

Beginning or Proceeding of the Lack of Civil Legal Aid Providers in Japan

– Statistical Growth but Substantial Decline –

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I ILAG Harvard 2023 Session 6 and Decline of the Number of Legal Aid Lawyers

A. Session 6 : "Where Legal Aid Lawyers Come from in the Future?"

Catrina Denvir et al. "Access to Justice and the future of Legal Aid – A census of legal aid in England and Wales" and the following government's response "Review of Civil Legal Aid: Provider Survey Report" and Law Society's response "Legal Aid Dessert" etc.

B. Decline of the Number of Legal Aid Lawyers : Excerpt from 2023 Nation Report

- Netherlands: National Report, p.23.

"A concerning trend in the Netherland is the gradual but steady decline of number of lawyers who are available for providing legal aid. There is a negative growth due to an outflux that is higher than the influx."

- Finland: National Report, p.13.

"In recent years it has been observed that the number of applicants for vacant posts in legal aid offices has decreased. Recruitment is particularly challenging in Swedish-speaking areas. "

II Japanese Context : Brief History of Japanese Legal Aid

A. Influence under U.S. occupation of after World War II (1945-2005)

Japanese legal aid was influenced by “charitable model” of the U.S. at that time. Bar Association, which has been oppressed by the government during the war, also expressed concern against using public legal aid funding.

Lawyers provided legal aid as professional responsibility with the support of Bar Association’s scarce fund.

B. Establishment of Publicly-Funded Legal Aid Organization(2006-)

U.S. pressure to deregulate the Japanese legal market.

Establishment of law schools and the sharp Increase in the number of lawyers.

As part of the above judicial reform, publicly-funded legal aid organization (Japan Legal Support Center, JLSC) was established in 2006. Mixed-delivery model was introduced, but private lawyers are main force (private 99 : staff 1)



Private lawyer’s cooperation is essential to sustain the Japanese legal aid.

II Japanese Context : Practicing Lawyers and Civil Legal Aid Lawyers in Japan

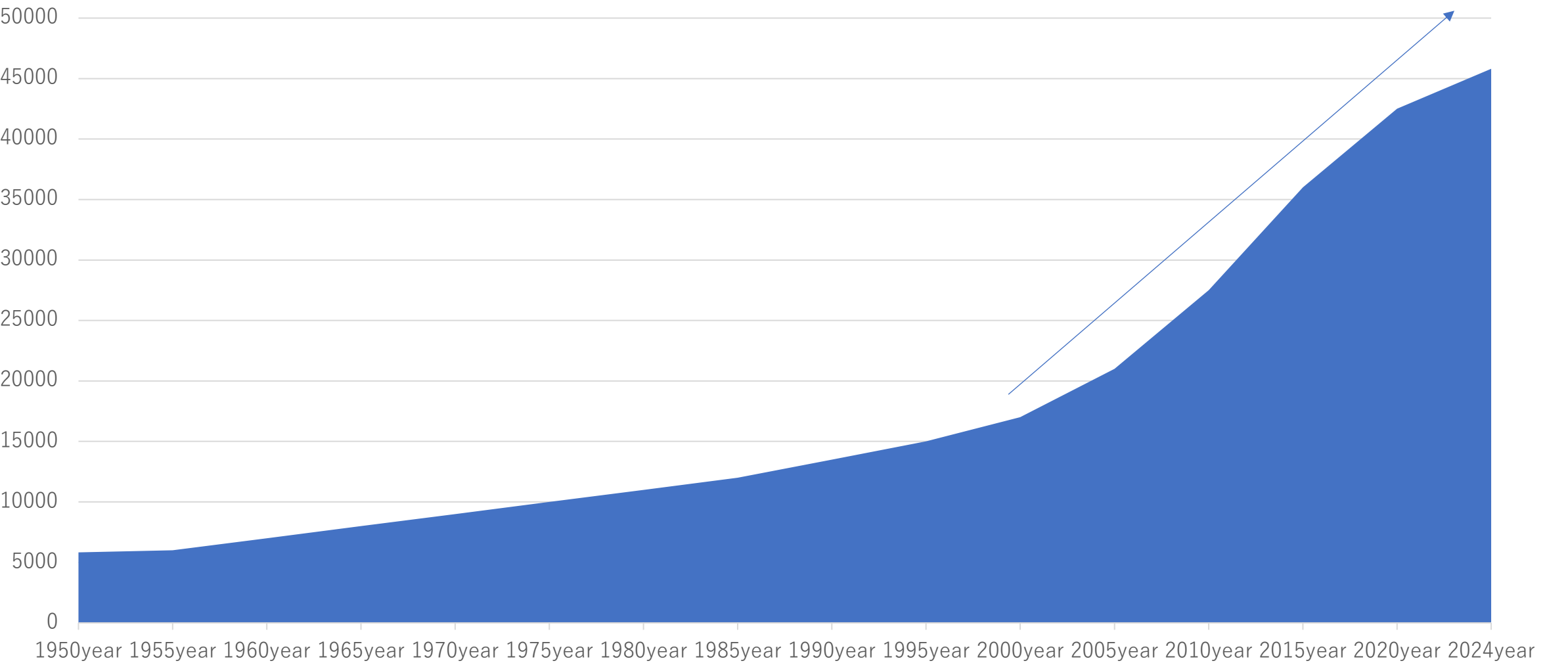
- Total number of licensed practicing lawyers is 45,808 as of March 2024.
- Licensed private lawyers can basically register with Japan Legal Support Center(JLSC) and can basically become civil legal aid lawyers.
- Total number of civil legal aid lawyers is 24,418 as of March 2024.
More than half of the practicing lawyers (53%) are civil legal aid lawyers in Japan.
- Total number of salaried staff lawyers is 205 as of March 2024.
Mixed-delivery model but mainly private lawyer model (private 99 : staff 1)
- Low level of remuneration of civil legal aid (Less than half of market price on average)

