).

¹²² Nonetheless, Hanvit initially sought the state’s apology and measures to restore victims’ honor, just like the Japanese law. This is the same position as the lawyers. Interview with Cho Yeon Song, lawyer, Seoul (Feb. 11, 2009).

¹²³ Interview with U Hong-seong, Hanvit Welfare Association, Seoul (Jan. 30, 2009).

redress would require. Secondly, the government was reluctant to admit their mistakes, as evident from officials' resistance to use of the phrase "forced institutionalization."¹²⁴ Kim Chun-jin had prioritized this issue as one that he could later claim as a personal success, and he wanted to write a law that would pass.¹²⁵ Thus, Kim Chun-jin's office decided that including too many budget provisions would decrease the likelihood of it passing, so the office restricted the scope of redress.¹²⁶ This process clearly perpetuated policy-making insularity.

The politician-led process left room for the lawmaker to filter victims' demands to suit his political goals, and a lack of public pressure permitted the government to delay and skirt responsibility. Even though the uneven verdicts in Tokyo sparked widespread interest in the Hansen's disease issue in Korea temporarily, the special law would take over two years to actually pass. Lim Du-seong commented that this was a sign of how Korean society could "get behind us on the Hansen's disease issue to 'settle the past' with Japan but then ignore the Hansen's disease issue in Korea (our own history)."¹²⁷

Enacting policy changes—On October 17, 2007, the National Assembly finally passed the "Act to Investigate the Brutal Experiences of Leprosy (Hansen's Disease) Victims and to Guarantee a Basic Living Standard for the Victims."¹²⁸ Since Kim Chun-jin's submission of the bill, in 2005, the bill had languished in the absence of widespread political or public attention. The Japanese dimension of the Hansen's disease issue was resolved when the Diet passed legislation to grant compensation to Korean victims in early 2006. After that, a group of Korean lawmakers from the health and welfare committee investigating the Hansen's disease issue for the legislative audit traveled to a resettlement village in fall 2006. Upon seeing conditions there, the lawmakers realized the need for the special law.¹²⁹ Moreover, Kim Chun-jin had been emphasizing the need for the Special Law in each meeting of the health and welfare committee, as well as in informal meetings with GNP leaders.

Not all people affected by Hansen's disease or their few supporters felt positively about the proposed bill because it was not based on a principle of universal redress.¹³⁰ As a result, and in spite of the lawyers' early activism to turn Hansen's disease into a social issue in Korea, the scholars and lawyers supporting the redress movement did not actively push for its passage.¹³¹ Media coverage of the Hansen's disease issue was rare, but the few journalists who had been covering the issue also criticized the bill.¹³² At an April 2007 hearing of the health and welfare committee, an official from the Ministry of Budget and Planning testified that he thought the cost of enacting this bill would not be large and said, "I am sorry but, even if this bill does not pass, I think that these people will be protected."¹³³ Even U Hong-seon at Hanvit admitted that the bill

¹²⁴ Interview with U Hong-seong, Hanvit Welfare Association, Seoul (Jan. 30, 2009).

¹²⁵ Interview with Jeong Eun-soo, *Seoul Shinmun* reporter, Seoul (Feb. 6, 2009).

¹²⁶ Interview with Yu Gyeong-seon, Seoul (Aug. 19, 2009).

¹²⁷ Gil, "Gongheohada, Hansenin teukbyeolbeop [The Hansen's disease special law is empty]."

¹²⁸ *Hansenin pihaeja sageoneui jinsang gyumyeong mit pihaeja saenghwal jiwon deunge gwanhan beopryul* (law no. 8644, Oct. 17, 2007) went into force on Oct. 18, 2008.

¹²⁹ Interview with U Hong-seong, Hanvit Welfare Association, Seoul (Jan. 30, 2009).

¹³⁰ Many members of the Hansen's disease community are confused about the significance of the 2007 Special Law, and apparently often commented that it was not a good law because they had not received any compensation.

Interview with Chae Gyu-tae, Hansen's disease doctor, Seoul (Jan. 30, 2009).

¹³¹ For example, the Hansen's Disease Human Rights Research Group, comprised of scholars, doctors, and lawyers, emphasized the faults of the bill, including that it lacked a statement of state responsibility or an apology. Interview with Kim Jae-hyung, researcher, Seoul (Feb. 4, 2009). Interview with Park Yong-rip, lawyer, Seoul (Aug. 20, 2009).

¹³² Interview with Yu Gyeong-seon, Seoul (Aug. 19, 2009).

¹³³ Gil, "Gongheohada, Hansenin teukbyeolbeop [The Hansen's disease special law is empty]."

he had helped draft was insufficient.¹³⁴ The fact that efforts to revise the Special Law began rather soon after it passed indicate just how widespread dissatisfaction was toward the partial redress it provided.

Nevertheless, the fact that the National Assembly passed the Special Law in October 2007 signaled that the government did recognize some of its past errors and take responsibility for them. It was, however, partial redress—largely a symbolic gesture by the government that had little bearing on the lives of members of the Hansen’s disease community.¹³⁵ Many observers criticized the 2007 Special Law because it focused on several specific instances of victimization rather than the decades of political and social discrimination that the Hansen’s disease community has faced. In particular, the Korean law is passive in comparison to the Japanese and even the Taiwanese Hansen’s disease compensation laws.¹³⁶ The law did not use the words “apology”, “repentance”, or “self-reflection.” It also limits the number of people who could be eligible for “victim” status. Since it was a lawmaker-initiated (not a government) bill, the government had not yet agreed on how much monetary assistance recognized victims could receive. Most members of the Hansen’s disease community live near the poverty line, so financial aid would help to rectify past discrimination.¹³⁷ However, close to 90 percent of potential recipients of financial aid under the 2007 law are already receiving welfare or disability aid from the state and are therefore ineligible for the Special Law’s victim assistance.¹³⁸ All these hallmarks of partial redress would enable the state to prolong negotiations, citing fairness with existing laws for other victims of state abuse, in order to avoid blame.

Implementing policy in coordination with victims—The special law created the Committee to Investigate Instances of Victimization to Persons Affected by Hansen’s Disease (hereafter Investigation Committee) as a fact-finding body with actual members of the Hansen’s disease community on it. Policy implementation has been frustrating for the victims, in large part because they only achieved partial redress.¹³⁹ The committee has been meeting every two months since October 2008, but disputes among Hanvit, scholars, and officials have hampered its work.¹⁴⁰ In addition, the truly limited scope of the special law has become clear now that actual investigations are under way. The Hanvit office contains thousands of applications for victim recognition, but few will ever see any redress.¹⁴¹

As a result of the general dissatisfaction with the 2007 Special Law, Hanvit is campaigning to revise it. Although the lawyers were excluded from the original drafting, they have actively contributed to discussions about how to revise the Special Law. Nevertheless, Lim Du-seong and his secretary once again call the shots on the revision plans. The fact that Lim Du-seong, president of Hanvit, was elected to Korea’s National Assembly in May 2008 marked an

¹³⁴ Interview with U Hong-seong, Hanvit Welfare Association, Seoul (Jan. 30, 2009).

¹³⁵ Testimony by Kim Seon-eop, National Assembly, “Public Hearing on the Revised Law.”

¹³⁶ Testimony by Kim Seon-eop, Ibid.

¹³⁷ Hanvit found that 71.6 percent of people with leprosy are living at the basic living standard (380,000 won per month), as opposed to 1.6 million to 3.4 million won per month in the average population. Also 87.6 percent are unemployed. See Hanvit survey, (Oct. 2008) in Ibid., 115-171.

¹³⁸ The prohibition on “double-dipping” in the law has aroused controversy among victim supporters but the law would not have passed without it. Interview with Yu Gyeong-seon, Seoul (Aug. 19, 2009).

¹³⁹ Called the *Hansenin Pihaeja Sageon Jinseong Gyumyeong Euiwonhoe* in Korean

¹⁴⁰ For example, Korea’s foremost Hansen’s disease scholar refused to hand over documents because he feared that the former HCA leaders on the committee would obfuscate history because HCA shares responsibility for some of the victimization. Interview with Lim Seong-a, secretary for IDEA Korea, Seoul (Aug. 1, 2009).

¹⁴¹ Interview with Chae Gyu-tae, doctor, Seoul (Jan. 30, 2009).

important advance for the position of persons affected by leprosy worldwide, even if it came after the passage of the Hansen’s Disease Special Law. He was the first legislator in Korea, and indeed the world, to have suffered from Hansen’s disease. The GNP selected him as their number two spot on the PR list.¹⁴² Lim Du-seong described himself as a minority of minorities now within the majority.¹⁴³ He has received attention from a variety of groups representing disabled people, particular disease communities, and other health and welfare-related issues. Lim Du-seong’s status as a part of the political establishment now gives victims unprecedented access but it also solidifies the dominance of the leaders of the Hansen’s disease community over potential other voices from within the community. It suggests that future conflicts will tend to expand in a top-down fashion, as Lim Du-seong justifiably seeks to advance his community’s interests and his own political career.

According to a 2008 Hanvit survey of persons affected by Hansen’s disease about what they thought the national government’s policy priorities should be, achieving full redress, including for living in resettlement villages, remains important (see table 5.4). Yet, practical concerns also rank high: 42.6 percent want legislation to enhance medical subsidies, 29.1 percent called for revision of the special law, 13.7 percent sought increased subsidies for the disabled among them, and 11.1 percent favored better welfare provisions. Indeed, pressing issues of daily life affect many members of the community. Most persons with Hansen’s disease (87.6 percent) are unemployed, many are registered as handicapped (84.6 percent), and almost all (90.7 percent) have no savings month-to-month. Thus, Hansen’s disease victims seek restitution for past wrongs but they also have substantial practical needs.

Table 5.4 Survey of the Hansen’s disease Community on Revision of the Special Law¹⁴⁴

Wishes for special law revision (respondents could select multiple answers)	Number of responses	Percent of respondents who chose this option
Designate resettlement village living as victimization	5,855	93.6%
Increase aid for medical and welfare facilities	4,589	73.4%
Provide compensation	4,546	72.7%
Grant assistance to bereaved families	1,952	31.2%
Delete the prohibition against duplicate aid	851	13.6%
Change the term “ <i>Hansenin</i> ” (“Hansen people”) in the law	595	9.5%
Other	76	1.2%
Total Respondents	6,253	

The quest for more comprehensive redress continues for Korea’s Hansen’s disease victims. In May 2009, Korea’s prime minister visited Sorokdo (as well as a resettlement village) to offer an official apology; he was the highest official to visit Sorokdo ever. The apology was the result of a formal request from Lim Du-seong, now a member of the ruling party.¹⁴⁵ By that time, about 420 members of the Hansen’s disease community had received financial assistance from the ROK government because they were recognized as victims under the 2007 Special

¹⁴² Of the 299 National Assembly members in 2009, 245 are from single-member district and 54 are from PR lists.

¹⁴³ Interview with Lim Du-seong, National Assembly member, Seoul (Feb. 5, 2009).

¹⁴⁴ Hanvit survey in National Assembly, “Public Hearing on the Revised Law,” 115-171.

¹⁴⁵ Interview with U Hong-seong, Hanvit Welfare Association, Seoul (Aug. 6, 2009).

Law.¹⁴⁶ Some residents, however, complained that the prime minister's apology was not detailed and that he spoke in a room that was not easily accessible to the disabled members of the community. One resident said that the Korean government should apologize and compensate victims the way the Japanese government had.¹⁴⁷ Lim Du-seong also submitted a revision to the Special Law in August 2009.¹⁴⁸ This new draft has not yet passed, but it refers more specifically to the state's failure to perform its duties to citizens affected by Hansen's disease and cites other Korean compensation laws to specify appropriate levels of compensation for the Hansen's disease victims.¹⁴⁹ The preamble also calls for an official apology for past human rights violations and demands further restoration of Hansen's disease sufferers' honor.

The State's Response to the HCV Victims

Granting voice and legitimacy—KOHEM gained recognition as the legitimate voice of the HCV redress movement when the administrative director testified at the legislative audit of the MOHW in September 2005. As mentioned above, National Assembly member Ko Gyeong-hwa pushed for Kim Yong-ro of KOHEM to testify, which is relatively unusual in legislative audits.¹⁵⁰ Kim Yong-ro is himself infected with HCV and emphasized to the lawmakers and officials gathered that 102 hemophilia patients with HCV were currently engaged in a lawsuit against the government and the GCC. He presented a patient's view on the problems with the KFDA and MOHW's management of the blood system, emphasizing that the safety of the blood system was a matter of life or death for people with hemophilia. Their discussion also noted that the recently enacted Product Liability Law may force judges to place more of the burden of proof on the drug firm, rather than on the weak plaintiffs.¹⁵¹ The health officials gathered made vague promises to improve blood safety and consider the hemophilia patients' points, and the MOHW minister did also agree to meet with KOHEM representatives. The top-down conflict expansion efforts of Ko Gyeong-hwa were crucial in realizing a high-level meeting, even if KOHEM representatives were only able to meet with a vice minister when the time came.

Placing the HCV issue on the political agenda—Investigations in 2004 and especially 2005 by several National Assembly members during the annual legislative audit of the government firmly raised the problem of HCV-tainted blood products to the political agenda. Korea's legislative audits often serve this purpose of holding the government and bureaucracy accountable for its policies or failures. With the polarization of Korean politics, National Assembly members from the opposition party often use these audits to criticize and expose the government, as seen in Ko Gyeong-hwa's efforts described above. As a result, some issues do garner widespread public attention, while others are drowned in the flood of issues.

Previous efforts to tackle the contaminated factor issue through legislative audits illustrate how such top-down conflict expansion can press the government into action in the short term. To bring about more lasting and comprehensive responses to victims' demands, however, these audits are not effective means of conflict expansion. For example, in the 1999 audit,

¹⁴⁶ Interview with Park Yong-rip, lawyer, Seoul (Aug. 20, 2009).

¹⁴⁷ Interview with Han Deok-ja, Sorokdo resident, Sorokdo (Aug. 14, 2009).

¹⁴⁸ Bill no. 5674, submitted by Lim Du-seong on Aug. 6, 2009. Eighty-one National Assembly members supported it.

¹⁴⁹ The proposed revision specifically cites the Samcheong Education Victims' Compensation (2004), the Gwangju Incident Victims' Compensation (1990), the compensation for victims of the democratization movement (2002) as examples of other victim-related legislation that has been passed.

¹⁵⁰ Interview with Ko Gyeong-hwa, former GNP National Assembly member, Seoul (Aug. 4, 2009).

¹⁵¹ The Product Liability Law (*Jejomul Chaekim Beop*) was enacted in 2002.

National Assembly members disclosed that GCC clotting factor approved by the KFDA had infected 39 hemophilia patients with hepatitis A. The government responded by *temporarily* authorizing *partial* insurance coverage for imported factor for *some* people with hemophilia, but it did not revoke GCC's license to produce factor.¹⁵² Similarly, the 2004 KNRC scandal, BAI report, and legislative audit compelled the government to enact a variety of measures to enhance the safety of the blood and even accept responsibility for infections through blood transfusions. Although the government had entrusted blood management to the KNRC in 1981, it reasserted some formal oversight over the KNRC with these changes.¹⁵³ Reforms also set up a compensation system for persons infected due to KNRC error, but hemophilia patients with HCV (far more numerous than transfusion victims), were ineligible for compensation.¹⁵⁴ At each stage the government sought to contain the conflict and minimize concessions, partially due to the top-down way in which the blood product safety issue came to be on the agenda.

In her efforts to place HIV and HCV contaminated blood products on the political agenda in fall 2004 and especially September 2005, National Assembly member Ko Gyeong-hwa also drafted and submitted a Revision to the Blood Management Law.¹⁵⁵ Following the recommendation of scholars, KOHEM, and the KNRC whistleblower, the draft proposed establishing an independent oversight committee composed of people not directly connected to the MOHW and KNRC who could monitor the safety of the blood supply.¹⁵⁶ The MOHW and KNRC, however, prevented the bill from passing by citing the government's Comprehensive Blood Safety Policy of 2003, which was already in the process of establishing an oversight committee, albeit not independent.¹⁵⁷ Although Ko Gyeong-hwa's bill would not have granted redress to the victims, it might have helped to change the insularity of the decision-making processes that failed to prevent hemophilia patients' infections from tainted blood products.¹⁵⁸ The real strength of her legislative efforts was that she addressed *both* the HIV and HCV issues because HIV naturally garnered more attention but the HCV problem was bigger.

Ongoing Negotiations—The ROK government has not yet enacted any policies granting redress to the HCV victims. In fact, the relationships and policy-making principles that

¹⁵² "Drug Company Ordered to Destroy Plasma Stocks," *Korea Times*, January 28, 2000.

¹⁵³ For example, the MOHW created a Blood and Organ Team and the KCDC created a Blood Safety Surveillance Team in 2003. The ROK government also started requiring more regular and formal reporting of statistics from the KNRC to the government. Stricter training, cross-inspection, donor registration, information sharing, and other procedures to reduce human error were also started in 2003-2004. Interview with an officer at the Korean National Red Cross, Blood Services Headquarters, Seoul (Feb. 9, 2009).

¹⁵⁴ The MOHW continues to state that the eligibility of hemophilia patients with HCV is under consideration. Persons infected with HCV through blood transfusions would receive 20 to 40 million won, depending on the severity of their symptoms. The National Assembly had revised the Blood Management Law in 1991 to require antibody testing for HCV and HIV, as well as to set up a system for compensating individuals infected with HIV, HBV, HCV, malaria, and other blood-borne diseases through blood transfusions. Proving such infection is difficult, however, so only a handful of the 14 people infected with HIV and 15 infected with HCV between 1987 and 2008 ever received compensation. The 2005 program relaxed standards for becoming eligible for compensation. Today, roughly 0.1 percent of the KNRC's annual budget goes to paying compensation. Interview with an officer at the Korean National Red Cross, Blood Services Headquarters, Seoul (Feb. 9, 2009). Interview with Kim Yong-hwan, KNRC whistle-blower, Seoul (Feb. 13, 2009).

¹⁵⁵ The Revisions to the Blood Management Law [*Hyeolaek Gwanri Beop*] were submitted on Jan. 5, 2005.

¹⁵⁶ The bill proposed creating a Citizens' Blood Management Agency (*gukmin hyeolaek gwanriwon*) to monitor the blood system and to set standards.

¹⁵⁷ Interview with Jeon Gyeong-su, former secretary of Ko Gyeong-hwa, Seoul (Aug. 6, 2009)

¹⁵⁸ Some have argued that the proposed independent committee might have been susceptible to external lobbying or powerful interests. Interview with U Gweng-pil, lawyer, Seoul (Aug. 21, 2009).

contributed to hemophilia patients' victimization remain largely in place, as is evident from the defendants' behavior in the HCV lawsuit. The opinions of domestic doctors continue to trump worldwide hematology experts' opinions.¹⁵⁹ Furthermore, a former bureau director at the MOHW became head of Korea's pharmaceutical industry association shortly after the 2005 legislative audit. GCC retains a virtual monopoly over the factor market in Korea. Moreover, the redress movement has strained KOHEM's relations with the KHF and doctors—some doctors even refuse to speak at the symposia or the summer camp that KOHEM runs.¹⁶⁰ In 2007, KHF demanded that KOHEM vacate the building (owned by GCC) in which its offices were. The HCV plaintiffs have used these circumstances to argue in court that there were objective reasons why the victims could not exercise their right to demand compensation for their suffering earlier (i.e. within the statute of limitations).¹⁶¹

While being foiled in litigation and generally in their quest for redress, KOHEM and its members have pursued other small battles with the state, which I argue have cumulated to be partial negotiated settlements. Realizing that redress for HIV and HCV may prove elusive, KOHEM is trying to look toward the future. While HIV patients receive substantial government assistance, HCV sufferers have been rather ignored.¹⁶² Thus, the main advocacy efforts of KOHEM have centered on access to recombinant factor and conducting a national HCV survey.

KOHEM has successfully negotiated with the government for expanded access to recombinant factor. KOHEM members have sought recombinant factor since the early 2000s because it is less likely to be contaminated than plasma-derived factor.¹⁶³ The National Health Insurance System, however, has been reluctant to cover recombinant factor for two main reasons. First, it is more expensive than plasma-derived factor. Second, GCC did not develop marketable recombinant factor production capabilities until 2008 and lobbied the government to protect its market share in plasma-derived factor until it brought a recombinant factor to market.¹⁶⁴ In the wake of the revelations regarding HIV among hemophilia patients in 2002, the government approved recombinant factor for new hemophilia cases. This insurance coverage was expanded due to KOHEM pressure in 2004 to include anyone with hemophilia born after 1988. The age limit sparked significant criticism, including a formal complaint by KOHEM to the NHRCK in 2007 that the limit violated hemophilia patients' human rights.

¹⁵⁹ Interview with U Gweng-pil, lawyer, Seoul (Aug. 21, 2009).

¹⁶⁰ Interview with Kim Yong-ro, KOHEM, Seoul (Feb. 27, 2009).

¹⁶¹ Yeong-ro Kim, "Hyeolaek Yurae Baireoseu (HIV, HCV) Sosong e Gwanhan Bogoseo (3) [Report on the Blood-Borne HIV and HCV Lawsuits (3)]," *Uri KOHEM [Our KOHEM]*, January 2010, 11.

¹⁶² Interview with Kim Yong-ro, KOHEM, Seoul (Feb. 27, 2009).

¹⁶³ Recombinant factor is clotting factor that is synthetically produced using recombinant DNA technology rather than from the purification of clotting factor from human blood. This technology was developed to alleviate the risk of viral transmission to patients receiving potentially contaminated human plasma-derived factor. The U.S. FDA first approved two purified recombinant proteins in the early 1990s. Each stage of further development of recombinant factor has refined the recombinant technology, so that by 2008 recombinant factor preparations contained no human derived proteins, thus completely eliminating any potential for future viral transmission. Recombinant factor, however, is more expensive than plasma-derived products. The ROK's reluctance to approve and cover recombinant factor stems from its cost and from the desire to protect the main domestic plasma-derived factor producer, the GCC. Plasma-derived factor is safe today, but hemophilia patients still worry about "the next virus." Jerry S. Powell, "Recombinant Factor VIII in the Management of Hemophilia A: Current Use and Future Promise," *Therapeutics and Clinical Risk Management* 5 (May 2009): 391-402.

¹⁶⁴ The KFDA approved GCC's recombinant factor VIII drug, Greengene, in 2008, and Greengene came onto the market in Korea in July 2009.

While people with hemophilia have fought for access to recombinant factor from abroad, GCC has been struggling to develop indigenous recombinant factor production capabilities, which might explain the ROK government's reluctance to expand access to imported recombinant factor. For example, in 2005, the KFDA approved Wyeth's recombinant factor VIII drug but withdrew the approval after receiving complaints from GCC and KHF that domestic clinical trials had not been conducted on it. Shortly thereafter, KOHEM appealed to the government to terminate GCC's recombinant factor clinical trials because 6 of the 70 hemophilia patients participating unexpectedly developed neutralizing antibodies to the clotting factor, strongly suggesting problems with the production processes.¹⁶⁵ One-man protests also occurred, demanding imported recombinant factor. According to a survey by KOHEM, 69.8 percent of hemophilia patients nationwide thought that the age limit on recombinant factor insurance coverage should be abolished.¹⁶⁶ About a dozen National Assembly members also signed a KOHEM petition calling for the abolition of the age limit on recombinant factor.

After KOHEM's formal complaint to the NHRCK, the government announced in July 2007 that it would expand coverage for recombinant factor from those born after 1988 to those born after 1983. The battle continues, however, as a GNP National Assembly member raised the issue of the age limit on access to recombinant factor again after the legislative audits of 2009. Concerning the age limit, National Assembly member Shin Sang-jin, using information from KOHEM, accused the MOHW minister of violating clauses of the constitution guaranteeing the equality of all citizens and the right of all citizens to have their welfare protected. It appears that KOHEM will gradually convince the government, through key politician allies, to eliminate the age limit on recombinant factor coverage.

The HCV victims' demands for a full epidemiological study of HCV in Korea have also met with mixed results. The HCV plaintiffs first requested such a study in December 2007, but it was refused.¹⁶⁷ In March 2009, KOHEM staff personally collected and delivered about 90 patients' charts to the KCDC and threatened to file an administrative lawsuit. The KCDC declared that it was not the KCDC's responsibility. The victims' "lack of allies is crippling their redress movement"—even the media is not responding well to KOHEM's appeals.¹⁶⁸ For many of the victims, establishing blame and pressing for atonement have become less important than just clarifying the facts about how they were infected. This is one reason why the epidemiological study has become so important, even though it would also help the plaintiffs in court.¹⁶⁹ In cooperation with KOHEM, Dr. Cho also continues to research HCV infections among the HIV-positive hemophilia sufferers he studies because their HCV infections would have occurred through the same routes.¹⁷⁰ The KCDC finally agreed to "study the matter" of the

¹⁶⁵ The Green Cross Corp. ran clinical trials in Korea with its first attempt at making a recombinant factor (called Greengene). By Feb. 2006 six of about seventy patients participating in the clinical trial had developed inhibitors. This rate exceeded the U.S. FDA limit, which is that a clinical trial will be shut down if 2 out of 80 or 6.8 percent develop inhibitors (neutralizing antibodies to the recombinant factor that prevent it from working to stop bleeding).

¹⁶⁶ KOHEM, "Hyeoluhwanu wonwecheobang hoetsu e daehan seolmunchosa [Survey about the Prescription Benefits of Hemophilia Patients]," *Uri KOHEM [Our KOHEM]*, June 2006, 9.

¹⁶⁷ Kim, "KOHEM Lawsuit Report 1," 9-10.

¹⁶⁸ Interview with Kim Yong-ro, KOHEM, Seoul (Aug. 27, 2009).