<Historical Background Supporting the Legal Aid>

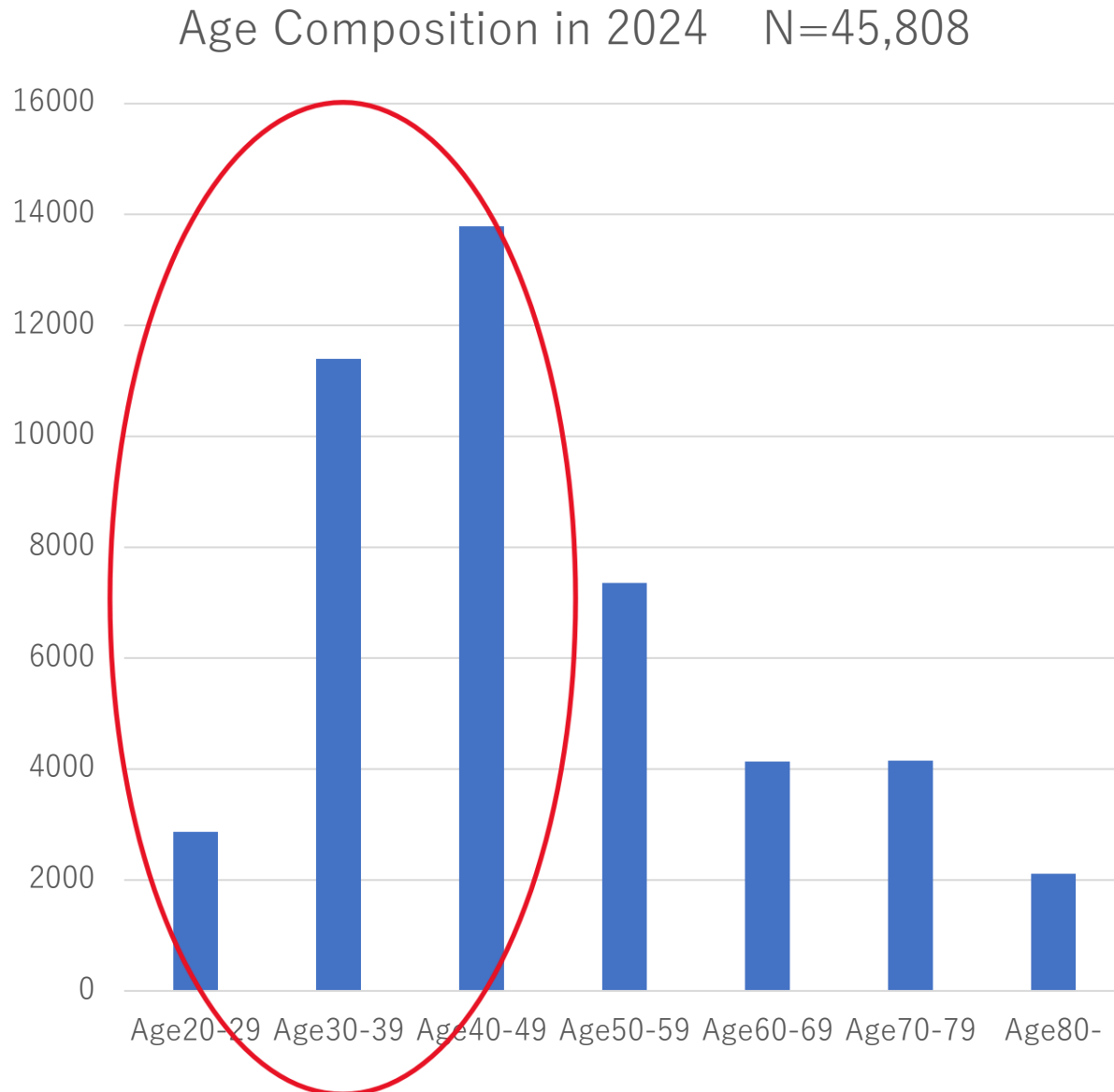
- Japanese private lawyers' strong tradition that legal aid should be supported with a charitable spirit by judicare.
- Article 33 of the Basic Rules of Professional Conduct for Lawyers: "Lawyer shall explain legal aid to the client and shall endeavor to ensure that the client's right to a trial is guaranteed."

II Japanese Context : Demographic Changes of Japanese Lawyers

Number of Japanese Lawyers (1950-2024)



Age Composition of Japanese Lawyers in 2024



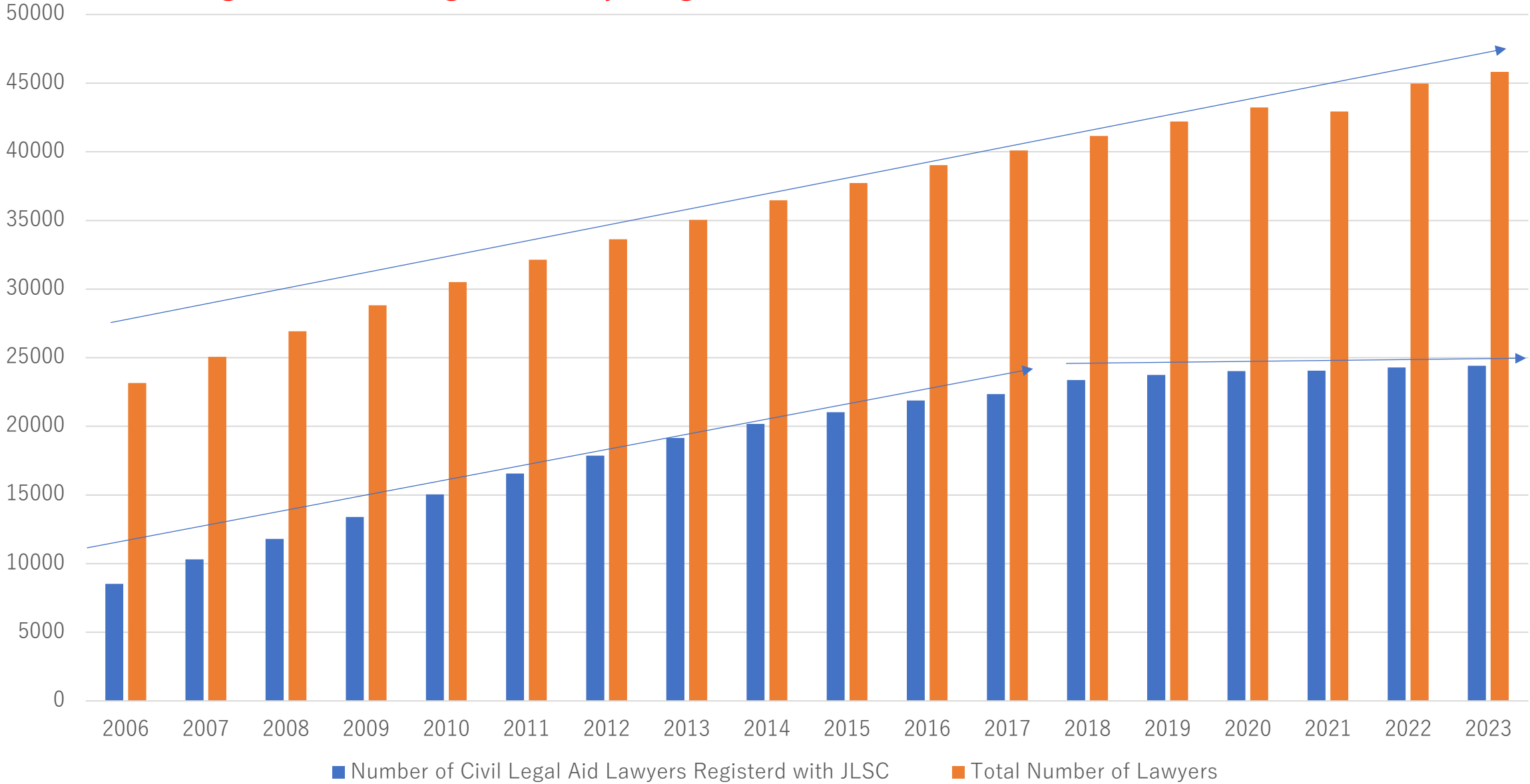
A. The number of lawyers has increased sharply in 21st Century.

B. As a result, the main demographic composition has become younger lawyers ranging from 20 to 49 years old (61% of total).

C. Accordingly, the number of civil legal aid providers who register with Japan Legal Support Center (JLSC) increased statistically on the surface.

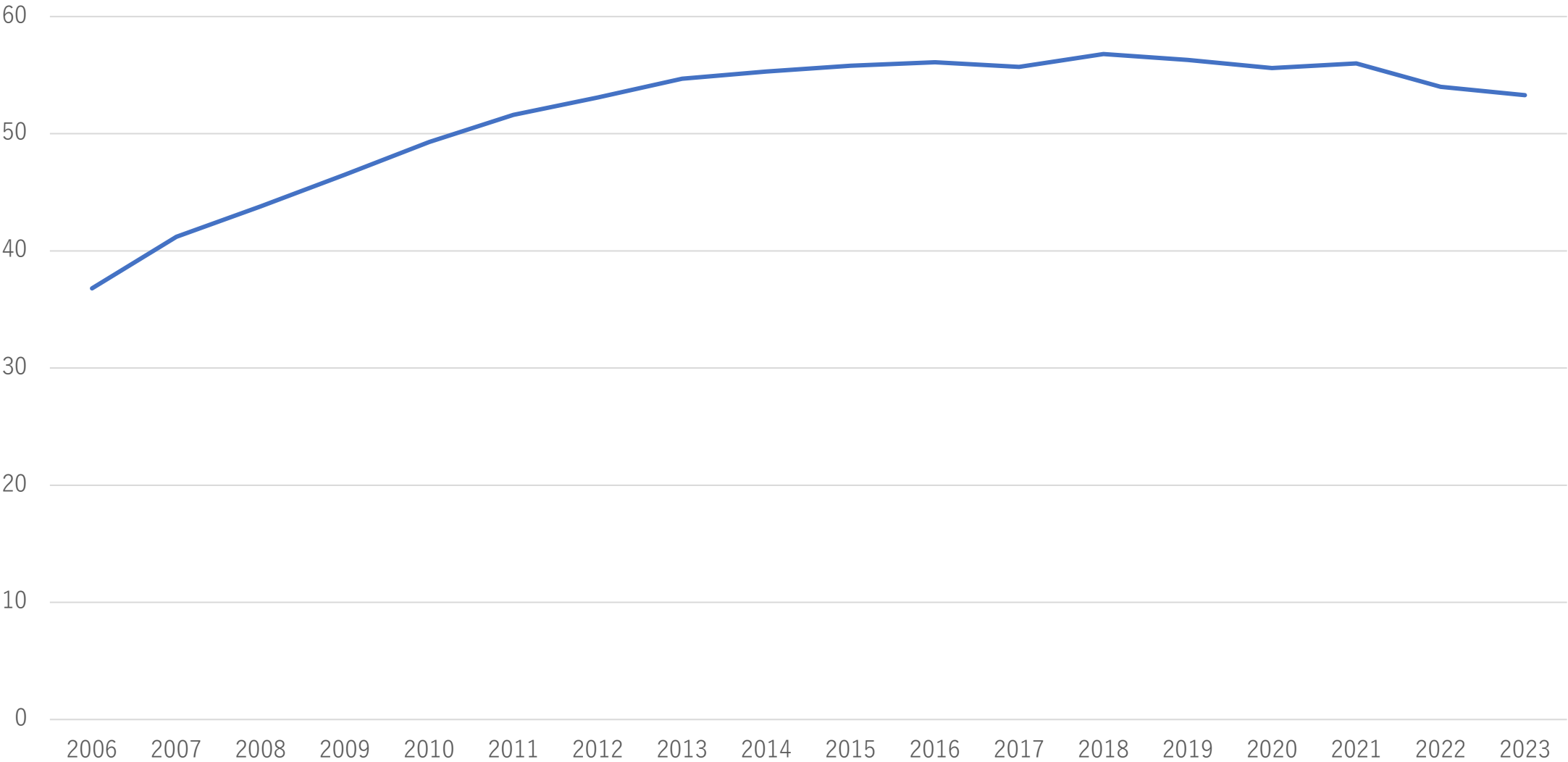
Total Number of Lawyers and the Number of Registered Civil Legal Aid Lawyers