¹⁶⁹ One HCV plaintiff said "If this case cannot be won, then let's continue with something that would not victimize us another time." Yeong-ro Kim, "Hyeolaek Yurae Baireoseu (HIV, HCV) Sosong e Gwanhan Bogoseo (2) [Report on the Blood-Borne HIV and HCV Lawsuits (2)]," *Uri KOHEM [Our KOHEM]*, December 2009, 11.

¹⁷⁰ Interview with Cho Yong-geol, researcher, Seoul (Aug. 11, 2009).

epidemiological survey of HCV in late April 2009.¹⁷¹ The fundamental problem remains for the HCV victims that the government and GCC are not willing to accept responsibility, let alone negotiate a redress or even a full settlement with the victims.

CONCLUSION

This chapter showed that the patterns of conflict expansion explain not only cross-national but also cross-issue differences in state responsiveness to victim groups. The Korean Hansen's disease and HCV victim organizations received lesser degrees of redress from the ROK government than their Japanese counterparts did from the government of Japan. This incomplete redress was because the Korean victim groups mobilized less outrage among the general public than the Japanese groups did. Such conflict expansion dynamics also explain the relative success of the Korean Hansen's disease redress movement when compared with the Korean HCV movement. Due partly to elderly Korean leprosy sufferers' legal victory in Japan, politicians pressured the government to grant partial redress. Politicians' interest in the HCV issue was more diffuse, resulting in limited pressure on the state to meet victims' demands.

I also demonstrated the limits of institutionalized access. Both Hansen's disease and hemophilia are long-term maladies, and patient associations emerged over time to represent the communities' interests in negotiations with the state. While the Japanese Hansen's disease and HCV victims established novel organizations to hold the government accountable, in Korea the victimized communities tried to retain their established negotiation forums with the government. Overall, both Korean groups' failures to establish an unencumbered, independent organizational presence limited their ability to gain public attention and therefore resulted in lower levels of redress. The Korean leprosy patient association, Hanvit Welfare Association, actively prevented any Hansen's disease sufferers from forming new organizations because it wanted to maintain its position as the sole voice of the Hansen's disease community. To maintain its relevance for the Hansen's disease community, Hanvit utilized its role in the Sorokdo lawsuit in Japan to redefine Hanvit's identity. It went from being co-opted by the state to being more oppositional toward the government. Indeed, Hanvit made itself indispensable to the legislative movement to gain redress from the Korean government. Meanwhile, the hemophilia patient association, KOHEM, has been trying to balance simultaneously negotiating with the state for insurance coverage and suing that same government for damages. Compared to Hanvit, KOHEM has struggled to even pursue top-down conflict expansion, which explains why the HCV victims have only extracted partial negotiated settlements from the government thus far. Thus, the broader argument, that modes of conflict expansion explain why Korean victims have received less in these issue areas than their Japanese counterparts, also holds for the variation among victim movements within Korea.

A comparison of these pairs of Japanese and Korean movements points to one broad implication: having institutionalized access to the government can be a liability rather than a help for grievance groups trying to a) assign blame for their suffering, b) demand redress and policy changes to forestall further victimization, and c) bring in sympathetic new voices into their conflicts so as to pressure the state to respond to their demands. The structures of the media and civil society in Korea exacerbated this inability to expand public interest in their conflicts. Nonetheless, Korea's Hansen's disease and HCV victims have elicited partial redress and negotiated settlements, respectively, from their government.

¹⁷¹ Korean CDC, memo to KOHEM in response to their appeal for an epidemiological study of the route of infection for hemophilia sufferers with hepatitis C (May 27, 2009).

CHAPTER 6 THE CONSTRAINTS ON STATE RESPONSIVENESS

INTRODUCTION

Based on a comparison of the redress movements of Japanese and South Korean nationals abducted by North Korea (Democratic People’s Republic of Korea, DPRK), this chapter demonstrates how certain factors can limit state responsiveness, even in cases of bottom-up conflict expansion. Specifically, I find that both the capacity and impetus to grant comprehensive redress may be diminished when the state bears partial or secondary responsibility for the victimization. In fact, partial or secondary state responsibility changes the parameters within which victim groups demand redress and within which policy-makers decide how to respond to victims’ demands. For victim groups, the tasks of coherently framing a story of state blame, shaming the state, and mobilizing sympathy and support from the general public are more complicated in cases of partial or secondary state responsibility. In addition, either the government may be genuinely unable to fulfill all the victims’ demands, or it may seek to avoid accepting its share of the blame by emphasizing the blame of the other responsible parties.

While the government’s share of blame is hotly contested in victim redress politics, the type of state responsibility is objectively discernable, as shown in table 6.1. A government bears *primary responsibility* when no other identifiable entity participated in the victimization. *Partial or shared state responsibility* refers to instances when industry players or even another country also took part in the victimization. *Secondary responsibility* is most common, in such cases as crime or unemployment, when the primary culprit is not the state but another entity or country. These broad categories do not imply anything about how much blame the state should accept or how it should atone for its wrongdoing—these topics are the core of political contestation. Instead, these broad categories of state responsibility highlight one dimension on which instances of victimization vary. The issues examined in this dissertation range from instances for which the state was primarily responsible to contexts in which the state was only secondarily or indirectly to responsible for the victimization (see table 6.1).

Table 6.1: Types of State Responsibility for the Victimization

Type	Japan	Korea
<i>Primary responsibility</i>	Hansen’s disease	(repression by authoritarian regimes)
<i>Partial/shared responsibility</i>	Hepatitis C infections	Abductions Hepatitis C infections
<i>Secondary responsibility</i>	Abductions	Hansen’s disease

Depending on the “objective” responsibility of the state, the government’s capacity and even incentive to grant comprehensive redress. In cases when the state bears primary responsibility for victimizing a group of people, as with the Japanese affected by Hansen’s disease or the victims of Korea’s past authoritarian regimes, then the state has greater capacity to grant full redress to victims. Admittedly, it may take longer to compel the state to accept full blame in such cases, but the government does have the hypothetical capability to offer comprehensive redress. In situations where the state is partially or secondarily responsible, incomplete redress could stem from two factors. First, the state could sincerely be unable to meet the victims’ demands because some aspects of redress are outside its jurisdiction. The Japanese abductions movement illustrates this dynamic. No matter how much public sympathy the victim families attract, the Japanese government cannot uncover all the facts about the abductions, let alone rescue the abductees from North Korea. Second, the state could use the fact that it shares

culpability with some other actor in order to deflect blame and avoid admitting responsibility. As discussed in Chapter 5, the ROK government benefited from the fact that the public focused more on the Japanese authorities' harsh treatment of leprosy patients before 1945 than on the ROK's government's postwar violations of leprosy patients' basic rights.

Differences in the "objective" responsibility of the state also affect victims' advocacy. Unambiguous state blame can facilitate victims' efforts to shame the government and win the support of the public in pressuring the government to admit fault and redress their suffering. In other words, bottom-up conflict expansion in such cases will be easier, all else being equal, because victims can more clearly convey a coherent story about the state's blame. In contrast, when the state is only partially or secondarily responsible, then issue framing and shaming are more complicated for victim groups, as seen in both countries' abductions movements.

Though the abductees' families primarily blame North Korea and realize that being reunited with their missing loved ones is unlikely as long as the DPRK regime persists, they also hold their own governments partly accountable for their suffering. For example, Yokota Testuya, the brother of an abductee, recalled being "filled with resentment against the Japanese government and the Ministry of Foreign Affairs, which had not really done anything" when he heard in 2002 that Megumi had died in North Korea.¹ Megumi had disappeared at age thirteen on her way home from badminton practice in Niigata in November 1977. From that time until 1997, the Yokotas has no idea that North Korean agents had kidnapped their daughter. Similarly, in South Korea Choi Woo-young lost her father when she was only in middle school because North Korean agents abducted him from his fishing boat in 1987. A decade later she unexpectedly read her father's name on a ROK government list of its citizens detained in North Korea, and she felt that she "could no longer trust the Korean government."²

Despite the fact that the Japanese and ROK governments failed to protect almost two-dozen Japanese and about 500 South Koreans from being abducted by North Korea, neither the Japanese nor the ROK government acknowledged or did anything about the abductions for decades. The Japanese government bears *secondary responsibility* since it historically downplayed the abductions issue for fear that it would derail Japan's normalization talks with the DPRK. The ROK government really *shares responsibility* with the DPRK regime for the abductees' suffering because ROK governments not only ignored the abductees but even persecuted the abductees and their families. During the past 15 years, therefore, the Japanese and Korean abductee families have started to collectively demand an acknowledgment of their suffering, an official apology, financial assistance and sometimes compensation, and preventative policy changes from their own governments.

To illustrate the constraints on state responsiveness, this chapter focuses on these recent campaigns by the Japanese and ROK abductees and their families for redress from their own governments. As a result of their activism, the Japanese abductee families have gained access to political elites and affected the course of Japanese foreign policy to an unprecedented degree for a citizen group. Public sympathy for the abductees is widespread. Meanwhile, the South Korean organizations of abductee families remain relatively minor voices in political discussions about North Korea policy. And the media and general public have little interest in the abductions issue.

Nonetheless, both sets of victims achieved partial redress from their own governments. In view of the fact that the abductions issue reverberated more deeply in the Japanese public psyche

¹ *The Families* (Washington DC: Rescuing Abductees Center for Hope (ReACHDC), n.d.), 26, <http://reachdc.net/bookTableOfContents.html>.

² Interview with Choi Woo-young, former leader of FADN, Seoul (July 11, 2007).

than with the Korean public, why did the Japanese abductee families not extract more redress from the Japanese government? How did the Korean abductee families elicit such generous redress from the ROK government, when the families failed to significantly expand the scope of their conflict by attracting public or political attention? I argue that the differences in the “objective” responsibility of the Japanese and ROK governments explain why patterns of conflict expansion did not have the expected effects on state responsiveness. Historically both governments used their partial or secondary responsibility to shirk blame and ignore the abductees, albeit for different reasons. Once the victims and their families mobilized, however, the Korean state had greater capacity to meet victims’ demands because it bore more “objective” responsibility for their victimization than did the Japanese government for Japanese abductees’ suffering. In short, the abductions cases show that bottom-up conflict expansion does not always generate extensive state responsiveness.

This chapter begins by elucidating the political and historical contexts of both countries’ abductee movements. I also detail how the governments of Japan and South Korea first openly acknowledged the abductions issue. This chapter then traces the victim movements’ efforts to expand the scope of their conflict with the state across five crucial stages. Finally, I analyze state responsiveness to the victims. The blame and impenetrability of the DPRK loom large in these accounts because many of the details about the victimization will remain murky until North Korea opens. As such, I examine the abductions cases as illustrative of the conditions under which a government might not be able to or might not feel enough pressure to grant comprehensive redress.

SITUATING THE ABDUCTIONS REDRESS MOVEMENTS IN JAPAN AND KOREA

As victim redress movements, the Japanese and ROK abductions groups elucidate key aspects of governance and democratic accountability in both Japan and Korea. Yet few scholars have systematically compared the Japanese and Korean abductions issues because the facts about the abductions are so different in each country.³ In addition, many observers consider the abductions issue an idiosyncratic problem without parallels in other policy domains.⁴ Most commentaries on recent events related to Japan’s North Korea policy focus on the stymieing impact of the abductions issue.⁵ In the literature on South Korea, the abductions-related victim

³ I wrote a paper comparing the abductions issue in Japan and Korea in 2007; see “Interest Group Influence in Policy-Making Processes: Comparing the Abductions Issue and North Korea Policy in Japan and South Korea,” paper presented at the 2007 Annual Meeting of the American Political Science Association, August 30 – September 2, 2007. Richard J. Samuels started working on a comparative project on kidnapping politics worldwide in late 2009, and he includes the Japanese and Korean cases in his study. Williams and Mobrand also published a comparative study of the Japanese and Korean abductions issue in 2010. Brad Williams and Erik Mobrand, “Explaining Divergent Responses to the North Korean Abductions Issue in Japan and South Korea,” *The Journal of Asian Studies* 69, no. 02 (2010): 507–536.

⁴ One notable exception is Young-dai Kim and Young-pyoung Jeong, “Sosujaroseo Napbukja kajokeui jeongchaek hoikdeuk gwajeong yeongu [A Study of the Process by which the Families of those Kidnapped by North Korea Attained Certain Policies],” *Jeongbuhak Yeongu [Government Studies Research]* 13, no. 1 (2007): 117-154. They use public administration tools to analyze FADN as an example of a minority group that 1) is identifiable, 2) has inferior economic, social or political power or status, 3) suffers discrimination, and 4) has a group mentality.

⁵ See for example M.H.I. Teuben, “Japan and North Korea: How the Abduction Issue has Frozen Bilateral Relations” (Master’s thesis, Faculteit der Maatschappij- en Gedragwetenschappen, Universiteit van Amsterdam, 2004). Haruki Wada, “Japan-North Korea Relations--A Dangerous Stalemate,” *Japan Focus/ Asia-Pacific Journal* 25-2-09 (June 22, 2009).

organizations receive little attention because the central government basically kept its conflict with the victim families out of the public sphere.

Beyond the eccentricities inherent in any country's interactions with North Korea, the abductee families are an interesting example of initially powerless victim groups seeking to hold their governments accountable. The abductions issue also provides a fascinating lens through which to analyze victim groups because these groups' grievances and activities span national borders, even as they hold their own governments responsible. This section briefly explains the nature of the victimization, situates both movements in their historical and political context, and accounts for the timing of each government's initial acknowledgment of the abductions.

The Political Causes of Victimization

Because the abductions relate closely to both Japan's and South Korea's national security, policy-making tended to occur far from public scrutiny and be driven by Cold War imperatives. Left-leaning political forces in Japan kept the abductions off the agenda in the hopes that Japan could normalize relations with the DPRK. Right-leaning political forces kept the abductees off the political agenda because they would reveal how ROK governments persecuted citizens for political reasons. Accordingly, the Japanese victims received little consideration from the authorities during the 1980s and 1990s. The abductions issue would have upset the political establishment's ambiguous and unofficial "two Koreas" policy that, it was argued, would eventually facilitate the normalization of relations with North Korea.⁶ In addition, jurisdictional fragmentation hampered concerted investigations of North Korean involvement in the mysterious disappearances.⁷ Meanwhile, the confrontation that persisted on the Korean peninsula after the armistice agreement of 1953 justified successive ROK regimes' draconian national security policies and suspicion of anyone with ties to the North. Abductees' families and abductees who returned to the South faced extensive questioning, and sometimes torture, by ROK police and intelligence officials.⁸ Since the line between abductee and defector was often fuzzy, the families left behind were "guilty by association."⁹ The counterintuitive fact that South Korea's military regimes did not exploit the abductions for anti-communist propaganda reveals the ROK government's longtime prioritization of economic development over social welfare provisions, and its aversion toward any open discussion of the tactics employed by either side in the North-South divide.

In both Japan and particularly in South Korea, decision-makers ignored or suppressed the abductions issue. Consequently, in addition to blaming the DPRK, the abductees and their families explicitly accused their own governments of having failed to perform a basic duty of a sovereign state: to protect its citizens. They also faulted the Japanese and ROK governments for not putting enough pressure on the DPRK, not investigating the whereabouts of the missing

⁶ Hong N. Kim, "Japan's Two Korea Policy and Its Implication for Inter-Korean Relations," *Korea Observer* 17, no. 3 (1986): 300–301.

⁷ Interview with a Japanese government official, Tokyo (Dec. 17, 2008). Interview with a Japanese intelligence official, Tokyo (Dec. 10, 2008).

⁸ Interview with Choi Woo-young, former leader of FADN, Seoul (July 11, 2007); Interview with Kim Jong-gwan, AFU secretary general (Aug. 10, 2009); Interview with Hwang In-cheol, leader of the KAL families (Aug. 4, 2009)

⁹ People with any relatives in North Korea, whether abducted or not, were barred from the civil service, the best universities, and many jobs. During the 1960s and 1970s, it was assumed—with some justification—that any kidnappings of ROK nationals were for the purposes of training agents to infiltrate the South. Interview with Lee Geum-sun, Korea Institute for National Unification, Seoul (July 29, 2009).

abductees, and not demanding that North Korea repatriate the victims.¹⁰ The ROK abductions movement also blames the state for re-victimizing the abductees and their families after the actual abductions. As evidence of DPRK involvement in the abductions mounted during the late 1990s, however, the abductions issue became impossible for either government to ignore.

During the late 1970s and early 1980s, North Korean agents kidnapped Japanese nationals and took them back to the DPRK, ostensibly to help train spies and to supply identities with which North Korean agents could infiltrate Japan. Suspicions of such criminal behavior were finally confirmed in September 2002 when Kim Jong-il dramatically admitted DPRK involvement in the abduction of thirteen Japanese citizens at his summit meeting with Japanese Prime Minister Koizumi Junichirō.¹¹ At that moment, the victim families faulted the Japanese delegation for unquestioningly accepting Pyongyang's claims that eight of the thirteen abductees had died in the DPRK.¹² Nonetheless, as a result of diplomatic efforts by the Koizumi administration, the five surviving abductees and their children were repatriated to Japan in 2002 and 2004, respectively. The Japanese government currently recognizes four additional abductees who are allegedly still in North Korea. Thus, there are 17 officially recognized abductions cases. Japanese officials suspect that the number of abductees could be as high as 40, and activists in Japan claim that figure could be as high as several hundred.¹³

South Korea contends that almost 4,000 ROK nationals have been abducted and detained by the DPRK since 1953.¹⁴ Most (3,719) were fishermen whose boats went or drifted into DPRK waters, leading to their capture. South Korean authorities have long questioned the exact circumstances of many of these disappearances because there were some ROK nationals who defected north when the DPRK economy still outperformed its southern counterpart and the authoritarian regimes in the South still curtailed basic freedoms. The smaller number of cases of more clear-cut kidnappings, resembling the Japanese abductions, includes the hijacking of a

¹⁰ Besides the abductees, there are other categories of Japanese and ROK nationals in the DPRK, including: 1) the Japanese wives (*nihonjinsuma*) of former Korean residents of Japan who emigrated to North Korea during the "repatriation movement" of the 1960s; 2) members of the Japanese Red Army Faction who hijacked a plane (nicknamed Yodogō) to North Korea in 1970 and their Japanese wives, some of whom were later implicated in the kidnapping of Japanese nationals (see Steinhoff (2004)); 3) ROK prisoners of war (POWs) and captured intelligence agents from the Korean War, from Vietnam, and from North-South confrontation since 1953; 4) South Koreans who defected to the North; and 5) civilians separated from families in the ravages and chaos of the Korean War. Individuals from Macao, Thailand, Romania, and Lebanon were allegedly also abducted by North Korean agents.

¹¹ It is unclear why Kim Jong-il admitted that the DPRK had abducted 13 Japanese nationals. Tanaka Hitoshi, the Japanese official who spent a year secretly negotiating for the Pyongyang Summit with an anonymous North Korean go-between, insisted that the DPRK acknowledge the abductions, apologize, and punish those responsible, according to one account of the secret negotiations. Much as Koizumi and Tanaka had hoped, Kim Jong-il may have also believed that coming clean on the abductions would permit normalization talks to proceed. For more, see Hitoshi Tanaka, *Gaikou no Chikara [The Power of Diplomacy]* (Tokyo: Nikkei, 2009). See also Yoichi Funabashi, *The Peninsula Question: A Chronicle of the Second Korean Nuclear Crisis* (Brookings Institution Press, 2007), 16 ff.

¹² Interview with Hasuike Toru, brother of an abductee, Tokyo (June 25, 2009). Interview with Nishioka Tsutomu, leader of NARKN, Tokyo (Nov. 25, 2008). The death certificates North Korea produced in September 2002 for the 8 allegedly deceased abductees are suspect, as were the remains (ashes) that Pyongyang gave to Japan of some of the victims. See International Crisis Group, "Japan and North Korea: Bones of Contention," *Asia Report No. 100* (June 27, 2005), http://www.crisisgroup.org/~media/Files/asia/north-east-asia/north-korea/100_japan_and_north_korea_bones_of_contention.ashx. (accessed April 24, 2008).

¹³ Interview with Araki Kazuhiro, COMJAN, Tokyo (March 24, 2009).

¹⁴ For a discussion of definitions of abductees in the South Korean context, see Kim and Jeong, "Sosujaroseo Napbukja kajokeui jeongchaek hoikdeuk gwajeong yeongu [A Study of the Process by which the Families of those Kidnapped by North Korea Attained Certain Policies]."

KAL plane in 1969 and the capture of five South Korean youths for spy training in 1970. Abductees from South Korea were variously welcomed for propaganda emphasizing the virtues of the North over the South, sent to work camps, used to train spies, trained as spies for re-infiltrating the South, or given jobs broadcasting propaganda. Most of the postwar victims returned to South Korea within three years, but 504 ROK nationals remained in North Korea and 8 abductees who were detained in North Korea for more than three years had escaped back to South Korea, as of August 2009.¹⁵ Prisoners of war (POWs) and civilians detained in the North before the 1953 ceasefire agreement greatly increase the total number of people from South Korea currently unable to leave the DPRK.¹⁶

Table 6.2 details the number of recognized and suspected abductees from Japan and Korea. The DPRK continues to deny all abductions except the 13 aforementioned Japanese cases, despite the ample testimony to the contrary from refugees and escaped abductees now in the ROK. These abductions are part of the human cost of the Cold War in Northeast Asia.

Table 6.2: The North Korean Abductions at a Glance

Category	From Japan	From South Korea (since 1953)
<i>Abducted (officially recognized)</i>	17	3,822
<i>Still detained or missing (dead?)</i>	12	504
<i>Returned</i>	--	3,310
<i>Repatriated (after 3 years or more in the DPRK)</i>	5	8
<i>Total officially suspected abductions</i>	40	--
<i>Unofficially suspected abductions</i>	500	--

The small groups of actors that historically formulated North Korea policy in Japan and South Korea considered the abductions a minor problem that interfered with their broader foreign policy objectives.¹⁷ This attitude in both Tokyo and Seoul caused thousands to suffer. Not only were dozens of Japanese citizens abducted by North Korean agents, but their whereabouts also remained a mystery as competing political priorities prevented the Japanese government from responding appropriately to the problem. Worse, the Korean abductees and their families suffered not only separation but also persecution and discrimination by the ROK authorities because they were considered threats to the national security.

¹⁵ Of the total, nearly 90 percent of the abductees returned to South Korea within a year of being detained and 8 have escaped since 2000. Among those who are still detained are 448 fishermen, 11 crewmembers from the KAL flight, 26 soldiers and policemen, and about 20 others. MOU, Abductee Support Directorate, http://www.unikorea.go.kr/eng/default.jsp?pgname=AFFhumanitarian_abductees (accessed June 18, 2010).

¹⁶ Victim families claim that up to 83,000 Korean civilians were abducted and detained in North Korea during the Korean War. Interview with Lee Mi-il, of the Korean War Abductee Family Union (KWAFU) (Feb. 3, 2009). These wartime abductees periodically join forces with the postwar abductees for advocacy purposes but they are beyond the scope of this dissertation. The ROK government estimates that about 560 POWs remain alive in North Korea today. Several families of POWs detained in the North also cooperate with the postwar abductee groups. Between 1994 and 2009, just under 100 POWs have escaped North Korea and returned to the ROK. There is now a POW Support Law (passed in 1999 and revised in 2004 due to families' pressure). Interview with Koo Byeong-sam, MOU official in charge of POWs and abductees, Seoul (Aug. 18, 2009).

¹⁷ For example, as late as November 1999, shortly after former Prime Minister Maruyama led a delegation to Pyongyang to deliver Japanese rice aid, MOFA official Makita Kunihiko warned the LDP foreign affairs committee not to derail Japan-DPRK normalization talks because of unproven suspicions that several Japanese had been abducted years ago. Eric Johnston, *The North Korea Abduction Issue and its Effect on Japanese Domestic Politics*, JPRI Working Paper, 2004, <http://www.jpri.org/publications/workingpapers/wp101.html>.

The Political and Historical Context of Each Redress Movement

The abductions movements emerged in the wake of significant political and historical changes in both countries. As the Cold War ended, domestic public and international transformations forced decision-making related to North Korea to become more open and accountable in both Japan and Korea. Wrenching debates about Japan's role in world politics and about the institutions of foreign and defense policy-making began after the international community derided Japan's "checkbook diplomacy" in the Persian Gulf War in 1990.¹⁸ At the same time, the bubble economy burst and unease about the future of Japan reigned. In South Korea, democratization and gradual political opening also renewed discussions about Korean security and foreign policy. Attention turned toward resolving the persistent problem of national division and rehabilitating individuals formerly branded as North Korean sympathizers by the military dictatorships. Improved political and social rights indirectly benefited the abductee families, but rapprochement with North Korea also sidelined the abductions issue. In many ways, therefore, the Japanese environment was riper for the abductions movement than the South Korean environment at the turn of the millennium.

During the 1990s and early 2000s, the growing military might of China and North Korean provocations heightened public unease and catalyzed more frank discussions about Japan's national defense and foreign policy. Should Japan amend its constitution to be able to acquire the military capabilities of a "normal nation" in order to deal with these threats and the dangers of getting entrapped in U.S. military campaigns because of the U.S.-Japan alliance? How should Japan engage with Asia? Due to Japan's obvious lack of preparation for a military contingency on the Korean peninsula during the nuclear crisis of 1993-1994 and the 1998 Taepodong missile launch over Japanese airspace, political elites reopened debates about the alliance, independent intelligence gathering capabilities, article nine, ballistic missile defense, the ban on arms exports, the national defense posture, and contingency plans for regional crises.¹⁹ As North Korean provocations grew bolder, politicians and the public called for harsher measures to punish the DPRK, peaking with the November 2003 lower house elections.²⁰ North Korea served as a useful proxy for the growing China threat, which remains a sensitive topic due to extensive Japanese business interests in China. Institutional reforms implemented in 2001 to strengthen the leadership and policy coordination functions of the prime minister, as well as changes to the civilian-military balance, contributed to more open discussions of Japan's regional and security policies.²¹ Once Kim Jong-il admitted North Korean culpability in 2002, many of the more

¹⁸ Michael J. Green, *Japan's Reluctant Realism: Foreign Policy Challenges in an Era of Uncertain Power* (New York: Palgrave, 2001), 17. Narushige Michishita, "Changing Faces of Japanese Defense Policy: Past and Future," *Global Economic Review* 31, no. 4 (2002): 91-100.

¹⁹ Richard J. Samuels, *Securing Japan: Tokyo's Grand Strategy and the Future of East Asia* (Ithaca: Cornell University Press, 2007), 65-68, 171-176. Green, *Japan's Reluctant Realism*.

²⁰ About two-thirds of those elected to the Diet in November 2003 favored tougher measures toward North Korea. Samuels, *Securing Japan*, 150.

²¹ Administrative reforms, designed by Hashimoto Ryūtarō and Ozawa Ichirō, were implemented in 2001 to give the executive more resources for agenda setting and policy coordination. The Cabinet Office (*Naikakufu*) personnel increased roughly three fold, and this helped to bolster political elites' sway over bureaucratic elites. To avoid a contentious debate, Japan's Coast Guard Law was quietly revised in 2001 to augment the roles and missions that the coast guard could perform. The Japan Defense Agency also became the Ministry of Defense in January 2007. And the Cabinet Legislation Bureau, historically opposed to reinterpretations of article nine, was brought to heel by influential politicians. Tomohito Shinoda, "Japan's Cabinet Secretariat and Its Emergence as Core Executive," *Asian Survey* 45, no. 5 (2005): 800-821. On the Coast Guard reforms, see Samuels, *Securing Japan*, 77-80. See also David R. Leheny, *Think Global, Fear Local* (Ithaca: Cornell University Press, 2006), 165.

hawkish revisionists active in these debates would seize upon the abductions to justify moves away from Japan's traditionally defensive posture.

In South Korea, political elites focused on democratizing reforms during the 1990s, including media liberalization, lessening the military's influence, and an end to the rigid anti-communist system.²² Since the abductions were so linked with the sensitive issues of North Korea policy and national security, however, freedom of expression came slowly for the victim families.²³ Moreover, political discourse focused on rapprochement with North Korea, which the abductions issue could have jeopardized. By 1997 progressives had gained considerable power, and Kim Dae-jung was elected to the presidency. The progressive Kim Dae-jung and Roh Moo-hyun governments prioritized conciliation with the North and relegated humanitarian issues to a separate track. Roh Moo-hyun's main power base, the "386 generation" (referring to those who were in their 30s, went to college in the 1980s, and were born in the 1960s), had rather pro-North Korean roots. Once he was elected to the presidency, Roh Moo-hyun installed many members of the 386 generation in key power positions.²⁴ As a result, the ROK did little for the families of those detained in the North until the families mobilized and the first abductee who had been in the DPRK for more than 3 years escaped in 2000, just before the historic North-South summit.²⁵

The fact that the Japanese government can legitimately claim to be a "secondary culprit" and deflect blame onto the DPRK distinguishes it from the position of the ROK government concerning the abductions. On the one hand, Tokyo's smaller share of responsibility decreases the imperative for the Japanese government to grant redress to the abductee families. On the other hand, Tokyo's situation may also limit the Japanese government's capacity to grant full redress. Among the major powers involved on the Korean peninsula, Japan has had the fewest breakthroughs and the most volatile relations with North Korea. Additionally, Tokyo probably has the least control over its own relations with Pyongyang because they depend to a great extent on North Korea's behavior, South Korean preferences, and U.S. policies. The Japanese government may pledge to prioritize the abductions issue and require Pyongyang to take concrete measures toward its resolution.²⁶ But ultimately, the abductions issue is deeply interlaced with other security considerations related to North Korea, including the six party talks, the question of North Korea's nuclear program, humanitarian concerns, and even colonial era reparations. Thus, the Japanese state's capacity to respond to all the victims' demands is limited.

In comparison, the Korean government bears more responsibility for the suffering of abductees and their families because past authoritarian regimes in the ROK discriminated against them and violated their human rights in the name of national security. As such, the ROK can grant redress for wholly domestic injustices against abductees and families. However, the capacity of the Korean state to fully rectify the victims' situations may also be limited, but for different reasons than in Japan. Korea's efforts to become indispensable to any nation interacting

²² E.g. Victor Cha, "Security and Democracy in South Korean Development," in *Korea's Democratization*, ed. Samuel S. Kim (Cambridge: Cambridge University Press, 2003), 201-219.

²³ Kyu Ho Youm, "South Korea's Experiment with a Free Press," *International Communication Gazette* 53, no. 1 (January 1, 1994): 115-116.

²⁴ Roh Moo-hyun appointed based on ideological leanings, in contrast to his predecessors' regionally-based appointments. Kim Young-sam selected personnel from the southeast while Kim Dae-jung appointed Jeolla loyalists. See C. Hahm, "South Korea's Miraculous Democracy," *Journal of Democracy* 19, no. 3 (July 2008): 134.

²⁵ Lee Jae-geun's escape was first reported by the *Chosun Ilbo* days before the historic North-South Summit.

²⁶ *Basic Policy on the Abductions Issue*, Cabinet Headquarters for the Abductions Issue (Oct. 16, 2006 and reaffirmed on Oct. 15, 2008); see also the Law to Address the Abduction Issue and Other North Korean Human Rights Violations (June 2006).

with the DPRK constrain Seoul's options with regards to the abductions issue. Raising the abductions too publicly jeopardizes more than just North-South relations. In contrast, the Japanese government can more forcefully press the DPRK to address the abductions issue because less is at stake diplomatically. In terms of the families' demands for the repatriation of surviving abductees, however, neither Japan nor the ROK has the capacity to compel the DPRK, a sovereign state, into action. The abductees recognize this reality and usually focus on demanding actions that the Japanese and Korean governments can actually take.

The families affected by the North Korean kidnappings faced high hurdles to collective action in both Japan and Korea. The abductee families in Japan are dispersed throughout the country and are few in number. The Korean abductee families live mostly in poor, rural fishing communities around the country and fear social stigmatization. How did these isolated outsiders, these families torn asunder by North Korea's bizarre kidnappings, first mobilize?

ACHIEVING INITIAL ISSUE RECOGNITION OF THE ABDUCTIONS IN JAPAN AND SOUTH KOREA

In the decades prior to the mobilization of the abductee families, Cold War imperatives largely relegated the suspected abductions by North Korea to obscurity. Neither the Japanese nor the ROK government was interested in acknowledging the issue. Before they organized officially in 1997, several victims' families met individually with MOFA officials to make the case that Japan should press the DPRK for more information about their family members, but they were given a rather cold reception.²⁷ Meanwhile, during the 1990s the ROK assiduously eschewed mention of the abductions to avoid jeopardizing progress in North-South relations and inviting unwanted scrutiny of past ROK regimes' tactics in their confrontation with the North. Consequently, the victim families received little assistance from the Ministry of Unification (MOU) or the Korean National Red Cross (KNRC). Below I describe how the abductee families and other activists both pried open windows of opportunity and utilized important openings afforded by new evidence and shifting power dynamics to seek redress for past victimization.

The Japanese Abductions—Mounting evidence and the efforts of a small group of entrepreneurial activists spurred the formation of the abductee family association in 1997. Hints of the North Korean role in the abductions had surfaced sporadically since the conservative *Sankei Shimbun* first published its front-page account on January 7, 1980 of three couples' disappearances off the western coasts of Honshu during the summer of 1978 and speculated about foreign agents' possible involvement. But the government, police, and media largely disregarded such reports.²⁸ Over time, the local police and National Policy Agency (NPA) also investigated numerous cases of missing persons and collected scattered indications of DPRK involvement.²⁹ But since the NPA generally tends to play it safe, not publicizing investigations until it has enough evidence for a conviction, the abductees' cases were usually closed due to insufficient evidence.³⁰ Jurisdictional divisions among the NPA, the Public Security Intelligence

²⁷ One family member called this "*monzenbarai*" (laughed away at the gate). Interview a government official Interview J-103 (July 19, 2007).

²⁸ Over the next decade some local media outlets in areas where suspicious disappearances had happened reported rumors of North Korean activity in Japan occasionally but these did not push the issue onto the political agenda.

²⁹ For example, in 1985, a DPRK agent with a passport under the name of Hara Tadaaki, who had disappeared from a beach in Miyazaki in June 1980, was arrested trying to enter Japan but little followed this incident.

³⁰ Interview with a government official (Dec. 17, 2008).

Agency (PSIA), and other ministries' small intelligence branches, not to mention the fact that key evidence was out of reach in North Korea, further stymied investigations.

The November 1987 midair bombing of Korean Air (KAL) flight 858 by two North Korean agents traveling with fake Japanese passports spurred the Japanese government to reopen investigations into the abductions.³¹ Japanese officials asked the ROK to question the surviving female North Korean bomber based on her account that an allegedly kidnapped Japanese woman had taught her Japanese in Pyongyang.³² These inquiries resulted in a 1988 government report and Diet questioning, which revealed that there was sufficient reason to believe that the couples who disappeared in 1978 may have been kidnapped by North Korea. This government report, however, included no specific plans to act on these findings.³³ At the suggestion of MOFA officials, the victim families remained quiet, fearing for the safety of their loved ones in North Korea.³⁴ Nonetheless, MOFA officials did raise the suspected abductions in bilateral talks held with North Korea in 1992. Regrettably, this prompted the DPRK delegates to walk out of the talks, which would remain stalled through the 1990s.

Thus, throughout the 1980s and the 1990s, most Japanese officials avoided formally implicating the DPRK in the kidnappings because of aspirations for normalized relations with North Korea. Historically, Japan's flexible stance toward North Korea often bordered on "equidistance" between the South and the North. A series of Japanese politicians served as "pipes" (*paipu*) in lieu of official relations with the DPRK. These pipes, however, lacked the leverage or even the incentive to really press Pyongyang on the abductions. For example, LDP kingmaker Kanemaru Shin and socialist party powerhouse Tanabe Makoto met with Kim Il-sung in 1990, but were assured that the abductions were a myth.³⁵ With the DPRK facing food shortages in the mid-1990s, ex-foreign minister Watanabe Michio led a Diet delegation (including future prime ministers Hatoyama Yukio and Kan Naoto from the future DPJ) to Pyongyang with rice aid in March 1995 but they did not mention the abductions. The JSP, meanwhile, famously maintained publicly that the abductions were fiction.³⁶ Critics of these so-called "appeasers" focus their derision on socialist politicians, members of the Takeshita and Hashimoto factions in the LDP, the *Kochikai* in the Diet, members of the now defunct Diet

³¹ The bombing killed 115 people. Kim Hyeon-hui, the female bomber whose cyanide capsule failed to kill her, confessed and provided details of her training to South Korean investigators after she was transferred to ROK custody in December 1987. She was sentenced to death in South Korea in 1990. In response to the bombing, the U.S. government listed North Korea as a "state sponsor of terrorism" in the wake of the KAL bombing. The organization Families of KAL 858 Victims petitioned the ROK government for a reinvestigation of the bombing in 2002. With great media fanfare, the brother and son of Taguchi Yaeko, the Japanese abductee who taught Kim Hyeon-hui Japanese in Pyongyang, met with a repentant Kim Hyeon-hui in South Korea in 2009. Peter Maass, "Woman Says She Sabotaged Plane on Orders from N. Korean Leader," *The Washington Post*, January 15, 1988. "Two Opposing Views Speak on Truth of KAL Case," *Korea Times*, July 19, 2004.

³² David Watts, "Japan Links Disappearances to Bombing of Korean Jet," *The Times (London)*, January 18, 1988.

³³ The impact of this 1998 report was so small that one brother of an abductee did not even find out about it until after the family group formed in 1997. Interview with Hasuike Toru, abductee brother, Tokyo (June 25, 2009).

³⁴ For example, Ishioka Jun, who disappeared in 1980, wrote to his family in a letter mailed in August 1988 from Poland that he was living in North Korea near other Japanese nationals, including Arimoto Keiko. After the Ishioka family contacted the Arimotos, the two families decided not to publicize the information for fear that it would jeopardize their children's lives. Showing it to the Japanese government, moreover, elicited no decisive action. Johnston, *The North Korea Abduction Issue and its Effect on Japanese Domestic Politics*.

³⁵ Of course, they allegedly received billions of yen after the trip from the Chōsen Sōren, the association of Korean residents in Japan that sides with Pyongyang.

³⁶ Interview with Nakashizu Keiichirō, editor at the *Sankei Shimbun*, Tokyo (Nov. 11, 2008).

Members' League for Japan-North Korea Friendship (*Nitchō Giren*), and China or Korea experts in the MOFA.³⁷ The pro-North Korean community in Japan, particularly the *Chōsen Sōren*, also bore the brunt of the abductee movement's anger. Some in Japan's Korean community, however, argued that the Japanese had "abducted" their relatives from Korea between 1910 and 1945.³⁸ Yet, after the first nuclear crisis in 1993-94, attention to the DPRK's misdeeds, including its nuclear ambitions, missile launches, and the abductions, grew among Japan's political elite.

Detailed evidence linking the DPRK to the Japanese abductions mounted rapidly in the mid-1990s. Consequently, three unlikely collaborators called together the abductee families in Japan and urged them to organize, culminating in the formation of the Association of Families of Victims Kidnapped by North Korea (AFVKN) in March 1997.³⁹ First, conservative Korea expert Satō Katsumi ran an article in October 1996 in his journal *Gendai Korīa* (Modern Korea) reporting that a former North Korean spy who defected said he had met ten Japanese abductees in Pyongyang. Satō's source, the Asahi TV producer Ishidaka Kenji, had interviewed that defector spy in Seoul throughout 1995.⁴⁰ Satō and Ishidaka were joined by the secretary of the JCP Diet member who had submitted questions about the abductions to the Diet in 1988 and personally knew some of the families.⁴¹ What these three issue entrepreneurs who helped launch the AFVKN did was debunk the families' fears of futility and adverse publicity with rhetoric about an "open moment" or "window of opportunity" for the families.⁴² They also helped realize a second but more forceful official acknowledgement of the abductions issue in the Diet in February 1997, nearly ten years after the first issue recognition. The families' task thereafter was to pressure the Japanese government to take appropriate actions regarding the abductions. The still-marginalized victims, therefore, appealed to the public for sympathy through signature petition drives, pamphlets, symposia, and some protests outside government offices.

The Korean Abductions—The idiosyncrasies of the abductions issue in Korea made initial victim mobilization and issue recognition more difficult in Korea than it had been in Japan. Open discussion of the abductions was virtually impossible under South Korea's military regimes, which suppressed the issue because the South may have also kidnapped or detained DPRK nationals. Locked into confrontation with the North, the ROK government subtly suggested that many of the abductees had defected north, thereby justifying persecution of any family with ties to North Korea. Due to this history of double victimization by the DPRK and the ROK, South Korea's abductee families recall particularly strong feelings of "futility" and "fears of perverse effects."⁴³ Furthermore, since so many abductees were fishermen, often the sole

³⁷ Interview with NARKN vice chairman Shimada Yoichi (Nov. 20, 2008). See also James L. Schoff, "Political Fences & Bad Neighbors: North Korea Policy Making in Japan & Implications for the United States," *Institute for Foreign Policy Analysis* (June 2, 2006).

³⁸ This sentiment was echoed in a conversation with Chong Hwa-shil, a Korean resident of Japan who attended Chosen Soren schools (December 2008).

³⁹ Their Japanese name is *Kitachōsen ni yoru Rachi Sareta Higaisha Kazoku Renrakukai* or *Kazokukai*.

⁴⁰ Interview with Nakashizu of the Sankei Shimbun (Nov. 11, 2008). Johnston, *The North Korea Abduction Issue and its Effect on Japanese Domestic Politics*.

⁴¹ Interview with Araki Kazuhiro, head of COMJAN, Tokyo (March 24, 2009).

⁴² Albert O. Hirschman, *The Rhetoric of Reaction: Perversity, Futility, Jeopardy* (Cambridge: Belknap Press, 1991). William A. Gamson and David S. Meyer, "Framing Political Opportunity," in *Comparative Perspectives on Social Movements: Political Opportunities, Mobilizing Structures, and Cultural Framings*, ed. Doug McAdam, John D. McCarthy, and Meyer N. Zald (Cambridge: Cambridge University Press, 1996), 286.

⁴³ Hirschman, *The Rhetoric of Reaction*.

breadwinners, their mothers or wives were primarily concerned with putting food on the table or were too elderly to expend energy demanding that the ROK government rescue their loved ones.⁴⁴ As a result, while many ordinary South Koreans knew vaguely about the abductions, government policy prevented open discussion of the treatment of the victim families.

North-South diplomatic efforts first focused on the “separated families”, which theoretically could have included the abductees without actually blaming the DPRK for kidnapping ROK nationals.⁴⁵ Yet the South Korean authorities did not approve any abductee families’ applications for inclusion in the separated family reunions until December 2000. Official bilateral negotiations in the early 1970s and North-South Red Cross talks starting in the 1980s sought basic information for families torn asunder by the 38th parallel. Such dialogue was always at the mercy of higher-level priorities in the political and military confrontation. New information about the abductions accompanied the steadily increasing flow of refugees from North Korea during the 1990s.⁴⁶ The ROK government finally acknowledged that 454 abductees and 231 POWs remained in the North in 1999, but the DPRK continued to deny the abductions.⁴⁷

After writing letters to her assemblyman and to government officials in vain, Choi Woo-young, whose father was detained in North Korea in 1987 when she was in middle school, launched an abductions movement in Korea in February 2000. The Japanese AFVKN invited her to a rally in Tokyo in 1998, and then she and seven families modeled the Abductee Family Union (AFU) in South Korea on the Japanese group.⁴⁸ The approaching North-South summit meeting provided a historic focusing event for launching a Korean redress movement. Choi Woo-young put ads in many newspapers, contacted her friends, and appeared in the media and at churches to connect with similarly afflicted families dispersed around the country. By May 2000, the AFU had mobilized about twenty families.

Although no ROK official publicly acknowledged the abductions issue, the Unification Minister met with several abductee families in May 2000. The families asked that the abductions be included on the summit agenda for humanitarian reasons and emphasized the need for information about their missing relatives, the restoration of their honor, and the abductees’ repatriation. Instead of confronting Kim Jong-il about the abductions issue, however, President Kim Dae-jung opted to pragmatically couch the post-1953 abductees in the more neutral term “scattered families and relatives” (*heulojin gajok jincheok*) when penning the joint statement for the historic summit. Apparently, the government was loath to risk “big losses [by upsetting the talks] for a small potential gain [for the families].”⁴⁹

⁴⁴ Interview with An Jun-ho, *Chosun Ilbo* reporter (Feb. 11, 2009).

⁴⁵ The ROK had compiled lists of persons abducted by the North during the Korean War in cooperation with a civic group called the Korean War Abductees Family Association (KWFA). Its successor, the Korean War Abductee Family Union (KWAUFU) was founded by Lee Mi-il, the daughter of a wartime abductee, in November 2000 to raise awareness about the estimated 85,000 persons still detained by North Korea since the Korean War.

⁴⁶ The number of North Koreans entering South Korea rose from 34 (1990-1993) to 306 (1994-1998) to 1,043 (1999-2001). After that the numbers of refugees entering South Korea annually increased: 1,138 (2002), 1,281 (2003), 1,894 (2004), 1,383 (2005), 2,018 (2006), and 2,544 (2007). Ministry of Unification Statistics, http://www.unikorea.go.kr/eng/default.jsp?pname=AFFhumanitarian_settlement (accessed May 18, 2010).

⁴⁷ Williams and Mobrand, “Explaining Divergent Responses to the North Korean Abductions Issue in Japan and South Korea,” 16. Interview with An Jun-ho, *Chosun Ilbo* journalist, Seoul (Feb. 11, 2009).

⁴⁸ Interview with Choi Woo-young, former leader of the FADN, Seoul (July 11, 2007).

⁴⁹ Kim and Jeong, “Sosujaroseo Napbukja kajokeui jeongchaek hoikdeuk gwajeong yeongu [A Study of the Process by which the Families of those Kidnapped by North Korea Attained Certain Policies],” 134. Interview with Choi Woo-young, former FADN leader, Seoul (July 28, 2009).

As a result of the greater number of Korean victims and the variety of circumstances among abductees, however, the abductee movement in South Korea became more divided than the Japanese movement. This diversity made it easier for the ROK government to employ ‘divide and conquer’ strategies to limit the scope of the conflict. By October 2000, the AFU had split, due to disagreements over strategy and leadership, into the Choi Woo-young’s Families of the Abducted and Detained in North Korea (FADN) and the reconstituted AFU under Choi Seong-yong’s direction. Like their Japanese counterparts, these family organizations were initially voices from the margins of society without political representation, power, or legitimacy. It was essential, therefore, that they expand the group of people interested in the abductions issue to break open the closed circle of actors, ideas, and vested interests that dominated policy-making related to North Korea and the abductions issue.

THE STAGES OF CONFLICT EXPANSION

By tracing the Japanese and Korean victim groups’ efforts to expand the scope of their conflicts, this section analyzes why bottom-up conflict expansion was temporary in Japan and nearly impossible in Korea. Widespread public and non-partisan interest in the abductions issue in 2002 in Japan quickly evolved into a partisan and top-down conflict pitting nascent right-wingers against pragmatists. Politicians using the abductions issue for personal gain (top-down conflict expansion) somewhat de-prioritized the victims’ goals for the sake of their own objectives, even if the victims did not all share those goals. In Korea, conflict expansion has been mostly limited because the abductions organizations have not successfully attracted much public sympathy. To limit the threat they posed to the government, the Korean MOU basically co-opted FADN in 2006, even though the AFU resisted. The previous two chapters demonstrated that bottom-up conflict expansion tends to produce comprehensive redress and limited conflict expansion tends to produce negotiated settlements. Yet, the abductee family movements illustrate that the degree of “objective” responsibility that the state bears for the victimization limits the effects of conflict expansion on state responsiveness. Despite their effective bottom-up conflict expansion, the Japanese victims only achieved partial redress. Their conflict was limited, but the Korean victims also managed to pressure their government to grant them partial redress.

A dramatic revelation of new information, such as Kim Jong-il’s admission in 2002, can make a set of victims impossible to ignore. This is especially true when, like the Japanese media, all news outlets covered the issue out of shame for not having covered it before.⁵⁰ Indeed, the homogeneous content and remorse of the Japanese media initially facilitated bottom-up conflict expansion for the Japanese abductee families. In contrast, the Korean abductee associations had a harder time remaining in the spotlight, as competing media outlets diverted public attention to other stories and issues. In addition, the most common form of advocacy organization in Japan facilitated the victims’ efforts to expand the scope of the abductions conflict, while the dominant form of activism in Korea hindered any similar conflict expansion. Soon after their formation in 1997, the AFVKN rapidly linked up with large numbers of small local citizen groups, which constitute the bulk of activist sector in Japan. In Korea, on the other hand, the FADN and AFU have had to compete with a plethora politicized and nationally active organizations concerned with North Korean human rights and refugee issues. In this environment, the AFU and FADN have had a harder time gaining supporters among the watching public than Japan’s AFVKN has.

⁵⁰ John W. Kingdon, *Agendas, Alternatives, and Public Policies* (Boston: Little, Brown, 1984).

In this section, I trace conflict expansion in both abductions movements across five stages to highlight the divergent levels of each public's interest in the abductees' conflicts with each government. In spite of extensive public pressure on the Japanese government, the Japanese abductee families were only able to elicit partial redress. And in spite of a nearly complete absence of public pressure on the Korean government, the Korean families were nonetheless able to elicit partial redress. The final section of this chapter analyzes how the iterative interactions between the state and victim groups account for these similar outcomes in different contexts.

Tactics and the Expansion of the Abductions Issue in Japan

After the AFVKN formed in March 1997, several key features of this redress movement helped the victim families to activate bottom-up public pressure on the government. First, the story of Yokota Megumi, a thirteen-year-old girl abducted on her way home from badminton practice in Niigata in 1977, proved particularly effective for mobilizing public sympathy. Several major news outlets reported her story on February 3, 1997, after the hawkish former social democratic Diet member Nishimura Shingo submitted questions about her case to the Diet in January.⁵¹ After reaching the difficult decision to reveal Megumi's real name to the press, the Yokotas became key leaders among the AFVKN families.⁵² Although there were just 12 people from 7 families at the AFVKN launch, they had a powerful story to tell as they posed with large photos of their missing loved ones.

Second, the families effectively tapped into the local networks of citizens that constitute the bulk of the activist sector in Japan. These supporters were neighbors who felt sorry for the abductee families, activists with some personal interest in North Korea, and mothers who empathized with the loss of a beloved daughter or son.⁵³ The fact that some local news media covered the abductions prior to 1997 also meant that a few members of the public had already been primed to become interested in the abductions after 1997.⁵⁴ Although 39 of these local support groups are now formally affiliated with the National Association for the Rescue of Japanese Kidnapped by North Korea (NARKN), most local branches retain their volunteer and local flavor.⁵⁵ The peace and environmental movements in Japan likewise started among friends or neighbors in the 1960s. The abductee families drew on these familiar organizational forms.

⁵¹ Hyōmoto Tatsukichi, secretary to JCP politician Hashimoto Atsushi (who had raised the abductions issue in the Diet in 1988), contacted Yokota Shigeru and Yokota Sakie on January 21, 1997 to tell them that he had received information that Megumi was alive in North Korea. The magazine *Aera* and the *Sankei Shimbun* ran stories with Megumi's full name on Feb. 3, 1997, and these news stories prompted further investigations. Sakie Yokota, *North Korea Kidnapped My Daughter* (New York: Vertical, 2009). *The Families*, chap. 1. Accessed May 13, 2010.

⁵² Yokota Shigeru, Megumi's father, was elected to lead the AFVKN at their first meeting and he remained in that position until he resigned for health reasons in March 2006. Iizuka Shigeo, the older brother of the abductee Taguchi Yaeko, replaced Mr. Yokota and remains the leader of the AFVKN in 2010.