- Registered civil legal aid lawyers grew until 2017 but leveled off after 2018 -



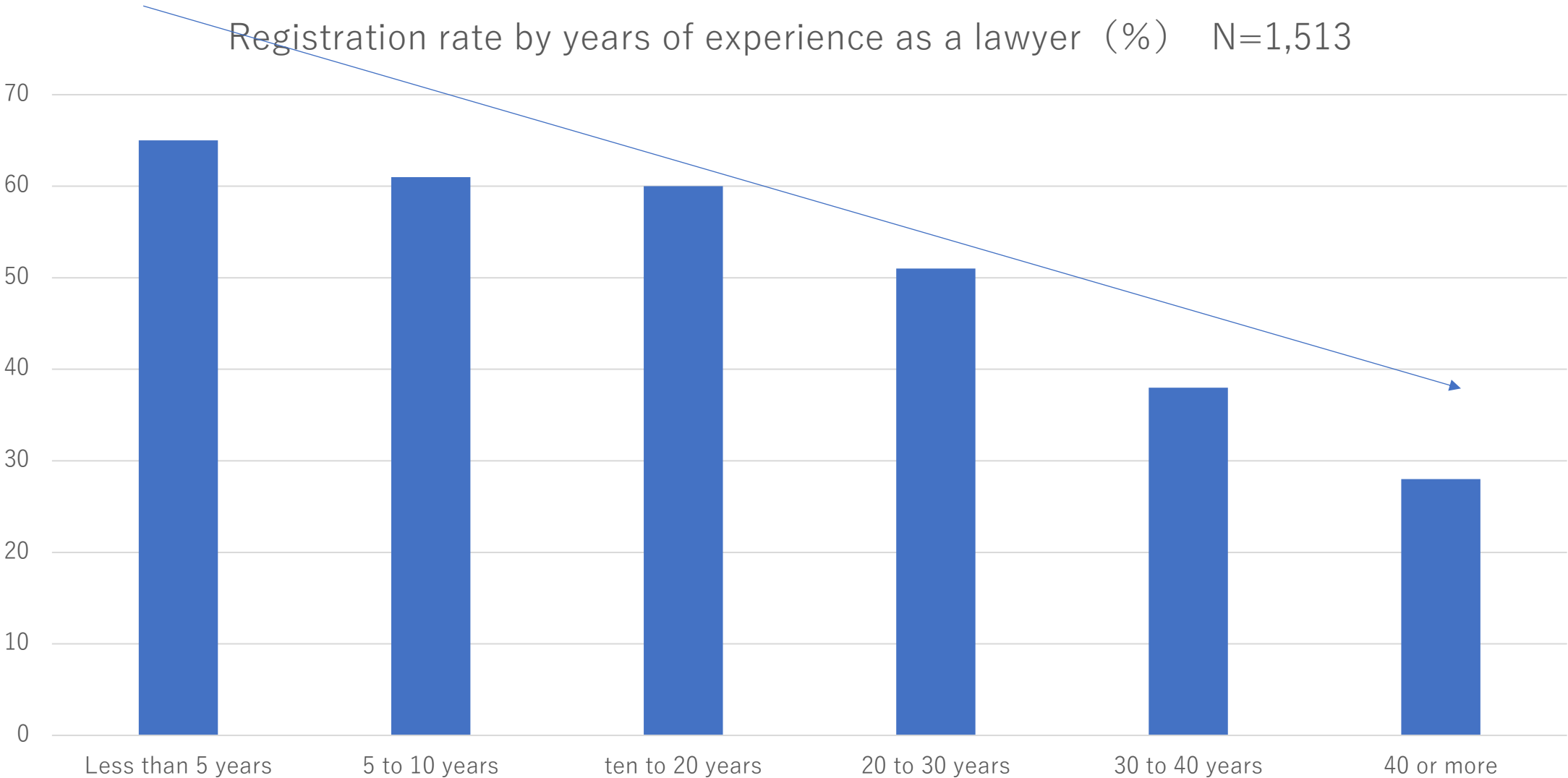
Percentage of Civil Legal Aid Lawyers Registered with JLSC among all lawyers(%)