⁵³ Asagao-no-kai, for example, is a supporter group for the Yokotas that is based in the same apartment complex where they live. It was formed in May 2003 and helps with publicity, mailing letters, lobbying, and other appeals. (The English website is <http://www.asagaonokai.jp/eg/index.html>, accessed May 13, 2010). One volunteer at a Kawaguchi rally told me that she had started participating in the movement because she now lived near where the Yokota family had lived twenty years previously and sympathized with their situation. Conversation with a volunteer at the Saitama Prefectural Sukuukai rally in Kawaguchi (Nov. 22, 2008).

⁵⁴ In Fukui, where Chimura Yasushi and Chimura Fukie (née Hamamoto) were kidnapped in 1978, the father and brother of the abductees had already developed a loose network of supporters. Thus, the abductions movement took off quickly in Fukui after 1997. Interview with Shimada Yoichi, vice chairman of NARKN, Tokyo (Nov. 20, 2008).

⁵⁵ There are at least as many local supporter groups who are explicitly not affiliated with NARKN due to differences of opinion and desires to remain entirely local. Interview with NARKN chairman Shimada Yoichi (Nov. 20, 2008)

Third, the initial multi-partisan nature of the movement appealed to the general public. A non-partisan league of Diet members or *Rachi Giren* organized in April 1997 to politically support the abductee families.⁵⁶ Similar legislators' leagues soon appeared in most prefectural assemblies. Some key leaders of NARKN have ties to the right-wing Japanese Society for History Textbook Reform (*Tsukurukai*), which has been involved in developing textbooks that whitewash history.⁵⁷ In contrast, Life-Funds for North Korean Refugees (LFNKR), which periodically cooperates with the abductee families, was founded in 1998 by a former socialist who wanted to atone for his involvement in the repatriation of Korean residents of Japan to the DPRK in the 1960s.⁵⁸ The ire of the right at Japan's inability to prevent the DPRK's crime has mingled with the left's outrage at the human rights violations of the DPRK government. At least initially, the potent appeal of the abductions issue to both ends of the political spectrum in Japan facilitated bottom-up conflict expansion. Especially after 2003, however, conflict expansion became more overtly partisan and top-down, spearheaded by hawkish politicians.

Stage 1: the Megumi News and Early Activism—New information about Megumi, gleaned from a North Korean spy who defected, first catalyzed the abductions movement in Japan in the winter of 1996 and 1997. In the wake of the nationwide front-page coverage of Megumi's story, the families gathered 500,000 signatures by August 1997 to submit to the prime minister. Until 2002, the AFVKN held symposia, rallies, and such signature petition drives to raise public awareness of their cause. Still, it was difficult for the families to sustain national media coverage before 2002 because reporters tended to privilege the MOFA's "official" version of the story—that there was still no firm evidence of DPRK involvement in the abductions.⁵⁹

Thus, the abductions movement in Japan initially focused on the difficult task of expanding the number of ordinary citizens familiar with their issue, by whatever means they could. Their early sympathizers formed the bedrock on which the abductions issue would massively expand in September 2002. The first local "rescue association" to support the abductee families was established in Niigata, where the Yokotas lived when Megumi was abducted.⁶⁰ To become a more effective movement, the network of such local supporter organizations coalesced into NARKN in April 1998.⁶¹ This network of local citizen groups has since become "a

⁵⁶ This group is called the Diet members' League to Help Japanese Allegedly Abducted by North Korea (or *Kitachōsen Rachi Giwaku Nihonjin Kyūen Giin Renmei*) and referred to as *Rachi Giren* for short.

⁵⁷ This group is called the *Atarashii Rekishi Kyōkasho wo Tsukurukai* in Japanese and was founded in 1996. Chinese, South Korean, and other historians have criticized it for downplaying Japanese war crimes. See <http://www.tsukurukai.com/> (accessed May 18, 2010). The Tsukurukai co-sponsored a symposium with NARKN in December 2002 to hear from the abductee families. On this, see Takashima Nobuyoshi, "The North Korean Abductions and the Rewriting of History," *Kinyōbi* (January 24, 2003), *Japan Focus*, translated by John Junkerman.

⁵⁸ Over 93,000 people immigrated from Japan to North Korea between 1959 and 1984. Most were Korean residents of Japan, originally from the southern part of the Korean peninsula, but their migration to the DPRK was termed "repatriation." The Chōsen Sōren actively encouraged this migration but the pro-ROK union of Korean residents in Japan (*Mindan*) violently protested the migration. The Japanese government seems to have also tacitly supported the outward migration. Satō Katsumi, director of the Modern Korea Research Institute, helped to launch the abductions movement in large part because he regretted his active role in the "repatriation" process. See Tessa Morris-Suzuki, *Exodus to North Korea: Shadows from Japan's Cold War* (Lanham: Rowman & Littlefield Publishers, Inc., 2007).

⁵⁹ See Ellis S. Krauss, "Portraying the State: NHK Television News and Politics," in Susan J. Pharr and Ellis S. Krauss, *Media and Politics in Japan* (Honolulu: University of Hawaii Press, 1996), 118-119.

⁶⁰ Kojima Harunori's group initially included about 20 friends who wanted to do something to help the Yokotas. They played a key role in the 1997 signature petition drive. Interview with Yamazaki Haruya, citizen who was one of the first members of Kojima's group and current NARKN member, Tokyo (March 26, 2009).

⁶¹ This group is called *Kitachōsen ni Rachi Sareta Nihonjin wo Kyūshutsu Suru tame no Zenkoku Kyōgikai* or *Sukuukai*. Satō Katsumi, director of the Modern Korea Research Institute became NARKN president.

combination support group and political action committee.”⁶² While NARKN has come under fire for some of its members’ outspoken hawkishness, this organization is invaluable to bottom-up conflict expansion. NARKN volunteers organize and staff public rallies, collect signature petitions, maintain a website, gather insider political tips, and produce publicity materials.

During the first stage of conflict expansion from 1997 to 2002, the abductee families’ appeals remained largely the apolitical pleas of families separated from their loved ones. In May 1999, one family activist recalled standing on the Ginza and only collecting one signature in an hour, despite the hordes of people.⁶³ The families protested MOFA’s decision to send rice aid to North Korea, lobbied individual Diet members, demanded that the NPA reopen investigations, and appealed internationally to the U.S. government and the UN. By the spring of 2000, therefore, an AFVKN-NARKN rally in Tokyo attracted 2,000 attendees. The AFVKN also finally achieved meetings with Prime Minister Obuchi in 1999 and Prime Minister Mori in 2000. In the families’ meeting with Mori, the younger brother of one abductee bowed with his forehead to the floor to plead for government action. TV cameras filmed his bow, and the publicity caused Mori to promise to simultaneously pursue normalization and a resolution to the abductions issue. Gradually, as North Korea’s brazen behavior continued and public support for the abductees mounted, government officials and political elites grew more attentive to the families.

Subsequently, one of the Red Army hijackers’ wives confessed in March 2002 that she had tricked Arimoto Keiko into going to North Korea.⁶⁴ After this well-publicized confession, public sympathy toward the abductee families grew, a realignment of the victims’ political supporters occurred, and the police finally recognized the Arimoto case as an abduction. Diet member Nakayama Masaaki, who had been the head of the *Rachi Giren* since its inception, tempered his reaction to the news about Arimoto Keiko in order to protect his personal diplomatic ambitions regarding the DPRK. Angered, the Arimotos called for loyal political allies to resign from Nakayama’s *Rachi Giren* and to launch a more hawkish *Rachi Giren*. Thus, with Abe Shinzō, Nishimura Shingo, Hirasawa Katsuei, and Koike Yuriko among its initial 12 members, this newer *Rachi Giren* formed in the spring of 2002.⁶⁵ It foreswore compromise on the abductions issue, called for investigations into credit unions with ties to North Korea and an end to all cash transfers to the DPRK, and proposed legislation to prohibit Koreans residing in Japan from visiting North Korea.⁶⁶ By the end of the first stage of conflict expansion in summer 2002, therefore, the AFVKN had garnered the support of a small but committed segment of the watching public and a number of politicians who harbored hawkish goals vis-à-vis North Korea.

Stage 2: The Abductions Issue Boom of 2002—Few people, least of all Kim Jong-il, predicted the massive upwelling of public sympathy that would follow the DPRK’s admission of involvement in the abductions. The Japanese public was outraged, particularly over the alleged deaths of eight of the thirteen abductees. The media, and even most political elites, were caught

⁶² Johnston, *The North Korea Abduction Issue and its Effect on Japanese Domestic Politics*.

⁶³ *The Families*, chap. 6.

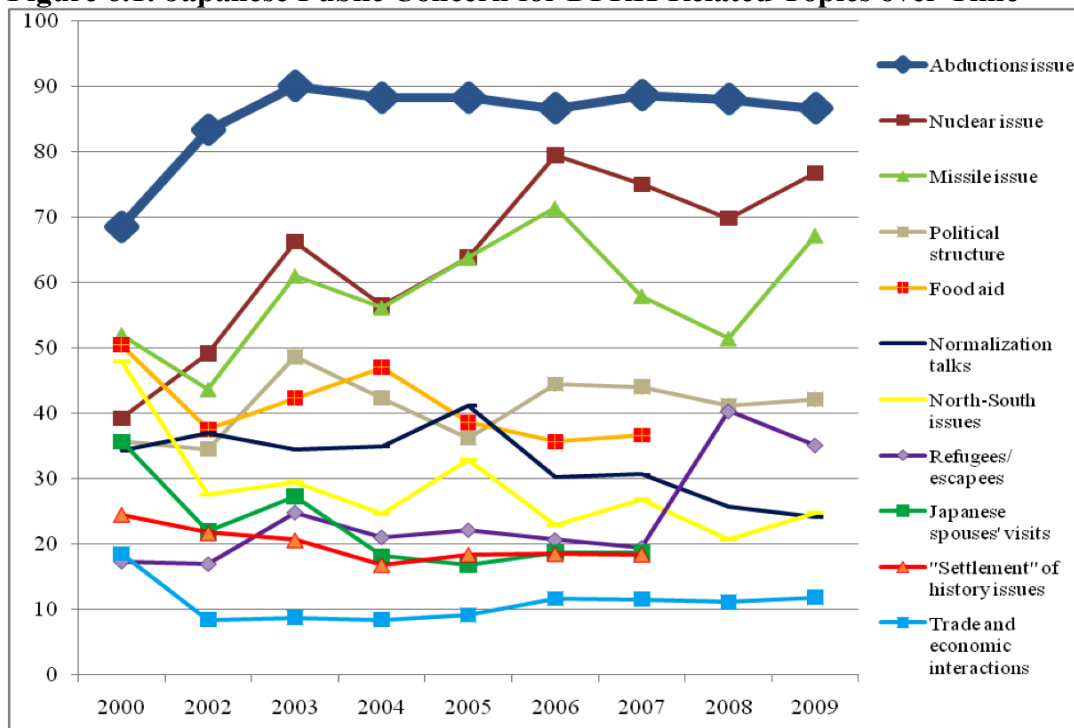
⁶⁴ Yao Megumi, the wife of one of the Yodogo Red Army hijackers, confessed during the trial of another Yodogo wife in the Tokyo District Court on March 12, 2002. Yao Megumi then published a personal apology detailing the abduction of Arimoto Keiko in 1983 in Europe.

⁶⁵ James L. Schoff, “Political Fences and Bad Neighbors: North Korea Policy-Making in Japan and Implications for the U.S.,” Project Report, Institute for Foreign Policy Analysis (June 2006), <http://www.ifpa.org/pdf/fences.pdf>, p. 9. See also Brad Williams and Erik Mobernd, “Explaining Divergent Responses to the North Korean Abductions Issue in Japan and South Korea,” *Journal of Asian Studies* 69, no. 2 (May 2010): 9-10.

⁶⁶ Hirasawa was kicked out of a leadership position in this second *Rachi Giren* in 2004 after he and Diet member Yamazaki Taku tried to engage in personal diplomacy with Pyongyang to resolve the abductions issue.

by surprise at Kim Jong-il's frank admission in September 2002.⁶⁷ While the Koizumi-Kim summit might have led to a resolution of the abductions issue, it instead catapulted the abductions to the top of the political agenda. Public ire over the abductions overshadowed even Pyongyang's disclosure to U.S. Assistant Secretary of State James Kelly several weeks later that the DPRK had a highly enriched uranium program. One year after the Pyongyang Declaration, fully 90.1 percent of respondents still considered the abductions issue their main concern vis-à-vis North Korea, whereas just 66.3 percent listed the North's nuclear development as most worrisome.⁶⁸ Figure 6.1 below shows the consistently high level of public concern for the abductions, as an indication of how effective the families' conflict expansion has been. The government first started asking about the abductions and other specific issue related to North Korea in 2000. Since 2000, no other issue related to North Korea has approached the abductions in public interest. Still, concern for the nuclear issue grew to almost 80 percent in 2006 after North Korea's underground nuclear test, and worries about the DPRK's nuclear and missile capabilities increased in 2009 considerably.

Figure 6.1: Japanese Public Concern for DPRK-Related Topics over Time⁶⁹



At the vortex of this public and political uproar were the families of the abductees. Despite knowing that some news about the abductees could emerge from the September 2002 summit, the Japanese government, notoriously fragmented administratively, was caught unprepared for the media response to a “breakthrough” on the sensitive abductions issue, and a

⁶⁷ Interview with Okumura Jun, a political commentator, Tokyo (Oct. 23, 2008).

⁶⁸ Cabinet Public Information Office, *Gaikou ni Kansuru Yoron Chōsa* [Public Opinion Survey about Diplomacy], (October 2003), <http://www8.cao.go.jp/survey/h15/h15-gaikou/index.html>, (accessed August 2, 2007).

⁶⁹ Cabinet Public Information Office, *Gaikou ni Kansuru Yoron Chōsa* [Public Opinion Survey about Diplomacy], each year's results available at <http://www8.cao.go.jp/survey/index-gai.html> (accessed May 10, 2010).

political vacuum reigned in Tokyo.⁷⁰ Better prepared to handle the media furor in 2002, AFVKN and their supporters from NARKN capitalized on the media's remorse for not having previously covered the story and adeptly established AFVKN as the sole authority on the abductions issue. Consequently, any criticism of the victims' families or questions about their activities became a virtual taboo in Japanese government and media circles.⁷¹ In addition, numerous politicians lined up to publicly support the families in order to bolster their own political images. The extent of the abductee families' influence was clear as early as the twelfth round of Japan-North Korea normalization talks in late October 2002. The Japanese delegates all wore the AFVKN's signature blue ribbon pins.⁷² Since 2002, Pyongyang's cavalier attitude and shady responses to Japanese demands about the deaths of 8 of the 13 abductees served to prolong public anger, this taboo, and political support for harsher policies toward the DPRK.⁷³

During this second stage, the victim families did not have to work particularly hard to expand the scope of their conflict, due to Kim Jong-il's revelation. Yet their networks of local rescue associations, their political connections, and their organizational preparedness helped the AFVKN and its supporters to capitalize on Kim Jong-il's revelation to pressure the government into action. In October 2002 the five surviving abductees returned to Japan. Abe Shinzō, who was Koizumi's deputy chief cabinet secretary at the time of the summit in 2002, became a particularly helpful ally for the AFVKN. Abe pushed to have the returnees remain in Japan and to negotiate for their children in North Korea to join them in Japan. Abe's firm stance on the abductions issue helped boost his popularity and influence over policies related to the abductions.

Stage 3: the 2003 General Elections—Other politicians besides Abe also sensed in the abductions issue an opportunity to gain political support. Therefore, the abductions became a key issue in the general elections in November 2003. The AFVKN-NARKN ability to effectively organize ordinary citizens appealed to many candidates wanting to get out the vote.⁷⁴ Both the ruling LDP and the DPJ declared their support for the abductee families. Social Democrat powerhouse Doi Takako was defeated by a staunch supporter of the Arimotos, who lived in that electoral district. And the hawkish DPJ politician Nishimura Shingo won overwhelmingly due to his support of the abductee families, even though he had only narrowly won the previous election.⁷⁵ This wave of overt political use of the abductions issue, however, diminished the families' control over the course of the movement. Since this time, redress for the victim families has been obscured by broader goals, such as sanctions and conflict expansion took on a more top-down flavor after this third stage.

Despite the undeniably widespread sympathy for the abductee families, the fact that the Japanese government bore secondary responsibility for the families' suffering enabled the government to limit the extent of the redress conflict. For example, the Japanese authorities set the criteria by which they would grant official recognition of missing person cases as North Korean abductions. The administrative process for gaining recognition is actually quite opaque.

⁷⁰ Interview with Eric Johnston, editor of the Japan Times (Dec. 3, 2008).

⁷¹ Interview J-101, Tokyo (July 18, 2007) *inter alia*.

⁷² The light blue color of the ubiquitous ribbons (still worn by many politicians) symbolizes the color of the Sea of Japan, which divides the abductees from their families, and of the sky which is the only thing that unites the victims with their families. *Rachi Giren* members and abductee families periodically demand that all MOFA officials be required to wear the blue ribbon pins. *Rachi Giren* General Assembly Meeting (March 17, 2009).

⁷³ For a discussion about some of these controversies, see International Crisis Group, "Japan and North Korea: Bones of Contention."

⁷⁴ Interview with Eric Johnston, *Japan Times* editor, Osaka (Dec. 3, 2008).

⁷⁵ Johnston, *The North Korea Abduction Issue and its Effect on Japanese Domestic Politics*.

For the Japanese government, however, limiting the number of officially recognized abduction cases makes resolution of the issue more feasible.⁷⁶ Since 2002, the Japanese government has only recognized four additional abductions cases, possibly to enable the DPRK to “come clean” on the abductions more easily. Yet North Korea’s revelation in 2002 included one case (Soga Hitomi) about which the Japanese government had not known. Consequently, Araki Kazuhiro, a repentant former socialist who had been involved in NARKN, formed the Investigation Commission on Missing Japanese Probably Related to North Korea (COMJAN) in early 2003 to help the families of suspected abductees to lobby the Japanese government for official recognition. As of 2009, about 50 unrecognized families were actively involved in his organization. To support COMJAN’s efforts and raise awareness of human rights violations in North Korea, a group of Japanese attorneys, led by Kawahito Hiroshi, finally organized in March 2003.⁷⁷ Together COMJAN and the lawyers file official complaints about suspected abductions.

Seeking both official recognition and public attention, COMJAN and the lawyers’ group helped the family of Furukawa Noriko to file an administrative lawsuit against the Japanese government in April 2005 to have their daughter, who disappeared in July 1973, recognized as an abductee.⁷⁸ The family contended that the state did not provide adequate or clear procedures for such recognition and charged the government with negligence for failing to investigate the cases of suspected abductions. After the government promised to change its behavior toward the unrecognized abductees, the Furukawa lawsuit went into settlement talks without a ruling. In contrast to the lawsuits discussed in Chapters 4 and 5, the Furukawa lawsuit had relatively little impact. It garnered virtually no publicity and did little to advance the broader victim redress movement. In part, this was because the core of the movement—the recognized abductees’ families who are members of AFVKN—were not involved. Today, unrecognized abductee families have difficulty obtaining meetings with government officials, just as the AFVKN members did before 2002.

Although the abductions issue began as an issue that attracted multi-partisan interest, it gradually attracted politicians with more hawkish agendas and became more partisan. The number of Japanese politicians and officials favoring a hard line on North Korea policy increased throughout the 1990s.⁷⁹ Many of these more hawkish Diet members became the core of the new *Rachi Giren*. By 2002, the *Rachi Giren* had basically supplanted the Parliamentarian League for the Promotion of Japan-North Korean Friendship (*Nitchō Giren*), which had existed since 1971 and was comprised primarily of parliamentarians whose constituents had interests in the eventual normalization of Japan-DPRK relations, due to exports, cement, fishing, or the *Chōsen Sōren*. The *Rachi Giren* had grown to include over 200 Diet members, though not all were equally

⁷⁶ Interview with Kawahito Hiroshi, lawyer, Tokyo (June 8, 2009).

⁷⁷ The founder of this group, Kawahito Hiroshi, found out about the abductions issue because he was a criminal lawyer for Japanese citizens and Korean residents of Japan caught assisting North Korean agents in Japan in the early 1980s and had followed the issue since then. After the 1997 news about Megumi and then the 2002 confession of Yao about Arimoto Keiko, he held a public seminar for lawyers and invited Yokota Shigeru to speak. When only 3 lawyers showed up for the seminar, Kawahito realized the dearth of attention to the abductions issue within the legal community. Today the group involves about 30 or 40 lawyers nationwide. Interview with Kawahito Hiroshi, lawyer, Tokyo (June 8, 2009). Homepage: <http://web01.cpi-media.co.jp/kawahito/tokutei/tokutei.htm>.

⁷⁸ The family of Matsumoto Kyoko had also discussed filing a lawsuit with COMJAN and the Lawyers’ Group. However, her family lived far from Tokyo and the government formally recognized her case as the 17th abductee in 2006, partway through the Furukawa lawsuit.

⁷⁹ Samuels, *Securing Japan*.

active. The more hawkish allies who surrounded the abductee families spearheaded the fourth stage of advocacy, which was undeniably top-down.

Stage 4: Campaigns for Sanctions and a North Korea Human Rights Act in Japan— Between 2004 and 2006 the AFVKN's most powerful political allies effectively wrangled the reins of the movement away from the families. These supporters saw a gaping window of opportunity for pursuing their own pet projects. Megumi's father acknowledged this tension between the families' apolitical goals and the objectives of their allies by saying, "we know Satō [the founder of the NARKN] is a right-winger, but we need all the help we can get from whomever we can get it from."⁸⁰ Politicians and activists used the families' cause to campaign for a crackdown on pro-DPRK Korean residents of Japan, a bolder defense posture for Japan, and even history textbook revisions, constitutional change, and the pursuit of nuclear weapons. Most significantly, AFVKN supporters successfully pressured the Japanese government to enact sanctions against North Korea and to pass a North Korean Abductions and Human Rights Act like the 2004 American law (H.R. 4011). Some of the AFVKN supported these measures as ways of punishing the DPRK, but these policies were only distantly related to redress.

Despite resistance from Prime Minister Koizumi, the LDP began studying how to revise Japan's Foreign Exchange and Trade Control Law (FETCL) as early as December 2002. Revision would enable Japan to shut off remittances to the DPRK unilaterally. Koizumi opposed sanctions because he felt that they would constitute an abrogation of the Pyongyang Declaration, which he had signed with Kim Jong-il.⁸¹ By the fall of 2003, during the lower house election, however, the DPJ and the LDP were issuing competing calls for the revision of the FETCL.

Initial sanctions passed in 2004 placated the public temporarily, but the victims and especially their supporters continued to press for cutting off "people, money, materials, and information" to North Korea.⁸² To that end, the AFVKN and NARKN launched a petition drive that garnered a surprising 5 million signatures, which they submitted to the Japanese government in February 2005. The groups also led a nationwide boycott of North Korean clams, the highest value item in bilateral trade. As a result of the boycott and stricter insurance requirements for ships importing the clams, the volume in trade of the clams fell by half from 2004 to 2005.⁸³ Meanwhile, significant international support from the North Korea Freedom Coalition in the U.S. and the UN General Assembly in 2005 and 2006, as well as a well-publicized meeting between Mrs. Yokota and President Bush, further legitimized the AFVKN.⁸⁴ The politicians Abe Shinzō, Nakagawa Shoichi, Nishimura Shingo, and Hiranuma Takeo constituted the most ardent proponents of sanctions, and they met with the victim families multiple times per month during 2006 to coordinate their advocacy efforts.⁸⁵ What this stage of top-down conflict expansion did was lay the groundwork for a rapid response from the Japanese government once sanctions were

⁸⁰ *Japan Times* (April 15, 2003) quoted in Richard J. Samuels, "Kidnapping Politics in East Asia," *Journal of East Asian Studies* (forthcoming).

⁸¹ Satoru Miyamoto, "Economic Sanctions by Japan against North Korea: Consideration of the Legislation Process for FETCL (February 2004) and LSMCIPESS (June 2004)," *International Journal of Korean Unification Studies* 15, no. 2 (2006): 36.

⁸² Presentation by Nishioka Tsutomu of NARKN, at a AFVKN-NARKN symposium, Tokyo (Nov. 20, 2008)

⁸³ Schoff, "Political Fences & Bad Neighbors." p. 7.

⁸⁴ Remarks by Suzanne Scholte at the International Conference on North Korean Human Rights Violations, NARKN, (Feb. 19, 2005). This was the first formal UN General Assembly rebuke (with South Korea abstaining) against North Korean human rights (Dec. 16, 2005).

⁸⁵ Interview with NARKN vice chairman Shimada Yoichi (Nov. 20, 2008).

needed. That time came in 2006 when North Korea tested seven missiles in July and exploded a nuclear warhead underground in October.

Stage 5: Keeping the Issue Salient—Nevertheless, the AFVKN still sought to public empathy as a counterweight to their non-victim allies. Despite being co-opted by powerful political forces, the families have been able to retain surprising levels of grassroots interest thanks to the felicitous effects of the structure of civil society, the habits and remorse of the media, and the state's actions. Well-established as an important source of news among Japan's relatively homogeneous mainstream media, the AFVKN continues to attract media coverage. For example, when Barak Obama won the U.S. presidential race in 2008, the NHK's extended prime time news coverage included reactions from only one citizen group—the AFVKN.⁸⁶ Since 2002, the media's remorse and the Japanese government's feeling of "indebtedness" to the abductee families meant that the media covered all AFVKN events and that official sources often confirmed the AFVKN and NARKN line.⁸⁷ As such, the media helped to sustain interest in the abductions issue, and therefore pressure on the government.