- Percentage grew until 2018 but leveled off after 2019 -



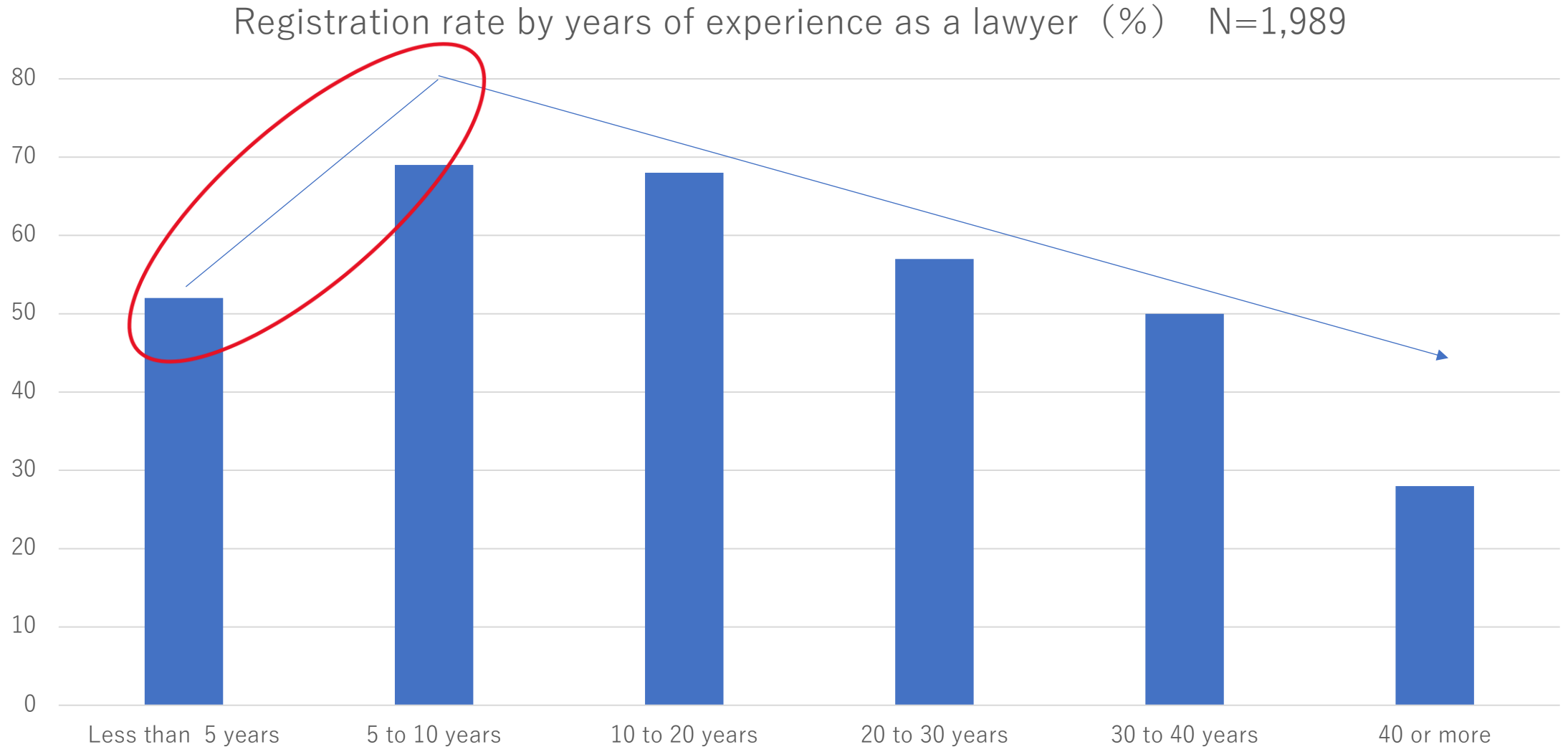
Number of years of experience as a lawyer and percentage of registered civil legal aid lawyers

– Economic Infrastructure Surveys 2010 conducted by Japan Federation of Bar Associations (JFBA) –



Number of years of experience as a lawyer and percentage of registered civil legal aid lawyers

– Economic Infrastructure Surveys 2020 conducted by Japan Federation of Bar Associations (JFBA) –



II Japanese Context : Transformation of Consciousness of Japanese Lawyers

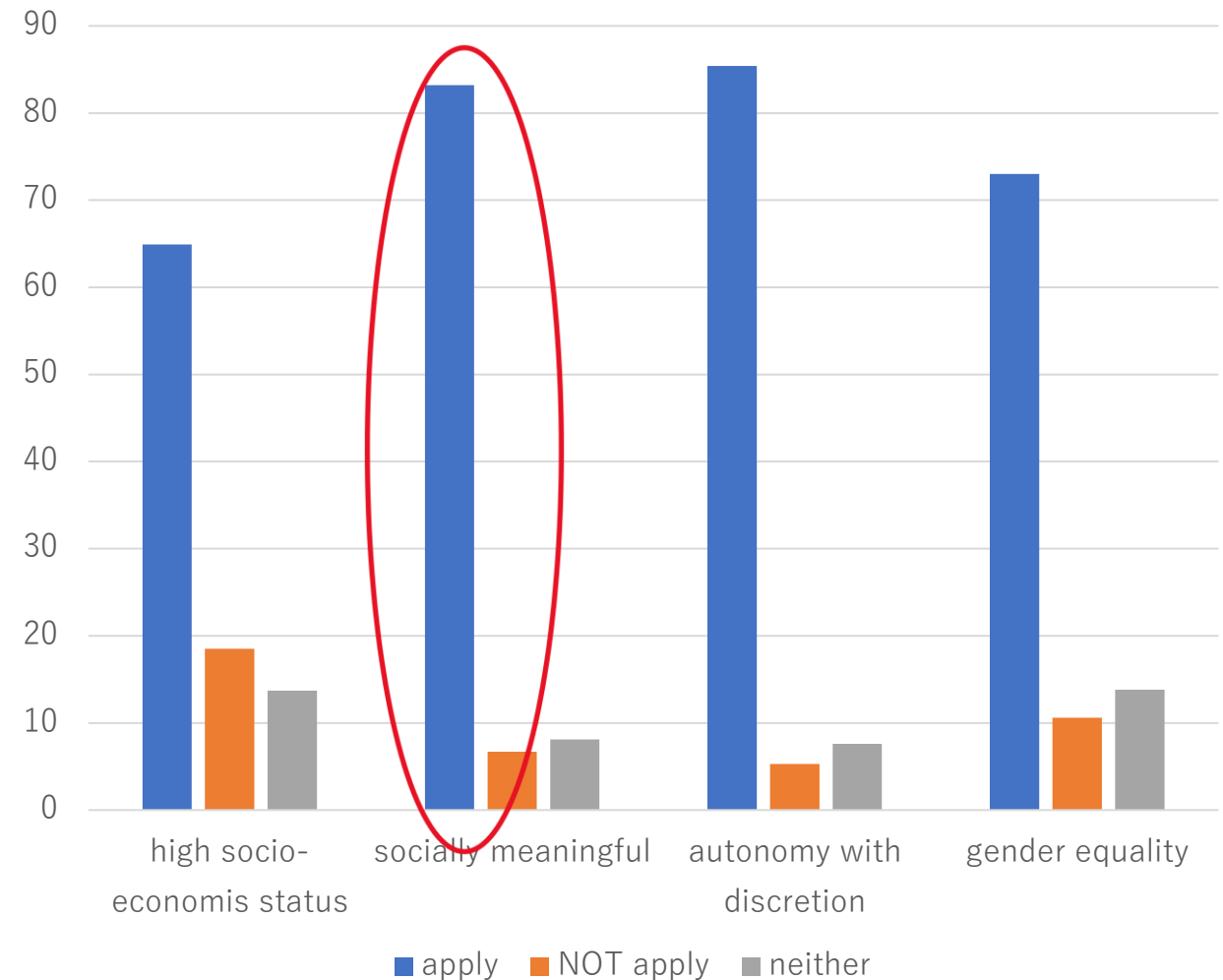
A. Japan Federation of Bar Associations is conducting Economic Infrastructure Surveys from random selection of lawyers every 10 years.