AFVKN also mobilized thousands of ordinary citizens into local support groups that periodically gather to hold boisterous rallies about the abductions. Retirees and other interested people who have followed the plight of the abductee families since 2002 continue to assemble for AFVKN/ NARKN rallies.⁸⁸ Many local support groups comprise of amateur activists who produce their own fliers and organize their own local events. The families of unrecognized abductees have particularly strong incentives to sustain such grassroots public interest in the abductions so as to pressure the government to recognize their loved ones as abductees.⁸⁹

NARKN, in particular, has an interest in keeping the abductions issue on the public's radar screen because a full resolution to the issue and comprehensive redress would deprive NARKN leaders of their positions of influence.⁹⁰ In fact, there may be no particular cost for the Japanese government of keeping the abductions issue alive because other nations' relations with the DPRK are not improving either.⁹¹ While uniform media remorse, Kim Jong-il's shocking admission, and organizational isomorphism with the dominant form of advocacy organization bolstered the AFVKN's clout vis-à-vis the state, ultimately the state still determined the extent of its responsiveness to the victims' advocacy. This was because political elites came to dominate the abductions movement around 2003 and because some dimensions of redress lay outside the Japanese government's capabilities, in North Korean hands.

Tactics and the Expansion of the Abductions Issue in Korea

The scope of the abductions conflict in Korea has grown far less than its parallel in Japan. Like the Korean Hansen's disease and hepatitis C movements, the Korean abductee families

⁸⁶ NHK's News 7, extended to one hour (Nov. 5, 2008).

⁸⁷ Interview with Hasuike Toru, abductee brother, Tokyo (June 25, 2009). Interview with a Japanese government official, Tokyo (Dec. 17, 2008).

⁸⁸ As late as November 2008, a rally for the local abductees' families still brought out about 500 spectators, 6 national Diet members, 10 prefectural assembly members, and 6 city council members, as well as letters of greeting from about 10 more Diet members. Saitama Prefectural NARKN affiliate rally (Nov. 22, 2008).

⁸⁹ For example, Ikushima Keiko, the older sister of the unrecognized abduction victim Ikushima Takako, creates her own fliers to pass out to journalists and the politicians she lobbies. COMJAN supports her efforts, but she also has a small group of friends in her hometown who help her raise awareness of her sister's suspected abduction.

⁹⁰ So argues a somewhat jaded member of AFVKN who was formerly very active. Interview with Hasuike Toru, abductee brother, Tokyo (June 25, 2009).

⁹¹ Interview with Okumura Jun, a political commentator, Tokyo (Oct. 23, 2008).

faced significant challenges in their efforts to mobilize public support in order to pressure the government to respond to their demands. The families began by demanding a meeting with the minister of unification in anticipation of the historic North-South summit in 2000. In spite of the families' pleas, the South Korean side did not confront North Korea on the abductions but instead agreed to send humanitarian aid and release 63 DPRK prisoners held in the South. The outraged families wrote letters, held demonstrations and marches, spoke to leaders of various nongovernmental and religious groups, and lobbied politicians. Yet, due to disagreements over how to break this trend of being ignored by the Korean authorities, the AFU bitterly split in October 2000 to become Choi Woo-young's Families of the Abducted and Detained in North Korea (FADN) and a revamped AFU now led by the firebrand son of an abductee, Choi Seong-yong. Their subsequent efforts to expand public interest in their conflict occurred in fits and starts, and involved limited and sometimes temporarily top-down conflict expansion. Perhaps especially because drawing attention to the abductions issue could endanger rapprochement with the North, the ROK government responded coolly to the families in 2000.⁹²

Stage 1: The 2000 North-South Summit—The planned summit between ROK President Kim Dae-jung and Kim Jong-il in June 2000 served as a focal event for the previously dispersed and marginalized Korean abductee families to mobilize. Yet the Korean families experienced difficulty attracting political attention initially, especially since their mobilization was victim-initiated rather than the work of well-connected issue entrepreneurs, as was the case in Japan. At first, therefore, they targeted the government rather than the general public. With the upcoming summit, they asked the MOU minister who met with them in May 2000 to raise the abductions issue with the North and confirm whether the abductees were dead or alive. The Minister only promised to try to find out information about the abductees through back-channels.

Just two weeks before the summit, the abductions movement received its first boost of publicity when the conservative newspaper *Chosun Ilbo* reported on the escape of Lee Jae-geun, the first known abductee to escape North Korea after having been detained for over three years.⁹³ Choi Seong-yong, who would contribute to the splintering of the family association later in 2000, orchestrated this news coverage. He was in China to help Lee Jae-geun gain refuge from the ROK and taped Lee Jae-geun's phone conversation with an official at a ROK consulate in China. The official demanded to know why the ROK government should help Lee Jae-geun when he had not paid taxes in the ROK.⁹⁴ This outright refusal to assist or recognize an abductee spawned a brief period of media criticism of the ROK government. Despite the publicity surrounding Lee Jae-geun's escape, most media attention soon turned to the historic North-South summit.

Since 2000, FADN and AFU have demanded that the ROK authorities acknowledge the reality of the abductions, take responsibility for rescuing the abductees, restore the victims' and

⁹² For example, the brother of a POW (officially recognized in 2009) was told by the ROK authorities in 2000 that his brother was a defector (*weolbukja*). ROK Army Staff Sergeant Ahn Hak-soo was captured by the DPRK during the Vietnam War in 1966. He was officially reclassified as a POW in July 2009, due to the research and lobbying of his family members and the AFU. Interview with Rev. Ahn Young-soo, brother of a POW, Seoul (Feb. 4, 2009).

⁹³ To date, 8 abductees detained for over 3 years have escaped and returned South. First, Lee Jae-geun returned in South Korea in July 2000. Jin Jeong-pal returned in Oct. 2001. Kim Byeong-do returned in July 2005. Ko Myeong-seop and Choi Eok-il returned in January 2007. Lee Han-seop returned in Sept. 2007. Yun Neung-san returned in January 2008. An eighth abductee also returned to South Korea but wishes to remain anonymous. As of 2010, close to 100 detained POWs and over 170 family members of POWs have also escaped. MOU Statistics, available at http://www.unikorea.go.kr/eng/default.jsp?pname=AFFhumanitarian_abductees (accessed June 18, 2010).

⁹⁴ Interview with Choi Seong-yong, leader of AFU, Seoul (Feb. 3, 2009). Interview with An Jun-ho, *Chosun Ilbo* journalist, Seoul (Feb. 11, 2009).

their families' honor, and enact policies to compensate the victimized families.⁹⁵ Choi Woo-young devoted herself to giving domestic and foreign media interviews, launching a yellow ribbon campaign, writing public letters to Kim Jong-il, and cooperating with the Japanese abductees. She also unsuccessfully sued the ROK government for shirking its constitutional duty to protect its citizens and for returning 63 North Korean prisoners in 2000 without making serious efforts to rescue the abductees.⁹⁶ Unlike the Japanese lawyers, the lawyer for this lawsuit did not help with the families' broader redress movement. Overall, FADN adopted a conflict expansion approach that focused on publicity and direct appeals to the government.

Meanwhile, after he split from Choi Woo-young's group, Choi Seong-yong led AFU members in a more active, visible, and confrontational approach. They marched on the President's Blue House, arranged meetings with officials, held a hunger strike, filed a complaint with the NHRCK, secretly helped broker abductees' escapes from the DPRK, and launched balloons filled with leaflets and even North Korean currency into the DPRK.⁹⁷ Several lawyers approached AFU about filing a collective lawsuit against the ROK government, but Choi Seong-yong did not believe that such a suit could be won under the Kim Dae-jung administration.⁹⁸ Instead, AFU focused on campaigning for a victim assistance law. AFU also worked closely with the Citizens Coalition for the Human Rights of Abductees and North Korean Refugees (CHNK), founded in 2001 by the activist Do Hee-yun.⁹⁹ CHNK helped locate abductees trying to escape from North Korea and peopled AFU protests. Yet many of these returnees left AFU to form their own organization in January 2009 because they felt re-victimized by Choi Seong-yong's use of them to garner media attention.¹⁰⁰ Aside from sporadic bursts of news when an abductee escaped, the families tried largely in vain before 2004 to drum up public interest in their conflict via the media, with the possible exception of the conservative media. Most news outlets more frequently run stories about refugees or the human rights of North Koreans living secretly in northeastern China than about the abductions issue.¹⁰¹ In view of the lack of public interest in the abductions, the one consolation for the victim families was that some were able to meet their loved ones through the separated families reunions that the North-South summit enabled.¹⁰²

⁹⁵ *Hankyoreh Shinum* interview with Choi Woo-young (May 30, 2005).

⁹⁶ Choi Woo-young attended a free legal counseling with the lawyer Im Gwang-gyun, who then helped the families to file a lawsuit against the government in 2002. When they lost in 2004, most of the families refused to appeal because it seemed hopeless. Choi Woo-young felt that the court did not want a small issue (the abductions) to trump the bigger goal of reunification. Interview with Choi Woo-young, former leader of FADN, Seoul (July 28, 2009).

⁹⁷ Interview with Choi Seong-yong, leader of AFU, Seoul (Feb. 3, 2009).

⁹⁸ Interview with Choi Seong-yong, leader of AFU, Seoul (Feb. 3, 2009).

⁹⁹ Do Hee-yun had previously been a student activist focused on unification issues, so he knew about the abductees. He designed CHNK with the aim of forming a coalition that would unite disparate groups, including the abductees, refugee groups, and other organizations dealing with North Korean human rights. CHNK served to coordinate among these groups targeting North Korea and helping victims of the North Korean regime. Since 2008, the right-wing character of CHNK has become more overt. Interview with Do Hee-yun, CHNK leader, Seoul (July 31, 2009)

¹⁰⁰ Interview with Ko Myeong-seop, escaped abductee, Seoul (Aug. 3, 2009).

¹⁰¹ Interview with An Hun-ho, *Chosun Ilbo* reporter, Seoul (Feb. 11, 2009). Interview with Do Hee-yun, CHNK leader, Seoul (July 31, 2009).

¹⁰² The first inclusion of an abductee family among the separated families' reunions occurred in December 2000, at the second reunion. Of course, the ROK government did not single that family out as an abductee family. Since 2000, over 20,000 people (more than 5,000 families) have briefly met their loved ones in North Korea in the 16 rounds of separated family reunions. In these reunions, the KNRC has included close to 20 abductee families (nearly 100 people), and the most recent separated family reunion was in September 2009. See KNRC Statistics, <http://www.redcross.or.kr/about/R010305E.jsp> (accessed May 19, 2010). Ministry of Unification Statistics, http://www.unikorea.go.kr/eng/default.jsp?pgname=AFFhumanitarian_abductees (accessed May 19, 2010).

Stage 2: Petitions, Protests, and International Activism—The ROK abductions movement was not as fortunate as the Japanese groups; they received no admission of guilt from North Korea. This made expanding public outrage over the abductions difficult. Moreover, the advocacy sector and the media in Korea also militated against successful shaming efforts by the families.¹⁰³ Abductee families have many news outlets to appeal to, but each one often has a relatively small readership or viewership.¹⁰⁴ FADN and AFU, then, faced challenges in sending a coherent message and expanding the scope of the issue in this milieu. Disagreements between Choi Woo-young and Choi Seong-yong over strategy did not help.¹⁰⁵

In addition, small activist groups like AFU or FADN found the public sphere already dominated by large and politically connected NGOs with little room left for the abductee families' voices. Left-leaning activist groups focus on North Korean human rights and the plight of refugees from the North. The abductions issue could complicate dialogue with the DPRK and cause greater suffering among ordinary North Koreans. AFU and FADN joined several other North Korea human rights organizations in Seoul in the spring of 2003 to demand that South Korea support the UN Commission on Human Rights' resolution against North Korea, but this cooperation was only temporary. On the other side, right-leaning organizations focus on bringing down the regime and denouncing North Korea.¹⁰⁶ The legacy of the ROK's anti-communism made the abductee families wary of such a hard line, which could endanger their loved ones detained in North Korea.¹⁰⁷ Choi Seong-yong also expressed reluctance to cooperate with other activist groups because doing so would dilute the abductee families' demands.¹⁰⁸ Only CHNK joined forces with AFU for any extended period of time.

Choi Woo-young aptly described the difficulty that the abductee families have had in garnering widespread support in Korea.¹⁰⁹ The abductions are a women's issue—almost all abductees were men, so the women were left to fend for themselves—yet women's groups have not picked up the issue. Despite the fact that most abductees were captured while working as fishermen, journalists, soldiers, or flight attendants, the abductions issue has not become a labor issue. The abductee families and returned abductees suffered ill treatment by the ROK authorities, but human rights and democratization groups did not support the abductee families.

In this environment, it is no wonder that the families only achieved limited conflict expansion in Korea. Choi Woo-young effectively appealed to Amnesty International and visited the United Nations in Geneva with her Japanese counterparts from AFVKN, but the abductions issue did not catch on domestically in Korea. AFU members spoke out publicly in Washington DC and in New York at the North Korean UN office. AFU's demonstrations in Korea, even the more violent ones, only resulted in a few meetings with officials from the Ministry of Unification or the Marine Affairs Ministry. Thus, even while the abductions issue raged in Japan, both AFU and FADN achieved little public attention in Korea through 2003.

Stage 3: Hunger Strike at the NHRCK—In the winter of 2003-04, Korea's abductee family members engaged in their most effective activism to date, resulting in the April 2004

¹⁰³ Interview with Lee Mi-il, KWAFU, Seoul (Feb. 3, 2009). Interview with Kim Jong-gwan, AFU secretary general, Seoul (Aug. 10, 2009).

¹⁰⁴ Interview with Horiyama Akiko, *Mainichi Shimbun* journalist, Seoul (June 7, 2008).

¹⁰⁵ Choi Seong-yong argues that words are not enough when one is dealing with North Korea. It takes concrete actions, which his AFU implements. Interview with Choi Seong-yong, leader of AFU, Seoul (Feb. 3, 2009).

¹⁰⁶ Interview with Choi Woo-young, former leader of FADN, Seoul (July 11, 2007).

¹⁰⁷ Interview with Hwang In-cheol, leader of the KAL Abductee Family Union, Seoul (Aug. 4, 2009).

¹⁰⁸ Interview with Choi Seong-yong, leader of AFU, Seoul (Feb. 3, 2009).

¹⁰⁹ Interview with Choi Woo-young, former leader of FADN, Seoul (Aug. 5, 2007).

recommendation for an abduction victims' special law. The victim families' advocacy, spearheaded by AFU's Choi Seong-yong, featured a four-day hunger strike and sit-in at the NHRCK offices by twelve elderly women whose fishermen husbands had been detained in North Korea for decades. The advanced age of the protesters, the bitter cold, and the disruption they caused at the NHRCK attracted media coverage and public sympathy. A presidential secretary came from Roh Moo-hyun to hear their demands, and the NHRCK finally held a public hearing on the abductions issue soon thereafter. This third stage of conflict expansion helped the abductee families to achieve voice and legitimacy. With the NHRCK's recommendation (*gweongo*), the government could no longer ignore the abductions even if doing something about them might jeopardize North-South dialogue.¹¹⁰ However, disagreement among ministries about whose jurisdiction the abductions fell under stymied further progress toward a special law. While the NHRCK believed the issue lay within the MOU's jurisdiction, MOU officials in 2004 argued that it was the responsibility of MOPAS due to the responsibility of intelligence and law enforcement officials for treating the abductees and their families harshly.¹¹¹ Since both North Korea and the ROK government shared responsibility, however, those who should have started crafting redress measures passed the buck to others.¹¹² Korean media outlets also stopped covering the families' advocacy after the hunger strike because of the lack of government action.

Stage 4: Photo and Political Lobbying—A brief period of media attention in early 2005 surrounding the release of a photo of 30 missing ROK fishermen together in North Korea gave renewed impetus to the families' push for a special law. Though AFU and FADN disagreed on tactics, both groups jointly publicized this unprecedented photo. The AFU's Choi Seong-yong, whom observers call an "issue maker", had given the photo (smuggled out of North Korea) to the major newspaper *JoongAng Ilbo*.¹¹³ The abductee families, however, had trouble translating media interest in the photo into either grassroots support or political alliances. The conservative Grand National Party (GNP) was hesitant to seriously take up the abductions issue because its forebears had been in power when the abductee families' human rights were violated by the ROK. On the other hand, the Uri Party and then its successor the Democratic Party did not want the abductions issue to derail conciliation with the North.

Leaders of the AFU tried to meet every assembly member to personally appeal for political support but only Kim Mun-su of the opposition GNP agreed to speak with them in 2005.¹¹⁴ As a member of the unification and foreign affairs committee and a former labor activist in his student days, National Assembly member Kim Mun-su organized an unprecedented public hearing on the abductions issue in September 2005. GNP chairwoman Park Geun-hye attended, and the escaped abductee Ko Myeong-seop shared his personal experience.¹¹⁵ A tearful and pleading Choi Seong-yong testified, and Kim Mun-su introduced a bill to provide assistance to the abductee families. That bill contained many of the victim families' requests, but the bill died without being voted on because Kim Mun-su was elected governor of Gyeonggi province in July 2006. Although the government did not accept this proposed law because it was an opposition party bill, the MOU team that drafted the government bill for the abductees later in 2006

¹¹⁰ Interview with Koo Byeong-sam, MOU, Seoul (Feb. 10, 2009).

¹¹¹ Interview with Kim Min-tae, NHRCK, Seoul (Feb. 10, 2009).

¹¹² Interview with Lee Jong-seok, former minister of unification, Seoul (Aug. 13, 2009). Interview with Koo Byeong-sam, MOU (Feb. 10, 2009). Interview with Choi Seong-yong, leader of AFU, Seoul (Feb. 3, 2009).

¹¹³ Interview with Koo Byeong-sam, MOU, Seoul (Feb. 10, 2009).

¹¹⁴ Interview with Kim Jong-gwan, AFU secretary general, Seoul (Aug. 10, 2009).

¹¹⁵ Jung A. Yang, "Much Effort to put on the '4+1 Acts'," *Daily NK*, September 12, 2005.

apparently consulted Kim Mun-su's proposed special law draft.¹¹⁶ As such, even the limited involvement of the National Assembly in the abductions issue in 2005 did put pressure on the Roh Moo-hyun government to do something for the families.

Stage 5: the Violent Public Hearing—Without the backing of widespread public support, however, the abductee families were unable to play a central role in the MOU's eventual drafting of the abduction victim support law in 2006. In fact, Minister of Unification Lee Jong-seok almost singlehandedly realized the victim support law during his tenure in 2006. With FADN and AFU divided and only minimal conflict expansion, the MOU team that Minister Lee Jong-seok assembled was able to formulate policies which would amount to partial redress for the abductee families.

To protest having been excluded from the policy-making process and to expand public interest in the abductions issue, members of AFU lashed out violently at the officials and FADN members who gathered on July 27, 2007 for a public hearing concerning the abductee victim assistance legislation crafted by the government. As a result, the hearing was abruptly cancelled and the MOU charged AFU with obstructing their work. AFU members, in turn, staged a candlelight vigil outside the unification minister's home and harassed other officials by phone.¹¹⁷ Although AFU has since campaigned for a revision of the victim assistance law to increase the compensation and assistance provided, the families face stiff opposition from the state for budgetary reasons. Moreover, AFU's tactics, and the fact that several hundred families have successfully received government assistance under the special law enacted 2007, undermined the groups' conflict expansion efforts.

For the Korean abductee families, a failure to expand public interest in their conflict only reinforced the particularistic nature of their redress demands and allowed state actors to frame the issue. Few potential political allies sensed an opportunity for vote-gathering in the Korean abductions issue. Meanwhile, the media and the ROK's influential human rights NGOs focused more on the refugees from North Korea and human rights in the DPRK. The abductee families' longtime marginal status as rural and undereducated fishing families did not help. As such, the historical connotations of the abductions, the media's modus operandi, and the patterns of non-victim activism served to keep the scope of the abductions conflict in Korea small.

EXPLAINING STATE RESPONSIVENESS

Though not identical in content, the collection of decisions taken by the Japanese and ROK governments in response to the abductee families both constitute partial redress. Both governments accepted limited blame, curtailed the extent of material and power resources spent on each abductee's behalf, and downplayed alterations in the way North Korea policy was made. How can we explain such similar levels of state responsiveness—partial redress—in light of the very different modes of conflict expansion each set of victims pursued?

The events surrounding the abductions constitute an undeniably idiosyncratic part of a uniquely sensitive slice of each country's foreign policy but the victims' advocacy reveals key insights on politics and state-society relations in both countries. Since the 2002 summit, the Japanese AFVKN has remained nationally prominent, five surviving abductees and their children have returned to Japan and are receiving financial assistance, and the abductee families achieved institutionalized access to the prime minister's office which briefs the families on all

¹¹⁶ Interview with an MOU official (Aug. 19, 2009).

¹¹⁷ Choi Seong-yong, leader of the AFU, was arrested for his disruptive behavior. Interview with Choi Seong-yong, AFU (Feb. 3, 2009); Interview with Lee Geum-sun, KINU, Seoul (July 29, 2009).

developments related to the DPRK. Few observers would have anticipated the degree to which the abductions tragedy would resonate with the Japanese public and fuel the political ascent of the family associations and the conservative political forces that promoted the families' interests. Yet dozens of suspected abductees remain unrecognized and little additional information has emerged about the alleged deaths of the eight North Korea admitted to kidnapping. Meanwhile, in South Korea Roh Moo-hyun's progressive administration enacted surprisingly comprehensive legislation to recognize, assist, and compensate the abductions victims. Moreover, the minister of unification who presided over this process had previously been branded as a North Korean apologist.¹¹⁸ The ROK's redress measures were quiet but more generous than expected based on the dearth of public and political pressure.

Recall from Chapter 1 that variation on three key dimensions help us to categorize the myriad permutations of redress that a state can offer (see table 1.1). First, to what extent does the state admit responsibility for the victimization? The Japanese government made the process of gaining recognition as an abductee opaque, either in order to protect itself from being held liable for more citizens' disappearances or to make it easier for the DPRK to confess and move on to normalization talks. Likewise, the Korean government created numerous conditions on official compensation and avoided *publicly* acknowledging that ROK authorities had violated abductee families' basic rights in the past. Second, what kind of reparations or assistance does the government concede to victims? The redress the abductee families received in Japan and Korea was not as generous as the victims had hoped due to budgetary constraints and inter-ministerial squabbling. And third, does the victims' advocacy spark a transformation of policy-making procedures and the actors deciding policy in that issue area? In Japan, the establishment of the Cabinet Headquarters for the Abductions Issue in 2006 signaled a dramatic change in the policy-making principles and actors surrounding Japan's North Korea policy. With less fanfare, the ROK government started including abductee families among the separated families' reunion wish lists, and the MOU assigned an official to the abductions and POW issue for the first time in 2006. With the exception of the Abe administration, however, neither the Japanese nor the ROK government emphasized these changes in the principles and principals of policy-making.

I argue that each state's differing share of responsibility for the victimization accounts for these similar outcomes despite divergent levels of conflict expansion. In Japan, successful bottom-up conflict expansion failed to produce comprehensive redress primarily because some aspects of full redress lay beyond the reach of the Japanese government. Additionally, enterprising politicians gradually co-opted the abductions issue and pursued more top-down conflict expansion. The abductions issue had remarkable longevity in Japan from 2002 to 2007, with peak state responsiveness occurring in 2006. In Korea, even though conflict expansion was limited, the victim redress movement nevertheless elicited partial redress because the Korean government bore more responsibility for the victims' suffering and could therefore do more to ameliorate their situation. The peak of state responsiveness in Korea was also in 2006, when an ambitious minister of unification orchestrated this partial redress for the abductees. Table 6.3 summarizes the key decisions that the government made at each phase of state responsiveness, as discussed in this section.

¹¹⁸ Lee Jong-seok (minister from Feb. to Dec. 2006) was previously an up-and-coming and progressive North Korea expert at the Sejong Institute. Roh Moo-hyun selected Lee Jong-seok as a key advisor on unification, foreign policy, and national security. He advocated dialogue with the DPRK, but in 2006 he sensed an opportunity to overcome historical problems related to the abductions issue and thereby cement his own legacy.

Table 6.3: Summary Chart of the Key Decisions Leading to Partial Redress

Phases of Responsiveness	Japanese Abductions	Korean Abductions
<i>Recognize the issue</i>	Government inquiry report (March 1988) Diet questions about Megumi (Feb. 1997)	Families meet with Minister of Unification (May 2000), first abductee included in the family reunions (Nov. 2000)
<i>Grant voice/ legitimacy</i>	PM Obuchi meets with families of abductees (March 1999) PM Mori meets with families (Sept. 2000)	NHRCK recommendation for a abductions special law (April 2004)
<i>Place issue on agenda</i>	PM Koizumi's summit with Kim Jong-il (September 2002)	Public hearing at the National Assembly on Abductee Assistance Law (Sept. 2005)
<i>Change policy</i>	Abductees' Support Law (2003), sanctions (2004-2006), North Korea Abductions and Human Rights Law (2006)	Special Abductee Support and Compensation Law (April 2007)
<i>Implement policy</i>	Cabinet Abductions Headquarters (2006)	Victim representative on the Abductees Compensation and Assistance Review Committee (2008)

The Japanese Government's Response to the Abductee Families

Granting voice and legitimacy—Prime Minister Obuchi and Prime Minister Mori met with the abductee families in 1999 and 2000, respectively. These meetings signaled that the state recognized the AFVKN as the legitimate voice of the abductee families, even if the government had yet to acknowledge that it had failed to prevent the abductions and rescue the abductees. As they met with Obuchi, the families heard platitudes rather than concrete actionable plans, but the fact that the meeting even took place was an improvement over the past when they were just ignored.¹¹⁹ Officially, the families were only to meet with the Chief Cabinet Secretary in September 2000, but Prime Minister Mori stopped by unannounced.¹²⁰ Mori promised not to normalize relations with the DPRK without first resolving the abductions issue, but the government approved 500,000 tons of rice aid to the North just three days later. Angered, the families did not place much hope in Mori, whose approval ratings were plummeting.