B. 2020 survey asked respondents (N=1,989) about the motivation about becoming a lawyer.

C. 83.2% respondents (N=1,655) cited that motivation is being able to do socially meaningful work, **but positive rate was less than 80% only with less than 10 years of experiencing younger lawyers.**

D. The percentage who cite social significance as their motivation has been gradually decreasing compared to the past.

2020 survey : motivation about becoming lawyers (%) (N=1,989)



II Japanese Context : Stratification and Diversification of Japanese Lawyers

Stratification and Diversification

The sharp increase in the lawyer population in 21st century and the deregulation of legal practice was the most significant factor in Japan as observed in several Western jurisdictions.

- Rapid growth of big business law firms.
- Sharp increase in in-house lawyers.
- Growth of mass processing law firms that handle a large volume of individual and small business cases with advertisement on TV, Internet etc.

Decline in the relative status of legal aid

As part of the judicial reform on this slide of the left, publicly-funded legal aid organization (Japan Legal Support Center) was established in 2006 and increased subsidies for legal aid.

However, it is difficult to expect a further significant increase of the legal aid budget.

Most practicing lawyers are generalist, but younger generalist lawyers are relatively NOT positive to become civil legal aid lawyers compared with the past age.

Ⅲ 2023 Civil Legal Aid Lawyers Survey by Japan Federation of Bar Associations

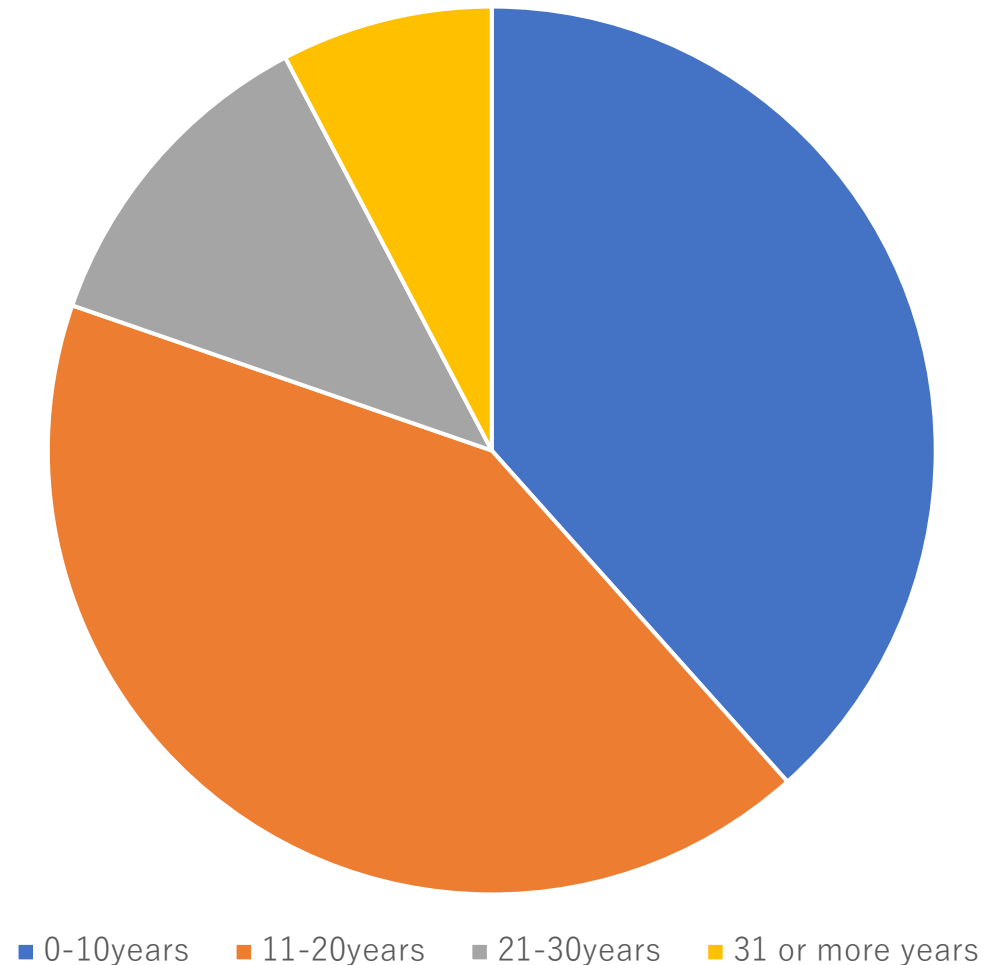
From November 2022 to January 2023, the civil legal aid lawyers survey was conducted among all 42,897 practicing lawyers using the web-based response form by Japan Federation of Bar Associations.

2,719 responses were received (response rate 6.3%).

Respondents were classified by years of experience as a practicing lawyer: 38.4% (1,044 respondents) had 0-10 years of younger experience, and 41.9% (1,139 respondents) had 11-20 years of senior experience.

Differences in attitude towards civil legal aid among generations were analyzed.

Years of experience as a practicing lawyer among respondents (N=2,719)



Reasons for continued registration / for termination

Reasons for continued registration
of currently registered lawyers
(N= 2,260
multiple responses allowed)

	N	Percentage of respondents selecting
Helping vulnerable people	1 2 4 2	5 5 %
Income security	7 6 7	2 1 %
Law Office policy	2 1 1	1 0 %
No particular reason	5 1 1	2 3 %

Reasons for termination
by previously registered lawyers
(N=209
multiple responses allowed)

	N	Percentage of respondents selecting
Low level of remuneration	1 7 7	8 5 %
Complexity of vulnerable clients' case	8 6	4 1 %
Cumbersome procedure due to the public system	1 3 5	6 5 %
Dissatisfaction with Japan Legal Support Center	1 0 2	4 9 %

Actual Labor of Civil Legal Aid Lawyers

Actual labor of Legal Representation Aid (N=2,250)

Civil legal aid providers are required to accept all cases in principle as long as the clients meet the eligibility requirements for receiving the legal aid. However, **only 948 respondents(42%) followed the above rules.**

140 respondents(6%) do NOT accept any legal aid cases, 639 respondents(28%) accept only when it is unavoidable, 185 respondents(8%) accept only certain types of clients, 348 respondents(15%) accept only certain types of cases.



Reasons for NOT Actively Accepting Civil Legal Aid Cases

N=1,312

(multiple responses allowed)

713 respondents(54%) indicated the low level of remuneration.

402 respondents(31%) indicated the complexity of the vulnerable clients' case.

599 respondents(46%) indicated the cumbersome procedure.

392 respondents(30%) indicated the unclear remuneration structure.

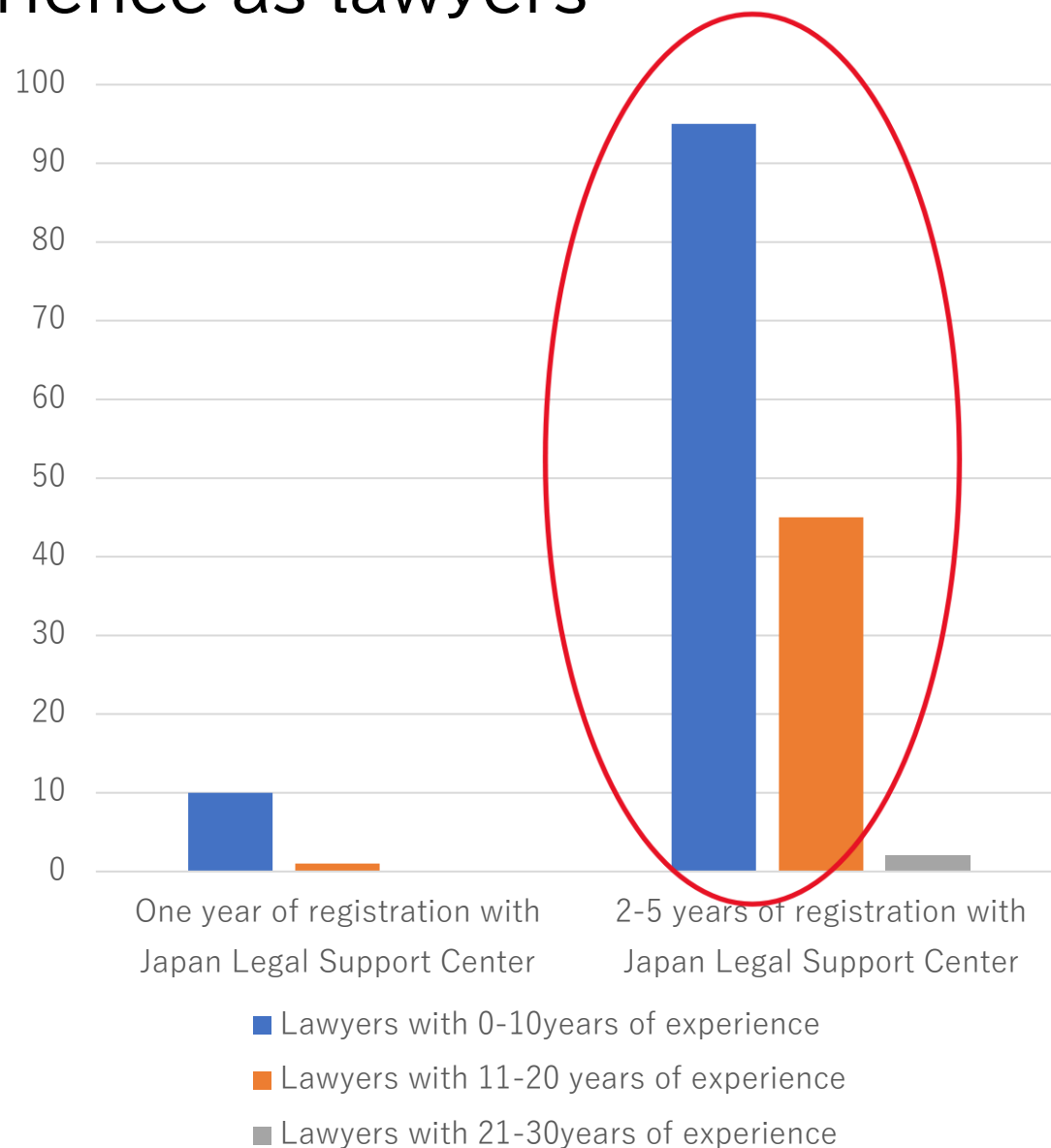
	N	Percentage of respondents selecting
Low level of remuneration	713	54%
Complexity of vulnerable clients' case	402	31%
Cumbersome procedure due to the public system	599	46%
Unclear remuneration structure	392	30%