Placing the abductions issue on the political agenda—The bold diplomacy of Mori's successor, Koizumi, in September 2002 ensured that the abductions issue would be a top political priority for the foreseeable future. Koizumi's approval ratings rose substantially after his visit to Pyongyang, even though some would later criticize his diplomatic theater as a failure.¹²¹ In the wake of the Pyongyang Summit, politicians scrambled to align themselves with the eminently pitiable cause of the AFVKN.¹²² Most famously, Abe Shinzō, an LDP politician who claims to have been interested in the abductions issue since his days as his father's Diet secretary, gained significant clout both with the abductee families and with the public because he returned from

¹¹⁹ Interview with Hasuike Toru, abductee brother, Tokyo (June 25, 2009).

¹²⁰ *The Families*, chap. 2 pp. 16-17.

¹²¹ By June 2002, approval ratings for Koizumi's Cabinet had dipped below 40 percent from their 2001 peak of nearly 80 percent, due to scandals within the LDP and an economic slump. They rebounded to almost 60 percent in November 2002, after Koizumi met with Kim Jong-il and secured the return of the 5 surviving abductees. For a graphic of approval ratings for the Koizumi Cabinet, based on Jiji polls, see Ikuo Kabashima and Gill Steel, "The Koizumi Revolution," *PS: Political Science & Politics* 40, no. 01 (2007): 81 fig. 1.

¹²² The Asahi Shimbun editor, Funabashi, writes that "one could detect a hint of victim mentality among the Japanese, which must have been somewhat cathartic because, throughout the postwar era, Japan had been consistently accused of being a victimizer in World War II." Funabashi, *The Peninsula Question*, 73.

Pyongyang advocating a hawkish response. Abe seems to personally believe in the worthiness of the abductees' cause, but he also benefited from his association with the AFVKN, and vice versa.

As such, the momentum to create a support center for the abductee families in the Cabinet Office (Abe's initiative)¹²³ and to pass a Law Regarding Support for Abductees and Others Affected by the Abductions by North Korean Authorities (hereafter the Support Law) required little prodding by the AFVKN. The Support Law provided living and resettlement aid, housing, employment and education assistance, and protection from the Japanese government for the five repatriated surviving abductees.¹²⁴ The families do not consider the Support Law (*rachi higaisha shienhō*) a big success for the AFVKN because it applies only to returnees and because it was passed with such ease after the Pyongyang Summit.¹²⁵ The Support Law was an important initial step toward redress, but the AFVKN's bottom-up conflict expansion efforts were soon co-opted by over-ambitious politicians who wanted to use the issue for their own gain.

Enacting policy changes—Three important policy responses to the top-down expansion of the abductions conflict in 2004 to 2006 include imposition of various sanctions, the enactment of the North Korean Abductions and Human Rights Law, and the establishment of Cabinet Headquarters for the Abductions Issue. Together they represent partial redress for the abductee families. These three policy responses involved reallocation of material and power resources and a change in policy-making principles by the government, even though the Japanese government hedged its explicit acceptances of blame. AFVKN members, but especially NARKN leaders, campaigned for sanctions and the human rights law, but the victim families did not have as direct a say in the policies as had the Hansen's disease and hepatitis C victims in Japan.

The ruling LDP and opposition DPJ advocated sanctions as part of their 2003 election platforms. Rather than public pressure in support of the victims, therefore, it was this unity among political elites that propelled the policy process. Komeito favored a "go-slow" policy regarding North Korea. Only the socialists, communists, and ex-socialists within the DPJ opposed sanctions outright. Nonetheless, the revised FECTL was passed in January 2004 and the Law for Special Measures Concerning Interdiction of Port Entry by Specific Ships passed in July 2004. The former enabled the Japanese government to freeze bank accounts and remittances to North Korea, as well as ban trade of certain goods. Both bills were initiated by lawmakers rather than the government.¹²⁶ Humanitarian assistance to North Korea was then frozen in December 2004, several months after Koizumi's second visit to the DPRK and his successful negotiation for the release of the children of the surviving abductees.

Yet differences of opinion between the Diet and the Cabinet hindered the enforcement of sanctions until the DPRK abrogated the Pyongyang Declaration in the summer of 2006. First, in July 2006 North Korea tested seven missiles, eliciting immediate, unilateral 9-part sanctions from the Japanese government, including a ban on the North Korean ferry *Mangyongbong-92*.¹²⁷ Then in October 2006, North Korea tested a nuclear device underground, sparking the UN

¹²³ Abe was then chief cabinet secretary and opposed the establishment of a family support center at MOFA, instead calling for the appointment of Nakayama Kyoko as a point person for the abductees within the Cabinet Office. *Mainichi Shimbun* (Sept. 25, 2002).

¹²⁴ The Support Law was extended in October 2004. It pledges monthly allowances of 170,000 yen per repatriated abductee, or 240,000 per two-person household with an additional 30,000 yen per family member. The Japanese government also pays for the national pension premiums that the returnees would have been paying had they not been in North Korea, so as to make them eligible for full pension benefits.

¹²⁵ Interview with Nishioka Tsutomu, NARKN chairman, Tokyo (Nov. 25, 2008).

¹²⁶ Miyamoto, "Economic Sanctions by Japan against North Korea," 23.

¹²⁷ Shockingly, the UN Security Council did not impose sanctions until 11 days later.

Security Council to unanimously impose sanctions on all transfers of military, technological, and luxury goods to North Korea. After the nuclear test, the Japanese government expanded its sanctions to prohibit port calls by all ships flying a North Korean flag. Tokyo also banned all imports, all DPRK nationals except for residents of Japan, and exports of luxury goods to the North. The rise of Abe as prime minister in 2006, U.S. support for sanctions, and the DPRK's abrogation of the Pyongyang Declaration facilitated enforcement of these sanctions.¹²⁸

Despite being assisted by the confluence of all these forces for sanctions, NARKN claim the sanctions as one of their biggest successes.¹²⁹ It is unclear, however, how much of a success the actual families thought the sanctions were, since the small network of families avoid criticizing their loyal supporters. Family members continue to appear at rallies for stronger sanctions, but some have individually questioned the effectiveness of sanctions and the negative impact they might have on the abductees still detained in North Korea.¹³⁰ The association of harsher sanctions with the abductions movement seems to have been a consequence of the movement's transition to a top-down mode of conflict expansion after 2003.

The broadest component of the Japanese government's response to the victims' demands is the Abductions and North Korean Human Rights Act (passed in June 2006 and amended in July 2007).¹³¹ It requires national and local officials to raise public awareness about the abductions and North Korea's other human rights violations. As a vehicle for this state-sponsored PR campaign, the law sets aside a week each December as North Korea human rights week. The law also reiterates the government's duty to promote international efforts to resolve the abductions issue and to prevent future abductions. A key clause in the law requires the government to oppose any initiatives by international financial institutions to give aid to North Korea. The clause was proposed by *Rachi Giren* members on the basis of requests from NARKN.¹³² One supporter called the law Japan's belated version of the U.S. North Korean Human Rights Act, and the U.S. act was a key model for the Japanese law. The law, however, does not contain any specific budget provisions, so its impact may be limited.¹³³

Unlike the other policy changes discussed here, joint advocacy by the abductee families and several related civic groups.¹³⁴ In addition to the AFVKN, NARKN, COMJAN, and the lawyers' group for the abductions issue, two civil society groups, Mamorukai and Life Funds for North Korean Refugees (LFNKR), were central in pressing for the law. Both Mamorukai and LFNKR focus on rescuing and assisting refugees from North Korea in Japan. In February 2005, these six organizations jointly submitted a list of demands to the DPJ's Nakagawa Shoichi, who personally cares about human rights in North Korea.¹³⁵ After the DPJ submitted a draft of the

¹²⁸ Miyamoto, "Economic Sanctions by Japan against North Korea," 46.

¹²⁹ For example, the clause that prevents North Korean ships or vessels chartered by other countries but originating from North Korea from entering Japanese ports was apparently a specific request of the AFVKN and NARKN. Interview with Shimada Yoichi, NARKN vice chairman, Tokyo (Nov. 20, 2008).

¹³⁰ Interview with Hasuike Toru, brother of an abductee, Tokyo (June 25, 2009). On the other hand, the current leader of AFVKN, Iizuka Shigeo, has publicly declared his support for stronger sanctions. Presentation at the Saitama Prefectural Rescue Association rally in Kawaguchi (Nov. 22, 2008).

¹³¹ The law is called *Rachi mondai sonota Kitachōsen tōkyoku ni yoru jinken shingai mondai e no taisho ni kansuru hōritsu* [Law to Address the Abduction Issue and Other North Korean Human Rights Violations] (2006, law no. 96).

¹³² Interview with Shimada Yoichi, NARKN vice chairman, Tokyo (Nov. 20, 2008).

¹³³ Interview with Miura Kōtarō, Mamorukai, Tokyo (June 11, 2009).

¹³⁴ Interview with Kato Hiroshi, Life Funds for North Korean Refugees (LFNKR), Tokyo (March 27, 2009).

Interview with Kim Cheol-sam, North Korean Escapee Assistance Center at Mindan, Tokyo (March 30, 2009).

Interview with Araki Kazuhiro, head of COMJAN, Tokyo (March 24, 2009).

¹³⁵ Interview with Kato Hiroshi, Life Funds for North Korean Refugees (LFNKR), Tokyo (March 27, 2009).

human rights law to the Diet in 2005, the LDP hurriedly wrote and submitted its own version in early 2006. The LDP version was passed and then amended in July 2007. Though the law does not define what progress in the abductions issue would mean, it does oblige the Japanese government to strive to sustain public attention to the abductions issue and frames the issue in the context of human rights. It is an exceptionally clear statement that the Japanese government changed the principles on which it formulated policies related to North Korea.

Implementing policy in coordination with victims—The final component of the government's partial redress was the establishment of the Cabinet Headquarters for the Abductions Issue in September 2006, which fundamentally changing the power relations in decision-making related to the DPRK. For example, since 2002 and especially in 2006-2007, the Japanese government has briefed and even sometimes consulted the abductee families regarding its North Korea policy. Previously these families had difficulty even getting appointments with low-level Foreign Ministry officials. The victim families' demands, backed by bottom-up conflict expansion in 2002 and 2003 and by top-down conflict expansion efforts thereafter, helped to partially overcome the government's inertia on the abductions issue.

The Cabinet Headquarters for the Abductions Issue, which Prime Minister Abe upgraded from Koizumi's abductee support center in September 2006, became the core of the Japanese government's public relations and policy coordination efforts on the abductions issue. Due to the intermediary role of the abductions headquarters, the AFVKN no longer had to go through complex bureaucratic or political channels to make their demands heard; they could present their position directly to the chief cabinet secretary by requesting a meeting through the headquarters. Prime Minister Abe increased its staff to 35 persons and expanded its budget ten-fold in 2007.¹³⁶ The headquarters produced a highly professional documentary in several languages about the abductions issue, ran an expensive prime time TV spot in March 2007, transmits radio broadcasts targeted at North Korea, and helped create an animated film about Megumi. When any policy or diplomatic developments occur related to the abductions issue, the headquarters paid for the families' travel to and lodging in Tokyo for meetings with key officials. Indeed, as one official in the headquarters said, the state owes the AFVKN a debt (*oime*) for having failed to investigate the abductions more closely and for not forming an institutional structure like the Headquarters earlier.¹³⁷ Another official said that the AFVKN and the government were as aligned "as the wheels of a car."¹³⁸ This close relationship between the government and the abductee families, however, has yet to produce comprehensive redress or transparent victim-recognition processes.

After Abe resigned, things were never quite the same between the government and the abductee families. Under Prime Ministers Fukuda and Aso the activity of the headquarters declined, much to the dismay of the AFVKN and its supporters.¹³⁹ The AFVKN watched the rise of the DPJ after its 2007 upper house victory with trepidation since the DPJ leaders Ozawa, Hatoyama, and Kan had been involved in conciliatory moves toward the DPRK during the 1990s. Moreover, none of the five candidates for the LDP party presidency in 2008 dwelled upon the abductions issue, signaling a decline in the salience of the abductions issue.¹⁴⁰ In September 2009 the new DPJ prime minister met with AFVKN members and appointed Nakai Hiroshi, an author of the DPJ's human rights law and a leader of the *Rachi Giren*, to lead the National Public

¹³⁶ Interview J-103, Tokyo (July 19, 2007).

¹³⁷ Interview with a Japanese government official, Tokyo (Dec. 17, 2008).

¹³⁸ Interview J-103, Tokyo (July 19, 2007).

¹³⁹ Interview with Nishioka Tsutomu, NARKN, Tokyo (Nov. 25, 2008).

¹⁴⁰ Interview with an anonymous researcher, Tokyo (Oct. 29, 2008).

Safety Commission. However, Prime Minister Hatoyama also closed the abductions headquarters and assigned its tasks to other parts of the Cabinet Office.¹⁴¹ The DPJ government has focused more on Asian diplomacy and the North Korean nuclear program than on the abductions issue. Meanwhile, COMJAN and the unrecognized abductee families continue to advocate for full accountability and comprehensive redress. They appeal to the media and seek public support within which to pressure the government for a more complete account of their loved ones' whereabouts and the government's failure to prevent their abductions. The AFVKN also continues to lobby for more proactive measures by the Japanese government to rescue the abductees. Yet since North Korea alone can ultimately fulfill the families' goals and the Japanese government is therefore able to defer blame onto the DPRK, comprehensive redress remains elusive, particularly the families of those victims not recognized as abductees by the state.

The Korean Government's Response to the Abductee Families

Granting voice and legitimacy—The NHRCK's call for a special law in April 2004 in response to complaints filed by the abductee families represented the ROK government's first acknowledgment of the legitimacy of the families' claims. The NHRCK recommended an official study into the whereabouts of missing abductees and more importantly into the discrimination and torture that abductee families suffered under past regimes in the ROK.¹⁴² In addition to publicly acknowledging the ROK government's victimization of abductees and their families, the NHRCK secured the release of numerous official documents relating to the abductions to show the government's negligence. These actions were in response to AFU and FADN appeals, even though the victim groups were not backed by much public sympathy. The fact that the UN had already adopted resolutions condemning North Korea's abductions served as leverage that the victim families could use to shame the ROK government. The abductions became impossible for political elites to ignore after the NHRCK's recommendation.

Placing the abductions issue on the political agenda—The abductee families, especially AFU leaders, redoubled their political lobbying efforts after the NHRCK recommendation and earned an ally in GNP National Assembly member Kim Mun-su. He was generally concerned about North Korean humanitarian issues, including the abductions, the fate of POWs, North Korean refugees, and separated families. As it had in Japan, the passage of the North Korean Human Rights Act in the United States in October 2004 contributed to a domestic movement in Korea to shame the ROK government into passing similar legislation.¹⁴³ Kim Mun-su's public hearing in September 2005 for his proposed Special Law for Abduction Victim Assistance established the abductions issue on the political agenda, even if the law expired because its sponsor became governor of Gyeonggi the following year.¹⁴⁴ In contrast to the Japanese

¹⁴¹ *Asahi Shimbun* (Oct. 13, 2009) cited in Samuels, "Kidnapping Politics in East Asia."

¹⁴² The NHRCK subsequently issued weaker opinions calling for the ROK government to enlarge the scope of aid and state compensation for pre-1953 abductees (opinion issued on June 12, 2006); for the ROK government to stipulate in the postwar abductees' compensation law that an affected person (*tangsaja*) should be included on the Abductees Compensation and Assistance Review Committee (opinion issued on July 27, 2006); for the ROK government to provide compensation and medical care to the bereaved families of those who were injured or killed by the actions of the ROK authorities in relation to the abductions (opinion issued on June 5, 2008); for the enactment of a special law concerning the assistance and compensation of pre-1953 abductees (opinion issued on July 18, 2008); and finally a stronger recommendation criticizing the ROK's policy of linking humanitarian issues and food aid to North Korea on September 30, 2008.

¹⁴³ Interview with Do Hee-yun, CHNK leader, Seoul (July 31, 2009).

¹⁴⁴ The Korean title of the bill as *Napbuk pihaeja jiwon teukbyeolbeop*, announced on Sept. 9, 2005.

abductions movement, Korea's abductee families did not benefit from a North Korean admission of guilt. Instead, they had to cultivate political allies. Yet because the victim organizations lacked widespread public support, they soon became dependent on allies like Kim Mun-su. When he could no longer serve that role, AFU and FADN separately directed their appeals at the MOU.

In the meantime, after the NHRCK recommendation, intra-bureaucratic buck-passing prevented the Roh Moo-hyun government from making any concrete progress toward a special law for the abductees until after February 2006. The progressive Kim Dae-jung and Roh Moo-hyun administrations basically considered the abductions issue a domestic question that the Ministry of Public Administration and Security (MOPAS) should handle. Affairs related to North Korea, however, were officially the purview of the MOU. The appointment of Lee Jong-seok as Minister of Unification in February 2006 finally terminated the buck-passing, as he personally decided to accept the challenge of addressing the abductions issue under the auspices of the MOU. After spending two years as deputy secretary of the Korean National Security Council under President Roh Moo-hyun, the Minister was confident that he was sufficiently familiar with the MOU and had enough inter-ministerial coordination experience to guide the process of drafting a special law for the abductees.¹⁴⁵ Ultimately, the family associations did not expand the scope of their conflict in order to be able to affect the Victim Assistance Law drafting process, but they did gain a sympathetic and ambitious insider in the form of Minister Lee Jong-seok. Where the legislator Kim Mun-su left off, Lee Jong-seok and his MOU team took over.

Enacting policy changes—Thus, the MOU, in coordination with the MOPAS, prepared a draft of the Law Concerning the Compensation and Assistance of Persons Kidnapped by North Korea after the 1953 Armistice Agreement (hereafter Victim Assistance Law), which was presented to the National Assembly in October 2006. To achieve this, Lee Jong-seok established a task force to study the facts of the abductions by gathering relevant records that had been scattered throughout the government concerning the abductions and the treatment of abductee families. Due to the sensitive nature of the abductions and the common urge among Korea's agencies to destroy embarrassing evidence, many documents related to the abductions no longer existed, thus complicating the task force's work.¹⁴⁶ The comprehensive search for evidence by the MOU, however, facilitated the subsequent work of the committee established to determine victims' eligibility for support. A second team, comprised of lawyers, studied legal precedents. And a third team negotiated with relevant ministries. Internally, the MOU and MOPAS disagreed on the number of staff necessary to support the victim recognition committee.¹⁴⁷ The most difficult negotiations, however, concerned budgetary issues. For equity reasons the MOPAS advocated capping assistance to abductee families at 10 million won per family (about \$8,500 in 2010 terms), which was the amount of state condolence money given to victims of serious crimes. The AFU wanted 200 million won per family, and the MOU proposed a compromise of 45 million won per family, which was ultimately written in the law. In reality, however, MOU officials drafted the Victim Assistance Law with little meaningful input from the victim families, except for a few formulaic meetings with the more docile FADN.

In spite of the victims' inability to attract public backing, the Victim Assistance Law passed in the National Assembly on April 2, 2007.¹⁴⁸ The Victim Assistance Law emphasizes the

¹⁴⁵ Interview with Lee Jong-seok, former Minister of Unification, Seoul (Aug. 13, 2009).

¹⁴⁶ Interview with an MOU official, Seoul (August 19, 2009).

¹⁴⁷ Interview with Koo Byeong-sam, MOU, Seoul (Feb. 10, 2009).

¹⁴⁸ According to the law, abduction victims are any abductees who returned from the DPRK after three years or more, any abductees who have not been able to return or who died in North Korea, and any family members of

state's responsibility to protect its citizens, requires that the government help repatriate abductees or discover whether they are alive or dead, and calls on the state to compensate and support the victims and their families. In contrast to the Japanese situation, the Korean law and its enforcement document spell out clearly how abductees will be recognized by the state, the levels of assistance each family applying for recognition will receive, and a schema of compensation for abductees and family members who were tortured or killed by ROK authorities. As with the Japanese abductees, gaining government recognition as an abductions case is essential for Korean families. However, the administrative process in Korea is much more transparent, due in part to pre-existing POW-related laws and other precedents. The Victim Support Law, though quite far-reaching considering that it was created far from public scrutiny, is still evidence that the ROK government contained the repercussions of the abductee families' advocacy efforts.

Though the Victim Assistance Law culminated a four-year process of petitioning, protesting, and lobbying by the families, many abductee families were not satisfied with the content of the legislation. As described above, AFU disrupted the *post facto* public hearing held by the MOU in July 2007 by punching the leader of the FADN, overturning tables, and threatening the experts who were called to testify. The AFU claims that the MOU did not listen to their demands at all and that Minister Lee Jong-seok seemed most interested in rapidly hammering out legislation that he could claim credit for.¹⁴⁹ The state's condolence money for crime victims does not entail any acknowledgment of blame on the part of the state, so AFU also argues that crime victim policies were an inappropriate model for the Abductions Law.¹⁵⁰ In November 2008, therefore, AFU successfully convinced National Assembly member Shin Sang-jin of the GNP to propose revisions to the Victim Assistance Law, which would increase the financial, housing, and welfare support to abductees and their families.¹⁵¹ After the draft revision failed to pass through the committee for budgetary reasons, GNP legislator Yun Sang-hyeon proposed a curtailed version to the foreign affairs and unification committee in February 2010.

Implementing policy in coordination with victims—Aside from the violent public hearing and AFU's ongoing complaints about the Victim Assistance Law, the implementation of policies for partial redress for Korea's abductees has been relatively smooth. Since late 2007, the MOU has had an official dedicated to supervising policies related to the abductees and POWs. The Abductee Compensation and Assistance Review Committee (the Review Committee) actually grants victim status, and one of its members is nominated by the abductee families. Comprised of government officials, lawyers, and North Korea experts, this Committee meets once monthly and decides how much compensation and/ or aid each claimant should get. The MOU's implementation document established an Abductions Victim Support Team, comprised of 11 officials from the MOU, the MOPAS, the police, and marine affairs ministry, to receive and

abductees or abductees themselves who were injured or killed by ROK authorities under authoritarian governments. Victims and abductee families have three years from 2007 to apply for assistance and/ or compensation. *Gunsa jeongjeon e gwanhan hyeopjeong chegyeol ihu napbuk pihejaeui bosang mit jiwon e gwanhan beopryul* [Law on Compensation and Assistance for Persons Abducted to North Korea after the Ceasefire Agreement] (law no. 8393, April 2, 2007).

¹⁴⁹ Interview with a MOU official (Aug. 19, 2009).

¹⁵⁰ The Law on Crime Victims Condolence Money (*beomjwe pihaeja wirogeum beopryul*). Interview with Kim Jong-gwan, AFU secretary general (Aug. 10, 2009).

¹⁵¹ The revised law is tentatively titled *Gunsajeongjeone gwanhan hyeopjeong chegyeol ihu napbukpihaejaeui bosang mit jiwone gwanhan beopryul ilbu gaejeong beopryulan* [Draft of a Partial Revision of the Law on Compensation and Assistance for Persons Abducted to North Korea after the Ceasefire Agreement] and was proposed in November 2008. Interview with Choi Seong-yong, AFU (Feb. 3, 2009).

investigate claims for victim status.¹⁵² Compensation, as opposed to condolence money, is only available for abductees and family members who were injured or killed in the process of interrogation by the ROK authorities. Only one claimant has contested the level of compensation he received; this recently returned abductee sued the Review Committee because it reduced his compensation after discovering that he had worked for DPRK intelligence. As of August 2009, the Committee had officially recognized and granted financial assistance to over 250 abductee families.¹⁵³ The Review Committee and its support team uncovered over a dozen additional cases of North Korean abductions. In short, the investigation and victim recognition process established by the Victim Assistance Law in Korea is more transparent and apolitical than in Japan, where just 17 abductees have received official recognition as abduction victims.

CONCLUSION

This chapter demonstrated that the level of “objective” responsibility a state bears for the victimization alters the parameters within which victims’ advocacy and the government’s responses to victim groups occur. When the state bears partial or secondary responsibility, then issue framing and shaming are more complicated and victim groups may have more difficulty convincing the public to support their campaigns for redress. In addition, states that bear partial or secondary responsibility either have fewer incentives or even lack the ability to grant victims comprehensive redress. As we see from the Korean abductions movement, therefore, even limited conflict expansion can lead to partial redress. The parallel Japanese movement illustrates that even massive public outrage does not always guarantee comprehensive redress, especially when a conflict becomes politicized the way the abductions issue in Japan did. These redress outcomes are less than one might have expected in Japan and more than one might have expected in Korea. Perhaps the fact that North Korea, a sovereign state, is the main culprit in this story means that full redress will never be possible for the abductions victims. Maybe the victims’ advocacy has reached its natural end in the policies detailed above.

Still, both governments could do more to help remedy the families’ suffering. Japan can systematize its process for recognizing cases of abductions, enhance its intelligence capabilities, move forward on other issues with North Korea in parallel with the abductions discussions, open its doors to North Korean escapees, and review the NPA’s handling of missing persons cases.¹⁵⁴ Korea, for its part, can systematically analyze all information about abductees and POWs, publicly acknowledge and apologize for past treatment of abductees and their families, and encourage international efforts to resolve the abductions issue. Regardless of the responsibility they share, states can always do more for victims. But we must look inside policy-making dynamics, as well as at the larger political conflict in the system, to know why they do not.

¹⁵² The size of this team has shrunk due to budgetary constraints under Lee Myung-bak’s administration. Interview with Koo Byeong-sam, MOU, Seoul (Feb. 10, 2009).

¹⁵³ Still, over 100 victim families do not want to or cannot apply for victim family assistance from the government. Interview with Lee Geum-sun, KINU, Seoul (July 29, 2009).

¹⁵⁴ Presentation by Arthur Brown, former chief of the East Asia division at the CIA, AFVKN-NARKN 3rd International Symposium, Tokyo (Dec. 12, 2008).

CHAPTER 7 CONCLUSION: VICTIMHOOD AND ACCOUNTABILITY POLITICS

THE POLITICS OF VICTIM REDRESS

The evidence from Japan and Korea's victim movements could lead one to contradictory conclusions. On the one hand, some victim groups have achieved incredible victories in holding their government accountable for the consequences of its policies. The case studies of Hansen's disease and HCV infections from tainted blood in Japan showed that a state will sometimes go to great lengths to acknowledge responsibility and grant restitution to victims of state policy. On the other hand, seeking redress from the government remains a lengthy process of iterated claims-making, fraught with challenges. The state and powerful interests usually seek to minimize the repercussions of each victim movement by quietly negotiating a settlement with the claimants before the conflict grows. For instance, the drug regulators, health authorities, and pharmaceutical companies used their expertise and the victims' dependence on them to delay or entirely avoid taking blame in both countries' disputes over HCV-tainted blood products. Or, as the abductions cases illustrate, the state may sometimes be unable or unwilling to meet victims' demands, regardless of how much or how little public outrage the victims have stoked.

Both impressions capture the complex reality of victim politics, and this concluding chapter untangles some of that complexity. Official redress is hardly guaranteed to victim groups, but neither is it so rare that we cannot draw conclusions about the conditions under which a government grants redress. Demanding redress is part of the broader process of democratic accountability. Accountability politics describes "the arena of conflict over whether and how those in power are publicly held responsible for their decisions."¹ I focused on the efforts of people, who were directly harmed by state policy, to hold their government accountable and demand redress for their suffering. By analyzing the factors that shape the timing and extent of the state's response to victims' demands for redress, we can advance our understanding of why governments *ever* accept responsibility for past wrongs. This project, therefore, conceptualized and explained different *levels of state responsiveness* to victim groups' redress demands.

As elucidated in the previous chapters, my main analytical finding was that patterns of conflict expansion determine the level of state responsiveness to victims. I argue that a government's impetus to respond to victims' demands varies depending on which group is the primary promoter of redress policies. I identified three modes of conflict expansion, which differ based on the source of pressure on the government. *Bottom-up conflict expansion* exerts the most pressure on the state because a large portion of the general public supports the victims. The Japanese Hansen's disease and HCV redress movements illustrated the potency of such widespread public outrage in compelling the government to grant comprehensive redress (Chapter 4). In *top-down conflict expansion*, politicians are the main drivers of redress policies. Politicians tend to be more amenable to compromises with the state than the outraged general public would be. Campaigns for redress led by politicians tend to only elicit partial redress, as seen in the Korean Hansen's disease case. Least challenging to the state is *limited conflict expansion* because officials retain control over the scope of the conflict. The Korean HCV case shows that mere negotiated settlements result when a government feels little or no pressure to right past wrongs (Chapter 5). The abductions cases show, though, that the state may lack the capacity to redress victims' suffering, in spite of public pressure to do so (Chapter 6).

¹ Jonathan A. Fox, *Accountability Politics: Power and Voice in Rural Mexico* (Oxford: Oxford University Press, 2007), 1.

The most effective victim redress movements expand the scope of their disputes with the state by using their victimhood to elicit sympathy from the watching public. Stoked by the victim groups, public outrage at unjust or negligent state policies then forces the government to respond to victims' demands. The mass media and other non-victim activist groups, as filter groups or gatekeepers of the public agenda, can either facilitate or frustrate victim groups' conflict expansion efforts. Chapter 3 and the three paired case studies showed that the consumption patterns and content of Japanese news media, when compared with those of the Korean media, are more conducive to sustained appeals for public sympathy. In addition, Korea's more politically involved and influential non-victim activist groups are surprisingly unhelpful to victim redress movements, when compared with Japan's small, local, and apolitical networks of civic activists. By paying attention to these aspects of the national context within which victim groups contend, my model of how modes of conflict expansion lead to different levels of state responsiveness can account for the relative success of Japanese victim groups when compared with their Korean counterparts.

These findings reinforce my contention that victim groups are a distinctive type of activist organization that merits scholarly attention. Victims can be surprisingly powerful, despite the massive hurdles to collective action and the distinct dearth of normal power resources that they face when first entering the fray of accountability politics (Chapter 2). The most effective tools for non-victim pressure groups—votes, access to government officials, money, strong organizations—do not work in the same way for victim groups. Instead, victim groups win redress by deploying distinctive strategies available only to them because they are *victims*. They shock the watching public with horrific personal accounts of their suffering. They shame their governments with detailed and personalized evidence of unjust or negligent policy-making. They emphasize the fact that they are “accidental activists” without prior political experience, innocently seeking redress for past wrongs done to them. By examining the dynamic and iterative interactions between victim groups and government officials over a long time period, my conflict expansion model shows the distinctive power of victimhood.

In light of the evidence presented in the preceding chapters, this concluding chapter expands upon my analysis of the politics of victim redress in several ways. First, I examine the applicability of my causal argument to other issue areas and other national contexts. The utility of conflict expansion for eliciting state responsiveness does indeed obtain for other victim groups in Japan and Korea, as well as for redress movements in other democracies. Second, I explore avenues for future inquiry, specifically relating to the linkages among victim movements across time, issue area, and country. The third section suggests some policy implications that emerge from the study of victim redress politics. Finally, I conclude by deriving broader insights for understanding Japanese and Korean politics. I discuss several major forces that will shape accountability politics in Japan and Korea in the future.

SHAMING AND CONFLICT EXPANSION IN OTHER CONTEXTS

Despite the growing number of victim redress organizations worldwide, the politics of victim redress has received little systematic scholarly analysis. In the few studies that exist, victim groups are treated as isolated anomalies or are lumped together with social movements, civil society organizations, or even right-wing pressure groups. Through a focused analysis of redress movements in Japan and Korea, this dissertation has shown that victim movements are distinctive but not anomalous. Embedded within their historical and national contexts, victim groups seek to hold their governments responsible for their victimization.

I have utilized cross-national, cross-temporal, and cross-issue comparative analysis to uncover the mechanisms that explain why some victim groups are more successful than others at holding the government accountable for its ill-conceived or negligent policies. To gain leverage over their governments, victim groups use their credibility as *victims* to publicly shame the government and to expand the scope of their dispute with the government. I found that more public outrage over an instance of victimization tends to force the government to grant more comprehensive redress. However, if politicians become interested in a dispute *before* the public does, politicians tend to dominate in the conflict. Politicians exert a different type of pressure on the government than widespread public outrage does. Thus, the pattern of conflict expansion, or the sequencing of expansion and the power balance among interested groups, differs and accounts for the different levels of state responsiveness to victim movements.

Can patterns of conflict expansion explain variations of state responsiveness in issue areas and national contexts beyond those studied in this dissertation? What do other comparative contexts reveal about the generalizability of my findings? Three categories of grievance groups, both in Japan and Korea, as well as elsewhere, stand out as good comparisons for victim redress groups. This section applies my causal argument to war reparations movements, transitional justice movements after regime changes, and movements of minority groups that do not explicitly blame government policy for their suffering.

First, the dynamics of conflict expansion apply well to disputes over redress for wartime atrocities and injustices. Studies of war reparations and the settlement of historical wrongs emerged after World War II to analyze how societies grappled with the infamous atrocities of the Holocaust in Europe and Japanese colonial human rights violations in East Asia.² The latter gained attention much later in the 1990s, because Japan's approach to past wrongs was to move on, rather than seek reconciliation as Germany had. The "comfort women" who were forced into sexual slavery by the Japanese Imperial Army are emblematic of the struggle to elicit wartime reparations from the Japanese government.³ As with the abductee families and the older Korean Hansen's disease victims, the comfort women sought to hold another government accountable, but also demanded redress from their own governments.

Bottom-up conflict expansion in Japan, Korea, and in the international arena achieved partial redress for the Korean comfort women, but the politicization of their campaign precluded comprehensive redress from the Japanese government. Korean women's organizations first made the comfort women issue a public concern after 1988 by associating it with the depravity of sex tourism in Asia.⁴ As part of their broader campaign for women's rights, Korean women's groups

² Elazar Barkan, *The Guilt of Nations: Restitution and Negotiating Historical Injustices* (New York: Norton, 2000). John C. Torpey, ed., *Politics and the Past: On Repairing Historical Injustices* (Lanham: Rowman & Littlefield, 2003). John C. Torpey, *Making Whole What has been Smashed: on Reparations Politics* (Cambridge: Harvard University Press, 2006). Melissa Nobles, *The Politics of Official Apologies* (Cambridge: Cambridge University Press, 2008). Michael J. Bazylar, "The Holocaust Restitution Movement in Comparative Perspective," *Berkeley Journal of International Law* 20 (2002): 11-44. See also Andrew Woolford and Stefan Wolejszo, "Collecting on Moral Debts: Reparations for the Holocaust and Pořajmos," *Law & Society Review* 40, no. 4 (2006): 871-902.

³ The Japanese Imperial Army enslaved an estimated 200,000 women from Korea, China, the Philippines, Malaysia, the Dutch East Indies, and Burma as sex workers during World War II. Roughly 75 percent of these women did not survive past 1945, and those that did survive usually lived in shameful silence and suffered multiple health problems. Roughly 70 percent of the "comfort women" were Korean, so I focus here on the Korean redress movement.

⁴ For detailed accounts of the comfort women's redress movement, see Chunghee Sarah Soh, "The Korean "Comfort Women": Movement for Redress," *Asian Survey* 36, no. 12 (December 1996): 1226-1240. George L. Hicks, *The Comfort Women: Japan's Brutal Regime of Enforced Prostitution in the Second World War* (New York: W.W. Norton & Co, 1997). George L. Hicks, "The Comfort Women Redress Movement," in *When Sorry Isn't Enough*:

demanded an apology and reparations from the Japanese government for surviving comfort women in 1990. Public sympathy for these victims grew in Japan and especially in Korea after Kim Hak-sun, the first comfort woman to publicly recount her suffering, came forward and sued the Japanese government with two other anonymous victims in 1991. This lawsuit attracted attention from the media, human rights activists, and women's groups in Japan, but also from the right-wing in Japan. Public sympathy grew with the revelation of "new" official documents proving the state's role in establishing the comfort stations. After long denying any role in the comfort women system, the Japanese government bowed to ROK requests by launching an official inquiry, which concluded in July 1992 with an admission of responsibility. To appease opponents of reparations in Japan, however, the government report proposed setting up the Asian Women's Fund, which would be financed with private donations rather than government reparations, as consolation money for comfort women.⁵

Since the victims were ageing and the Japanese government was shirking responsibility, the Korean comfort women appealed to Korean politicians to elicit medical and living assistance. From 1993 onward, the ROK government has provided registered comfort women with grants, medical care, and housing assistance and continued to press the Japanese government for truth and justice about the comfort women issue. The comfort women only elicited partial redress from the Japanese government because their conflict expansion efforts did not maintain public sympathy in Japan.⁶ Instead, the issue was overtaken by powerful NGOs and Korean politicians, who undermined the perceived innocence of the victims. The comfort women issue became central to "Japan bashing" by Korean activists in the 2000s. As with the Japanese abductions movement, bottom-up conflict expansion soon transitioned into top-down conflict expansion because some politicians started using the issue for their own ends. This explains why the comfort women have only achieved partial redress.

Second, using the rhetoric of victimhood, shaming the government, and winning sympathy from the general public also worked well for victims of earlier regimes, as part of transitional justice. As the third wave of democratization occurred, transitional justice discussions among practitioners and scholars focused on how to hold officials of former regimes accountable for state crimes after war, armed conflict, or authoritarian rule.⁷ Holding governments accountable for ill-conceived or negligent decisions is not only important for the consolidation of democracy after national transitions, but also for sustaining public confidence in established democratic systems. Korean society has certainly grappled with the challenge of prosecuting former leaders and clearing the names of those unjustly accused.

The Controversy over Apologies and Reparations for Human Injustice, ed. Roy L. Brooks (New York: New York University Press, 1999), 113-125. See also the website of the Korean Council for the Women Drafted for Military Sexual Slavery by Japan, <http://www.womenandwar.net/english/index.php> (accessed July 20, 2010).

⁵ The Japanese government provided funding to administer the Asian Women's Fund in 1995 and began collecting private donations. The Fund was subject to extensive criticism, including by two UN Commission on Human Rights reports in 1996 and 1998 and by many comfort women, for being mainly privately funded. To those who victims could document their status as comfort women, the Fund provided 2 million yen (about \$23,000) per person and a written apology from the Japanese prime minister.

⁶ International sympathy for the victims has been extensive. For example, the UN's World Conference on Women in 1995 in Beijing adopted a resolution supporting the comfort women. The U.S. Congress passed H.R. 121 in July 2007 to call on the Japanese government to accept responsibility for forcing women into sexual slavery.

⁷ Ruti G. Teitel, *Transitional Justice* (Oxford: Oxford University Press, 2000). Neil J. Kritz, ed., *Transitional Justice: How Emerging Democracies Reckon with Former Regimes*, 3 vols. (Washington: United States Institute of Peace Press, 1995). Priscilla B. Hayner, *Unspeakable Truths: Confronting State Terror and Atrocity* (New York: Routledge, 2001). Juan E. Méndez, "Accountability for Past Abuses," *Human Rights Quarterly* (1997): 255-282.

The Korean victims of the violent state repression of pro-democracy protests in Kwangju in 1980 are excellent examples of how widespread public sympathy for a set of victims can spur comprehensive redress even in Korea.⁸ Several organizations of Kwangju incident victim families and ardent non-victim supporters framed the deaths and injuries in 1980 as symbolic of the military dictatorship's oppression of all ROK citizens.⁹ Riding the popular wave for transitional justice after the establishment of democracy, the victim families negotiated medical subsidies from the state in 1990. Although the bereaved families were "accidental activists," they gained visibility as human rights and democracy activists, including the Association of Families of Martyrs for Democracy (*Yugahyeop*) and Association of Families of the Democratic Movement (*Mingahyeop*), took up the cause of redress. Public demonstrations by students and other activists put pressure on the ROK government to right historical wrongs. As a result, the National Assembly enacted a special law in 1995, which clarified state responsibility and called on the government to launch memorial activities.¹⁰ Further legislation, at the behest of the victim families and prominent NGOs, restored the victims' honor in 2000.¹¹ The 1995 special law also led to the indictments of two former presidents for the violence in Kwangju, which bolstered the judicial branch's reputation for independence.¹² This example demonstrates that bottom-up conflict expansion tends to produce comprehensive redress, especially when compared with the other modes of conflict expansion employed by the Korean victim groups discussed earlier in this dissertation. No parallel for this victim movement exists in Japan. Yet it demonstrates that, even though Korean victims in none of the three issue areas studied in this dissertation received comprehensive redress, this level of state responsiveness is indeed a plausible outcome in Korea. Moreover, the mode of conflict expansion accounts for the extent of state responsiveness to Kwangju victims.

Third, the different modes of conflict expansion also explain the varying efficacy of other marginalized groups. Minority groups may not always blame the government as directly for their hardships as victim groups can, but framing their disputes in terms that emphasize their victimhood and their human rights also helps such groups to incite public outrage to catalyze policy changes. For example, redress for African Americans has been most forthcoming in specific instances in which the government's blame is clear and the number of victims small. After the American Civil War there was talk of the government giving every freed slave family

⁸ Student-led civilian protests erupted on May 18, 1980 against General Chun Doo-hwan's imposition of martial law and the arrest of democratic activist Kim Dae-jung. South Korean security and military forces battled the protesters for ten days. In the end, 144 civilians were killed and 127 were injured.

⁹ Gi-Wook Shin and Kyung Moon Hwang, *Contentious Kwangju: the May 18 Uprising in Korea's Past and Present* (Lanham: Rowman & Littlefield, 2003). In-sup Han, "Kwangju and Beyond: Coping with Past State Atrocities in South Korea," *Human Rights Quarterly* 27, no. 3 (2005): 998-1045. Kuk Cho, "Transitional Justice in Korea: Legally Coping with Past Wrongs after Democratization," *Pacific Rim Law & Policy Journal* 16 (2007): 579-612.

¹⁰ The 1995 Special Law clarified government's wrongdoing more than the 1990 Compensation Law. (*Gwanju minjuhwa undong gwanryeonja bosang deung e gwanhan beopryul* [Law on Compensation for Victims of the Kwangju Democratization Uprising] (law no. 4266, 1990) and *5.18 Gwanju minjuhwa undong deung e gwanhan teukbyeolbeop* [Special Act Concerning the May 18th Democratization Movement] (law no. 5029, Dec. 21, 1995)). Some victims received condolence money in 1980, with funds coming from "voluntary" donations by citizens. More victims claimed compensation under the 1990 law, but critics charged the government with continuing to obfuscate shirk blame. After the 1995 special law, victims received *baesang* (reparations), and revisions to these laws in 1997 and 1998 further ensured comprehensive redress for Kwangju victims. See Han, "Kwangju and Beyond," 1030-1034.

¹¹ *Minjuhwa undong gwanryeonja myeongye hoebok mit bosang e gwanhan beopryul* [Act concerning Honor Restoration and Compensation for Participants of the Democratization Movement] (law no. 6123, 2000).

¹² Han, "Kwangju and Beyond," 1028.

“forty acres and a mule” to help them get on their feet. Civil rights activists 100 years later called for the government to provide job training and other programs to remedy the decades-long subjugation and economic disadvantage of African Americans.¹³ Yet reparations for slavery or the Jim Crow laws remain elusive to black Americans.¹⁴

Instead, bottom-up conflict expansion using the rhetoric of victimhood for specific instances has been most effective. For example, the revelation that the U.S. Public Health Service had presided over a syphilis study that violated the subjects’ basic human rights for forty years shocked the American public, and brought a swift end to the study in 1972.¹⁵ In the media, comparisons were made between the Nazi’s experiments with human subjects and the Tuskegee syphilis study. As a result, by 1974 victims had reached an out-of-court settlement with the government for \$10 million and lifetime medical care for survivors and their families. Yet the U.S. government did not formally apologize until 1997. By that time, only 8 of the 600 study subjects were still alive. Still, the victims and their families hailed the day as a redress victory.¹⁶ “The U.S. government did something that was wrong—deeply, profoundly, morally wrong,” President Clinton acknowledged to the survivors and victims’ families gathered at the White House. “It was an outrage to our commitment to integrity and equality for all our citizens... what the United States government did was shameful, and I am sorry.”¹⁷ Although the public was largely uninvolved in the ultimate apology, widespread public outrage had been crucial for ending the study and providing compensation and medical care to the victims.¹⁸

Even in instances where government responsibility is not this evident, using the rhetoric of victimhood and shaming the government to respond to one’s demands has proven an effective strategy for marginalized groups that lack organizational presence, electoral weight, or financial resources. For example, the families of crime victims and juvenile crime victims in Japan exerted considerable influence over criminal justice reforms in the 2000s by appealing to the general public.¹⁹ By telling of their own experiences, juvenile crime victims and their families argued that the judicial system victimized them a second time after the actual crime. They felt that the authorities focused exclusively on the welfare of the delinquent and ignored the victims’ welfare. To protect the juvenile offender, the authorities refused to investigate certain crimes, let the

¹³ Roy L. Brooks, ed., *When Sorry Isn’t Enough: The Controversy Over Apologies and Reparations for Human Injustice* (New York: New York University Press, 1999), 341, 420.

¹⁴ This contentious issue cannot be fully addressed here. For one comparison with reparations for ethnic Japanese interned during World War II (1988 Civil Liberties Act), see Eric K. Yamamoto, “Racial Reparations: Japanese American Redress and African American Claims,” *Boston College Law Review* 40 (1998): 477-524.

¹⁵ From 1932 to 1972, the Public Health Service ran a study of black men infected with syphilis in Tuskegee. The doctors left these men’s syphilis untreated, even after the advent of penicillin in 1947. The inhumane study was revealed to the public in 1972 and promptly discontinued. This violation of racial and medical ethics led to much stricter regulations to protect human subjects of research, spelled out in the Belmont Report. See Susan Reverby, *Tuskegee’s Truths: Rethinking the Tuskegee Syphilis Study* (Chapel Hill: University of North Carolina Press, 2000). See also Abigail Perkiss, “Public Accountability and the Tuskegee Syphilis Experiments: A Restorative Justice Approach,” *Berkeley Journal of African-American Law & Policy* 10 (2008): 70-90.

¹⁶ One of the survivors in attendance, Herman Shaw, revealed that, “listening to the President speak from his heart about the Experiment... felt like a burden was lifted.” Fred D. Gray, *The Tuskegee Syphilis Study: the Real Story and Beyond* (Montgomery: NewSouth Books, 1998), 134.

¹⁷ “Remarks by the President in Apology For Study Done in Tuskegee” (The White House, May 16, 1997), <http://clinton4.nara.gov/textonly/New/Remarks/Fri/19970516-898.html> (accessed July 8, 2010).

¹⁸ According to the victims’ counsel, the decision to officially apologize occurred with “the same lack of openness and the same undemocratic thinking that conceived the Study in 1932.” Gray, *The Tuskegee Syphilis Study*, 115.

¹⁹ Interview with Takahashi Masato, director of Asu no Kai, Tokyo (June 18, 2009). Interview with Moriya Noriko, juvenile justice lawyer, Tokyo (July 2, 2009).

families of the victims into the courtroom, or inform the families about the verdict in many cases. These aspects of the judicial process violated victims' "right to know" and inhibited their recovery, the victims claimed.²⁰ The willingness of victims to speak publicly of their personal experiences to the media ensured that juvenile justice reform and victim rights promotion became important issues in the 2000 lower house elections.²¹ The reforms passed shortly after the election are another result of effective bottom-up conflict expansion, as advocates and victims mobilized public sympathy to pressure the government.

In sum, my analysis of the effects of different modes of conflict expansion helps militate against excessive attention to either structural factors or to agency. On the one hand, one could depend too much on political institutional factors to explain the content and timing of state responsiveness, leaving little room for the activism of creative individuals. On the other hand, an excessive focus on agency, which explains state responsiveness as the outcome of victim group leaders and their strategies, produces highly contingent and case-specific explanations. Hence, I examined how the strategies and patterns of conflict expansion, within the parameters set by the national context, affected interactions between the victim groups and the governments they sought to hold accountable. Different modes of conflict expansion exert different pressures on the state to respond to victims' demands. These interactive processes, however, do not occur in a vacuum. Thus, the connections among victim movements are worthy of closer consideration.

LINKAGES ACROSS TIME, ISSUE-AREA, AND COUNTRY

Many of the victim movements studied here are deeply interrelated. Linkages across time, issue area, and country affect both victim movements and state responses, and I plan to explore more in future research how they help and hinder conflict expansion. This section uses evidence from my cases to build on existing theories about three particular dynamics—linkages across time, issue area, and space—that seem to facilitate bottom-up conflict expansion and hence state responsiveness.²² All things considered, I argue that these multifaceted linkages benefit victim groups more than they do the government because the linkages provide victim groups with useful resources that help narrow the power gap between victim claimants and government officials.

First, time and sequencing affect conflicts over victim redress and accountability politics, as earlier victim movements become important precedents, in the legal sense and more informally. As Tilly pointed out in a different context, "when things happen in a sequence affects how they happen."²³ Indeed, the way the state responds to one group of victims affects its policy options for the next set of victims.²⁴ Subsequent victim movements may model their demands on

²⁰ Interview with Take Ruriko, founder of the Association of Victims of Juvenile Crime, Osaka (May 17, 2009).

²¹ Mark Fenwick, "Japan: From Child Protection to Penal Populism," in *Comparative Youth Justice: Critical Issues*, ed. John Muncie and Barry Goldson (Thousand Oaks: Sage Publications, 2006), 152.

²² Some of the mechanisms I plan to analyze include learning, diffusion, policy feedback, path-dependency, and borrowing among both victim claimants and among government officials. For a review of some of these linkages among government officials, see David P. Dolowitz and David Marsh, "Learning from Abroad: The Role of Policy Transfer in Contemporary Policy-Making," *Governance* 13, no. 1 (2000): 5-23. For a review on diffusion among social movements, see David Strang and Sarah A. Soule, "Diffusion in Organizations and Social Movements: From Hybrid Corn to Poison Pills," *Annual Review of Sociology* 24, no. 1 (8, 1998): 265-290. See also Sarah A. Soule, "Diffusion Processes within and across Movements," in *The Blackwell Companion to Social Movements*, ed. David A. Snow, Sarah Anne Soule, and Hanspeter Kriesi (Malden: Wiley-Blackwell, 2004).

²³ Charles Tilly, *Big Structures, Large Processes, Huge Comparisons* (New York: Russell Sage, 1984), 14.

²⁴ Candelaria Garay, "Social Policy and Collective Action: Unemployed Workers, Community Associations, and Protest in Argentina," *Politics & Society* 35, no. 2 (2007): 301-328.

the components of redress and the wording of the government's responsibility from an earlier instance of redress. The government can certainly cite fairness with other victimized groups to justify curtailed redress. However, if the state unequivocally accepts blame then victims organizing at a later time will have a stronger case for demanding similarly sweeping apologies. In fact, an increasing returns process, in which an early granting of redress gains in significance over time, limits the government's policy options with successive victim redress movements.²⁵

Sequencing and time also affect victims. Victim groups learn from preceding victims and the responses they elicited from the state. Such precedents can become shaming resources for victims to force the state to respond. Consider the case of the Japanese HCV victims. During the victims' final campaign for compensation and redress, most political elites agreed that the state bore "administrative and political" responsibility, but the ruling coalition balked at including references to the state's "legal" responsibility and an apology into the bill.²⁶ Yet the HCV victims cited the HIV and Hansen's disease cases to force the government take legal responsibility for causing them harm. As seen in Chapter 4, the HIV-contaminated blood and Hansen's disease issues also greatly facilitated the activism of HCV victims in Japan by providing experience to the lawyers and inspiration to those actually victimized. Moreover, the effects of precedents work across issue areas and national borders. In sum, victim groups organizing at a later time are likely to benefit from prior victim redress movements in related issue areas.