Time points when no longer actively accepting civil legal aid cases by years of experience as lawyers

(N=523)

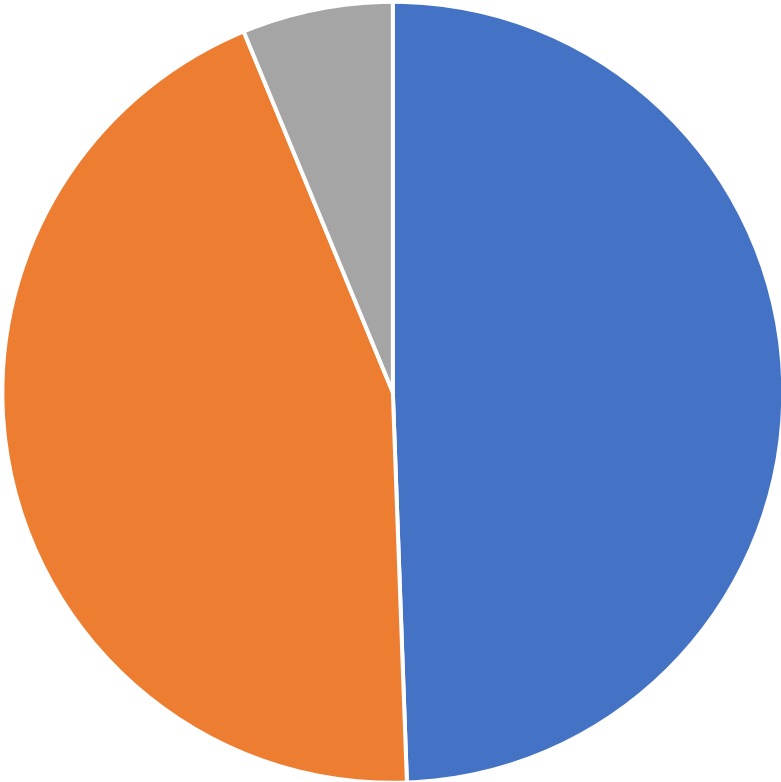
A trend was observed that more lawyers stopped actively accepting civil legal aid cases in the 6-10 year period after registration with Japan Legal Support Center.

However, **younger lawyers with fewer years of experience tended to be less active in taking civil legal aid cases at earlier time points.** For example, 95 younger lawyers with 0-10 years of experience indicated NOT actively accepting civil legal aid cases within 2-5 years of registration with Japan Legal Support Center compared with 45 senior lawyers with 11-20 years of experience indicated NOT actively accepting cases.



Intention to continue registration as civil legal aid lawyer

Intention to continue or terminate
(N=2,260)



■ intent to continue(n=1117(49%)) ■ decision pending(n=1002(44%))
■ intent to terminate(n=141(6%))

Number of years of experience as a lawyer
and intention to continue or terminate

Number of years of experience as a lawyer	Intent to continue N (%)	decision pending N (%)	intent to terminate N (%)
0-10 years (younger lawyers)	3 1 9 (3 8 %)	4 5 6 (5 4 %)	7 2 (9 %)
11-20 years (senior lawyers)	4 8 8 (4 9 %)	4 5 0 (4 5 %)	5 7 (6 %)

Reasons for intention to continue / pending / terminate

Reasons for continuing
(N=1,117
multiple responses allowed)

	N	%
Helping vulnerable people	7 5 9	6 8 %
Income security	4 5 8	4 1 %
Law Office policy	1 0 9	1 0 %
No particular reason	2 6 1	2 2 %

Reasons for decision pending / terminating
(N=1,002+141=1,143
multiple responses allowed)

	N	%
Low level of remuneration	9 7 0	8 5 %
Complexity of vulnerable clients' case	5 6 4	4 9 %
Unclear remuneration structure	5 2 9	4 6 %
Cumbersome procedure due to the public system	8 0 3	7 0 %

IV Conclusion : To Develop Sustainable Legal Aid in the Future

2024 survey of younger generalist lawyers except corporate, in-house, mass processing firm's lawyers conducted by Kanto Bar Federation revealed that **top three key factors that younger generalist lawyers value nowadays are i)income, ii)contents of work, iii)life work balance.**

However, it is difficult to expect a further significant increase of the legal aid budget.

Moderate increase of remuneration is essential, but is limited in austerity. But what is moderate ?

Legal aid is **NOT a job to secure income in the first place** in Japanese context. Legal aid is a **job that should be pursued in a balance between meaningful work, life-work balance, and moderate income.**

But, is this concept sustainable in the future?

Ministry of Justice, Japan Legal Support Center and Japan Federation of Bar Associations are discussing how legal aid fees should be restructured to develop sustainable legal aid in the future.

2024 survey of younger generalist lawyers(%)

N=38, multiple responses allowed