Second, my interviews supplied me with detailed evidence about linkages among victim groups across issue areas. As victim groups learn over time as well as across issue areas, so the state also learns how best to minimize the repercussions of its responses to victims' demands. Scholars often discuss learning, demonstration effects, and diffusion in vague terms without specific mechanisms.²⁷ As such, my research into cross-issue and cross-temporal linkages will contribute to this scholarship. As stated above, the responses that a government makes to redress demands on one issue affect the options and tools available when it responds to the next victims' challenge. Pharr and Upham show how the Japanese government utilized conflict privatization and bureaucratic informalism to prevent channels of grievance articulation from becoming institutionalized.²⁸ Yet the model of victim redress organizations, at least in Japan, has solidified into a viable channel of grievance articulation for challenger groups. The lawyer networks are in place, journalists are now more aware of potential victim movements, and activist networks of concerned citizens know how to mobilize supporters. Thus, many of the same lawyers and journalists help a variety of victims in many issue areas to seek redress.²⁹ Victim activism in one issue area also provides models for victims in other areas, spurs collective identity creation among unorganized victims, and reveals the tradeoffs among modes of conflict expansion. The Korean abductions group, AFU, cites the rather violent activism of ROK spies sent to North

²⁵ Paul Pierson, "Increasing Returns, Path Dependence, and the Study of Politics," *The American Political Science Review* 94, no. 2 (June 2000): 263.

²⁶ "Courts to Decide Hepatitis C Aid Recipients," *Japan Times*, December 27, 2007.

²⁷ For several exceptions on learning and policy-making, see Hugh Hecl, *Modern Social Politics in Britain and Sweden: from Relief to Income Maintenance* (New Haven: Yale University Press, 1974). See also Peter A. Hall, "Policy Paradigms, Social Learning, and the State: The Case of Economic Policymaking in Britain," *Comparative Politics* 25, no. 3 (April 1993): 275-296.

²⁸ Susan J. Pharr, *Losing Face* (Berkeley: University of California Press, 1990). Frank K. Upham, *Law and Social Change in Postwar Japan* (Cambridge: Harvard University Press, 1987).

²⁹ Yasuhara Yukihiko, for example, was involved in the HIV case, the Hansen's disease case, the atomic bomb victims' administrative lawsuit for victim recognition, and the lawsuit by "war orphans" abandoned by their Japanese parents in China after World War II. Interview with Yasuhara Yukihiko, lawyer, Tokyo (May 26, 2008).

Korea as effective and therefore worth emulating.³⁰ The other abductions group, FADN, drew inspiration from their counterparts in Japan, the AFVKN.³¹

Third, there are clear linkages across national frontiers among victim movements and even among state responses to them. Burgeoning linkages among victims worldwide and ever-increasing information exchanges across issue areas and national borders have provided victim groups with novel resources for their fight against the state. In addition, several studies of accountability politics have shown the usefulness of international norms for shaming the government to respond to victims' demands.³² International norms and authoritative evidence from abroad can help narrow the power and resource gap between victim groups and state actors. These resources of our world's growing interconnectedness may even help victims overcome the restrictions of an established relationship with the state. The Korean Hansen's disease and HCV victim groups are gradually utilizing their ties to the international leprosy and hemophilia communities to leverage concessions from the government. Victims of asbestos poisoning around Asia are also sharing best practices of government regulation and health standards across national borders.³³

Redress policies enacted by one government can also have spillover effects in other countries. For example, legislative trends around the world toward more protections for crime victims encouraged the structural changes that the Japanese and Korean governments considered. Korean juvenile crime victims did not even have to organize to see their rights improved, due to spillover effects from domestic and international policy changes in related policy areas. Advocacy by families of school violence victims and sexual violence victims have had beneficial spillover effects for the not-yet-mobilized victims. Such activism, as well as pressure from criminal justice scholars, spurred reforms that has improved conditions for victims of juvenile crime in Korea. In addition, the Japanese juvenile crime victims' activism coincided with and accelerated a drive to broadly reform the judicial system in Japan and an international trend toward greater attention to crime victims' rights.³⁴ Consequently, Japanese victims advocating for improved rights gained unprecedented access and influence in policy-making processes.³⁵

In short, interactions across time, issue area, and country among conflicts for redress condition the process by which conflict expansion leads to state responsiveness. State actors, politicians, journalists, lawyers, victim activists, and members of the public learn from precedents. Policies enacted in one issue area or in one country affect the constraints or opportunities in another issue area or another country. These linkages bear further investigation, but this section elucidated some of the mechanisms at work.³⁶ Taken together, my cases and

³⁰ Interview with Choi Seong-yong, head of AFU, Seoul (Feb. 3, 2009).

³¹ Interview with Choi Woo-young, former leader of FADN, Seoul (July 11, 2007).

³² Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca: Cornell University Press, 1998). Jennifer Chan, *Gender and Human Rights Politics in Japan: Global Norms and Domestic Networks* (Stanford: Stanford University Press, 2004). Amy Gurowitz, "Mobilizing International Norms: Domestic Actors, Immigrants, and the Japanese State," *World Politics* (1999): 413–445. David R. Leheny, *Think Global, Fear Local* (Ithaca: Cornell University Press, 2006).

³³ Sanjiv Pandita, "Banning Asbestos in Asia: Campaigns and Strategies by the Asian Network for the Rights of Occupational Accident Victims (ANROAV)," *International Journal of Occupational and Environmental Health* 12, no. 3 (2008).

³⁴ Fenwick, "Japan." Frank J. Weed, *Certainty of Justice: Reform in the Crime Victim Movement* (Hawthorne: Aldine De Gruyter, 1995).

³⁵ Interview with Okamura Isao, founder of Asu no Kai, Tokyo (July 6, 2009).

³⁶ I plan to investigate why transnational linkages form around some issues but not others. Bob points out that many studies of transnational issue networks, including the influential work of Keck and Sikkink (1998), fail to fully

these evident cross-issue, cross-temporal, and cross-national linkages suggest that we are experiencing an “age of apology,” as citizens’ efforts to hold their governments accountable increasingly garner meaningful state responses.³⁷

POLICY IMPLICATIONS: THE COSTS AND BENEFITS OF GRANTING REDRESS

It is clear that the incentives and opportunities for societal groups to influence policy-making in Japan and Korea have grown during the past two decades, due to political upheavals, reforms, and dwindling public deference toward government decisions. Historically, victim groups in both countries have exposed the detrimental consequences of the developmental state mode of economic growth, favoring producer interests over consumers, the majority over the minority and insiders over outsiders. As they hold the government accountable for causing them harm, victim groups are also helping to improve the governance of the state in specific ways. Victim movements ultimately push government officials to consider weaker actors more when formulating policies and to recognize and respond more rapidly to policies gone awry. While victim activism can pose a significant challenge to the ruling elite and disrupt political processes in the short run, it also enhances the responsiveness of democratic institutions in the longer term. This section derives some policy insights from the cases of victim redress politics studied in this dissertation. I argue that while the benefits of granting redress to victims overall outweigh the costs, there are several potential downsides to meeting victims’ demands for redress.

First, calculating damages or determining the appropriate size and format of reparations is fraught with challenges. Whether impartially decided by a judge in court or hammered out in political negotiations, assigning monetary value to a person’s suffering is difficult. Government officials usually seek to minimize costs for budgetary reasons, while victims hope for more restitution to compensate for years of pain. In addition, bureaucrats and critical observers usually highlight the unfairness of giving special treatment to a particular subset of the population. Attempts to ensure fairness point to the difficulty of ranking different forms of suffering. For example, in an effort to be fair, the Korean MOU used the level of condolence money awarded by the state to crime victims as a standard for the financial assistance that abductee families could receive. Some of the abductee families reacted violently to this smaller sum of money and the implication, inherent in the comparison to crime victim assistance, that the state was shirking blame. In short, the conflict is rarely over at the moment when the government agrees to grant redress, but continues into disputes over how much to grant. Calculating damages is often the most contentious and problematic part of the process. Thus, the more inclusive and depoliticized this process of calculating damages can be, the better it will be for all parties involved.

Second, granting redress can lead to excessive caution and sluggishness in decision-making processes, as is evident in the “drug lag” in Japan today. A string of highly-visible redress movements by victims of medical drug-related disasters sparked a transition from more type I errors (false positives) to more type II errors (false negatives) in drug approval processes. Whereas drug regulators used to approve some ineffective or even dangerous medicines, they are now erring on the side of caution and hesitating to approve drugs, even when clinical trials show are efficacious.³⁸ Patients have borne the costs of reduced access to improved drugs and medical

investigate this question. Keck and Sikkink, *Activists beyond borders*. See also Clifford Bob, “Marketing Rebellion: Insurgent Groups, International Media, and NGO Support,” *International Politics* 38, no. 3 (2001): 311–334.

³⁷ Mark Gibney, ed., *The Age of Apology: Facing up to the Past* (Philadelphia: University of Pennsylvania, 2008).

³⁸ Interview with Hanabusa Hideji, hemophilia doctor, Davis (March 9, 2010). Interview with Ayukyo Machiko, lawyer, Tokyo (June 29, 2009).

devices. Thus, communicating with affected communities and coming up with clear and shared decision standards as part of policy measures to prevent future victimization will help government officials to avoid a reactive swing toward overly risk-averse policy-making patterns.

Third, successful redress movements may encourage or even institutionalize polarizing conflict as the most effective way to express grievances. Social conflict, however, is disruptive and often embitters those involved. Protracted battles between the state and victimized groups can be costly, sapping both public finances and drawing the government's attention away from other pressing social problems. The extremely narrow nature of victim groups' grievances can be accompanied by inflexibility regarding demands, selfishness or exclusivity, ingratitude, and organizational rigidity. For example, the narrowness of Korea's Hansen's disease redress movement precluded cooperation with other organizations seeking to improve the rights of disease communities and embittered some people with Hansen's disease in Korea. Protracted battles for redress also sap victim communities. Japan's hemophilia community disintegrated into tiny local self-support associations after the strain of seeking redress for their HIV infections. As a result, hemophilia patients infected with HCV by tainted blood products lacked the will and organization to join non-hemophilia-related HCV victims' fight for redress. Yet, the very success of many victim redress movements encourages other victimized populations to follow their lead. Thus, governments wishing to avoid disruptive conflicts for redress in the future should establish and promote less contentious channels for democratic accountability, including independent watchdog agencies, citizen participation on advisory councils, and fully open public hearings.

Still, the benefits of granting redress—to enhance transparency, accountability, and democratic participation—outweigh the potential costs. Responsiveness to victim groups' demands for redress shows other citizens that democratic participation works. The publicity of the redress process makes decision-making more transparent by shedding light on the competing positions, power dynamics, and priorities among stakeholders. Settling victims' disputes also makes ordinary citizens more aware of the downtrodden and disadvantaged in their midst. Granting redress helps to improve social justice, therefore, and promote human rights. Though enhanced caution in decision-making can slow down policy-making, greater controls on the exercise of power and accountability of decision-makers tend to produce better policies. Finally, each victim group sets an important precedent for subsequent redress movements by illuminating a window of opportunity or even illustrating how *not* to pursue redress. Victim groups and ordinary individuals learn to be better democratic citizens through participating in or even just observing the redress process. Thus, good governance and democratic accountability are enhanced, despite the potential downsides to granting victims redress.

INSIGHTS FROM VICTIM MOVEMENTS CONCERNING JAPANESE AND KOREAN POLITICS

My findings offer two insights for the broader scholarship on Japanese and Korean politics. First, the surprising power of victim redress movements points to the fact that statist models of policy-making no longer capture the political reality in either country. Japan and Korea may have started out as similarly statist political systems, but significant changes in both countries are pushing them in distinctive directions. The study of victim redress politics points to distinctive developments in Japanese and Korean politics. The second insight is that the judicial route is becoming more open for grievance articulation against the state in Japan and in Korea. However, the resources needed to use the judicial route effectively are more widely available in Japan than in Korea today. This section elaborates upon my two contributions to our understanding of Japanese and Korean politics in turn.

Japan and Korea share a history of extensive state involvement in economic development and relatively insulated policy-making, but their parliamentary and presidential systems distinguish them in important ways. In some respects, it seems that Japanese politics is “becoming more Korean,” and Korean politics is “becoming more Japanese.” In Japan, administrative reforms and procedural changes have sought to strengthen the position of the prime minister, a notoriously weak office, which was beholden to factional politics and lacked the tools for effective policy coordination.³⁹ Among activist groups, some Japanese organizations are developing professional staff, greater resources, and research capabilities so as to influence political debates more effectively. In contrast, Korean reforms have sought to reduce the power of the president. The Blue House wielded extensive power historically, particularly during the authoritarian period. At the behest of the president, Korea’s prime ministers were often made scapegoats during political crises or embarrassments.⁴⁰ Making the balance of power among Korea’s branches of government more even has been a key objective of reforms. Korean NGOs, meanwhile, speak of reconnecting to the grassroots and putting more emphasis on issues that are relevant to daily life, rather than just to politics. Despite these changes, Japanese and Korean politics are by no means converging today.

First, therefore, *my research suggests that we revise our statist models of Japanese and Korean policy-making*. In tandem with the decline of the “strong state,” we have witnessed an increase in the responsiveness of democratic institutions in both Japan and Korea, but in different ways. Several crises of public confidence in the government, improved electoral competition, and growing NGO participation in governance signal the decline of the strong state. Victim redress movements have contributed to and benefited from this shift away from state dominance.

Both governments faced significant crises of legitimacy as they addressed domestic social problems and international challenges of late. Public confidence in the Japanese government foundered over a decade of sluggish economic growth. As discussed in earlier chapters, the HIV-tainted blood scandal, the Hansen’s disease redress movement, and the HCV-tainted blood scandal, along with the loss of pension records and other indicators of bureaucratic negligence and incompetence shook public confidence in the government. Similarly, the Asian Financial Crisis in 1997 spelled the end of the conservatives’ hegemony over Korean politics, as voters entrusted economic recovery to the progressives. Declining birth rates, growing disparities in income between the rich and the poor, climbing suicide rates, unemployment, and other wrenching sociopolitical problems caused many in both societies to reexamine the foundations of their political systems. This recalibration of politics and its implications for democratic accountability is most evident in changes in electoral competition and the participation of non-state actors in policy-making.

My research shows that improved electoral competition has opened additional avenues for grievance articulation in both political systems. The demise of the left in Japan after the late 1980s and the rise of more moderate opposition parties in the early 1990s all but erased the strong left-right cleavage in Japanese politics. These trends combined with electoral and campaign finance reforms in 1994 to gradually enhance electoral competition among centrist

³⁹ Ichirō Ozawa, *Blueprint for a New Japan: The Rethinking of a Nation*, 1st ed. (Tokyo: Kodansha International, 1994). Ellis S. Krauss and Benjamin Nyblade, “‘Presidentialization’ in Japan? The Prime Minister, Media and Elections in Japan,” *British Journal of Political Science* 35, no. 02 (2005): 357–368. Tomohito Shinoda, “Koizumi’s Top-Down Leadership in Anti-Terrorism Legislation,” *SAIS Review* 23, no. 1 (2003): 19–34.

⁴⁰ Jeong-ho Roh, “Crafting and Consolidating Democracy in Korea,” in *Korea’s Democratization*, ed. Samuel S. Kim (Cambridge: Cambridge University Press, 2003), 192.

parties: ultimately, the LDP and DPJ. More than the LDP, the DPJ has “victim” credentials. The DPJ counts several high-profile victims and a number of lawyers and others with human rights interests among its ranks. Already in 2003, twelve of the DPJ’s Diet members had backgrounds in civil society.⁴¹ The DPJ’s 2007 victory in the Upper House, after Koizumi undermined his own LDP in pursuit of postal privatization, meant that victim groups in Japan had a political ally with newfound power. The 2008 HCV redress legislation and the 2008 Hansen’s disease Basic Law were products of the DPJ’s leveraging its control over the Upper House. Of course, aligning with these victim causes benefited the DPJ by allowing it to distance itself from the LDP as the party of the people. With the DPJ’s defeat in the July 2010 Upper House election, the usefulness of the DPJ for future victim redress movements is in doubt. Nonetheless, the ideological convergence among political parties and the emergence of a quasi-two-party system in Japan has worked in favor of grievance groups that eschew political affiliation because victims can now cultivate allies in both centrist parties.

In contrast, political liberalization in 1987 made the left-right cleavage in Korea legal and contributed to a deepening polarization in Korean politics. Vigorous competition and alternation in power between progressives and conservatives in Korea has opened avenues for grievance groups, just as improved electoral competition did in Japan. For victim groups, however, ideological polarization has not had favorable consequences. Because they want to avoid political taint, victim groups in Korea hesitate to pursue allies in the National Assembly. Korean political parties have less permanency and are less institutionalized than Japanese parties are, partially due to Korea’s shorter period of democratic government.⁴² In theory, opposing parties should hold each other accountable. In practice, however, polarizing political confrontation often drowns out the voices of citizens seeking to hold their government accountable. It is possible that the present polarization of Korea’s political system calms down during the next decade, just as regional biases had faded by the early 2000s. Greater institutionalization of the political parties and a narrowing of the ideological divide should improve democratic accountability in Korea and allow a wider array of societal voices to participate in the political process.

As detailed in Chapter 3, societal groups in both Japan and Korea increasingly monitor and participate in policy-making processes, but in different ways. In Japan, NGOs and civil society organizations generally partner with the government to enhance governance more than they contest government decisions. The LDP previously pursued a strategy of delegating social welfare tasks to civic groups, but the DPJ’s policies appear more geared toward empowering civil society organizations. The DPJ has advocated for greater transparency, participation, media openness, and accountability. Augmenting the influence of the civil society sector would advance the DPJ’s goal of undercutting the bureaucracy’s power, a goal that has featured prominently since the DPJ won control of the government in September 2009. The new DPJ government also introduced press conferences for media outlets that did not belong to the press clubs, in an effort to diversify media content and access rules. The ability of NGOs to monitor government decisions looks likely to improve with such changes and the recent growth in professionalized advocacy organizations.⁴³ Thus, the emergence of more critical non-state voices,

⁴¹ Robert Pekkanen, *Japan’s Dual Civil Society: Members Without Advocates* (Stanford: Stanford University Press, 2006), 174.

⁴² David I. Steinberg and Myung Shin, “Tensions in South Korean Political Parties in Transition: From Entourage to Ideology?,” *Asian Survey* 46, no. 4 (August 2006): 517-537.

⁴³ Health policy has seen a particularly significant growth in advocacy organizations, such as Health Policy Institute of Japan, and more institutionalized citizen networks, such as the Cancer Patient Network. These two organizations

as well as more competitive party politics, signals a significant weakening of the LDP's closed ruling coalition and the clientelist practices that were accompanied by low government accountability in policy-making.

Korean civil society organizations, in contrast, have historically contended and monitored the government more than helped with governance. Recently, Korean NGOs are recalibrating themselves after the breakneck pace of democratization and the recovery of basic human rights, in order to achieve more balanced and broad-based promotion of the rights of others in Korean society. While Korea's contentious civil society organizations contributed to government accountability in dramatic ways since democratization, they essentially became part of the ruling coalition during the progressive Kim Dae-jung and Roh Moo-hyun administrations. As a result, some prominent NGOs, such as People's Solidarity for Participatory Democracy (PSPD), are deliberately re-connecting with the local grassroots and doing a better job of addressing issues that affect people's everyday lives.⁴⁴ In this process, some Korean civil society organizations are performing public service functions to enhance governance. As Korea's politically connected and ideologically-driven civil society organizations mature, they may become more effective at promoting responsive political institutions and democratic accountability, especially for marginalized or minority groups. Clearly, our statist models of policy-making no longer accurately characterize Japanese and Korean politics. Yet crises, enhanced electoral competition, and greater NGO participation in policy-making in both countries have made Japanese and Korean politics, as well as the opportunities for victim groups, change in different ways.

Second, *my research indicates that institutional reforms and the increased influence and activism of the judiciary have opened judicial mechanisms of democratic accountability to grievance groups*. Judicial reforms in both Japan and Korea aim to increase the number of lawyers, launch a law school system, and create juries for criminal cases. Human rights and sometimes patient rights instruction has been introduced to the law schools to make the next generation of lawyers more aware of the disadvantaged in society.⁴⁵ Due to extensive public discussions about these judicial reforms, societal interest in the legal system has also increased. *Mingahyeop*, the Association of Families of Political Prisoners, was a key part of the Korean coalition that successfully pushed for judicial reforms, including National Assembly hearings on judicial appointments. Large NGOs like PSPD started programs to enhance citizen awareness of the legal process and of their rights, and court web pages were made more user-friendly.⁴⁶

Nonetheless, resources for effective use of the judicial route—committed and experienced lawyers, enterprising journalists, a receptive public, and activist networks ready for the next cause—are more widely available in Japan than they are in Korea.⁴⁷ My cases certainly

were instrumental in realizing the Cancer Basic Law in 2006, and they drew inspiration from U.S. health-related lobbying groups, including the National Breast Cancer Coalition.

⁴⁴ Interview with Oh Jae-shik, co-founder of PSPD, Seoul (January 28, 2009).

⁴⁵ Interview with Park Chan-un, lawyer and law professor, Hanyang University, Seoul (June 4, 2008). Interview with Sugiyama Shinichi, lawyer, Tokyo (May 22, 2008).

⁴⁶ Interview with Patricia Goedde, professor of law, Sungkyunkwan University, Seoul (June 10, 2008).

⁴⁷ Several of my interlocutors pointed out that many Korean human rights lawyers (often members of *Minbyun*) and activist organizations are elitist and disconnected from the needs of individual citizens with grievances. They do not help claimants unless the issue has some political relevance. Describing civil society organizations' (CSO) elitism, for instance, one observer said that "they are CSOs are like buoys floating on the surface, always visible, always there... but quite disconnected." Interview with Cho Hyo-je, professor at Sungkonghoe University, Seoul (Jan. 20, 2009). A lawyer in the Korean Hansen's disease case also described the Japanese lawyers' activism on behalf of Korean victims as "eye-opening and inspiring." Interview with Park Yong-rip, lawyer, Seoul (Aug. 20, 2009).

show that Japanese lawyers had greater levels of commitment to the victim *movements* than did their Korean counterparts. Voices on the margins of both societies are finding more opportunities and tools within the law, but more often in Japan than in Korea. More judicial activism in both countries will ensure the viability of the judicial route for accountability politics. For example, in June 2008 the Japanese Supreme Court deemed the clause in the nationality law, which requires parents to be married in order for citizenship to be granted, unconstitutional. This was only the eighth time in history that the Supreme Court had declared any law unconstitutional. Meanwhile, the Korean Constitutional Court has become more active and politically involved since Kim Dae-jung's era.⁴⁸ Enhanced judicial review in the future will continue to improve the likelihood that marginalized groups like victim organizations can successfully hold the state legally accountable for past wrongs, but Japanese claims makers will find more resources to do so than their Korean counterparts will.⁴⁹

In aggregate, my research suggests that the responsiveness of democratic institutions in Japan and Korea is improving, but in different ways. This does not mean that all claimant groups will succeed. The strategies and the modes of conflict expansion that grievance groups employ still matter in important ways. This section highlighted several major forces that will probably shape the dynamics of victim redress movements and, more generally, accountability politics in Japan and Korea in the future. An unresponsive state will increasingly risk public ire. Above all, the accumulation of successful or even partly successful victim redress movements enhances governmental accountability and provides future victim groups with models to emulate. Even with all these forces for change, however, victim groups will most likely still face substantial challenges as they seek to hold the government accountable for causing them harm simply because organizations tend to avoid admitting blame.

CONCLUSION: MORE OPEN POLITICS

Government officials have a range of strategies they can utilize when faced with claimants like victim groups that seek to hold them accountable for unjust or ill-conceived policy decisions. Acquiescing to victims' demands—granting comprehensive redress—is just one possible response the authorities can give. Indeed, while justice for suffering victims is normatively desirable, there are undeniable benefits and costs to granting comprehensive redress. Short of comprehensive redress, the government might opt to negotiate, compromise, persuade, manipulate, subdivide, pay off, ignore, or repress victim redress movements.⁵⁰ Tracing why a government responds when it does and how it does helps us to better understand societal groups' impact on policy-making. This is particularly true in the context of Japan and Korea, which were known for having relatively closed policy-making processes.

My analysis of victim redress politics shows that the openness of democratic institutions is improving in Japan and Korea. The insularity of policy-makers has decreased, in part due to

⁴⁸ For instance, In 2004 the Constitutional Court overturned the National Assembly's vote to impeach President Roh Moo-hyun after the general electorate voted in his favor. Also, by 2004, the Constitutional Court (established in 1988) had declared 418 articles of various government laws unconstitutional and overturned 214 government actions. Hee-jung Lee, "The Structures and Roles in Judicial Review of Administrative Litigation," *Journal of Korean Law* 6, no. 1 (2006): 44-68. Hee-jung Lee, "Administrative Litigation in Korea: Structures and Roles in Judicial Review," in *Litigation in Korea*, ed. Kuk Cho (Northampton: Edward Elgar Publishing, 2010), 175-198.

⁴⁹ Tom Ginsburg et al., "Judicial Review in New Democracies: Constitutional Courts in Asian Cases," *National Taiwan University Law Review* 3 (2008): 143-180.

⁵⁰ Anselm L. Strauss, *Negotiations: Varieties, Contexts, Processes, and Social Order* (San Francisco: Jossey-Bass, 1978), x.

victim redress movements holding decision-makers accountable. These victim groups benefited from and contributed to reforms that have enhanced citizen participation in decision-making. These reforms also granted more policy-making initiative to elected politicians, improved the responsiveness of local governments, and increased the range of channels by which citizens can monitor government officials. The opening of policy-making processes to public scrutiny has created new opportunities for victim groups to name their suffering, blame the government, claim redress, and, if that does not work, then shame the government into granting redress. Indeed, the growing influence of victim organizations arguably indicates the decline of the “strong state” and the rise of the responsive state in Japan and Korea. The evidence presented in this dissertation suggests that the balance of power is shifting in favor of the citizens, toward more open politics.

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