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# **Beginning a Legal Consultation: A Sequential Analysis**

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## Beginning a Legal Consultation: a Sequential Analysis\*

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## INTRODUCTION

A legal consultation at the citizen's legal advice center is a process of interaction conducted within a spatially and temporally defined context. The consultation is a form of institutionally occasioned talk, which parties sometimes refer to as a session, meeting, or conferencing. This form of interaction may be also utilized in resolving claims, working out contracts, settling disputes, or fact-finding and decision-making in lawsuit or arbitration.

In the consultation sessions, examined in this study, two people, a counseling lawyer and a client experiencing some legal problem, are supposed to collaboratively seek to identify and resolve legal issues within the practical constraints of time, space, human resources, and information. This cooperative process is primarily mediated by linguistic act of exchanging utterances. A consultation session begins with a phase of the client's telling of problems, then moves to a phase of the counsel's giving of advice. A consultation is deemed successful when it has produced a set of advices acceptable to both parties (See, Kashimura 1994, 1995, 1996a, 1997, 2001, 2002a, 2002b).

Drawing on the sequential logic of conversation analysis, this study examines the collaborative act of beginning consultation as a distinctive conversational sequence, which may be called the "opening section" of a legal consultation.

The opening section of consultation consists of a brief exchanges of the first few utterances. The opening section is preceded by the "social" (everyday-like) conversation in which the parties seek the establishment of "rapport" ("knowing-each-other"). The opening section is usually followed by the elaborated telling of the topic of the relevant issues, which may be called "troubles telling" or "the expansion" section, then by "the advice delivery section" and the "closing" section.

That the opening section is successfully done have a profound impact on the smoothness of movement to the following section, and may have some impact on that of entire consultation. So a counseling lawyer is careful of how it is done in details. The study seeks to analyze the process as it develops and to identify whether and how it affects ensuing exchanges.

Also, the study seeks to show that the opening section has some distinctive tasks for the success of consultation: the movement from "everyday-like" conversation to "institutional" conversation. the establishment of "institutional characters" for the conversation, and the setting out the movement toward "the expansion" section.

## I. THE SETTING

### The Consultation Session

The participants in the consultation session collaboratively seeks to produce an outcome within the following constraints.

First, there is usually a pre-set limit on the time (30 - 40 minutes) that can be spent on the

effort. There is also a limit on the space that can be used for the meeting (a small meeting room with a desk and a few chairs) , which ends up restricting the number of people who can participate in the process (approximately at most 4 - 5 people). Who can attend is decided in advance at latest before the beginning of the session. This limitation, together with the time constraint, ends up limiting the possible directions in which the process can develop.

Second, the topic of talk is roughly and generally set in advance. At the reception desk of the legal advice center, respective Client is asked to fill the standardized preparatory questioning form asking the general field of his/her problem among other information. The form is sent to the Counsel before the session begins, so that the Counsel is able to anticipate what the problem is.

Third, there is a limit on information arising both from the limits on who can participate and where they meet. It affects both the information coming in the setting and the information going out of the setting. That is, on the one direction, the information that can be drawn on in a consultation will be limited to what the participants can bring in, on the other hand, the information that can be presented to outsiders after the session will be limited in scope and nature to what the participants are allowed to divulge.

#### Social and Political Context

Besides being subjected to the above limitations, the consultation processes are closely linked to the entire gamut of factors that comprise the larger social and political context. The links can be divided into two categories: one related to the existing institutional framework for dispute resolution, and the other to the realm of personal relationships. In many cases, for example, the participants' actions in a consultation session, including the suggestions from the counsel of possible solutions, are limited by the social and economic obstacles that the client may face in hiring a counsel and filing a legal action in Japanese society. In addition, many users of legal consultation services seek to keep their actions secret from their community (relatives, neighbors, friends, etc.), which further narrows the range of options they can choose from.

The social structure for legal problem-solving is reflected in each interactive process, which structure in turn is influenced by a broad range of social and political factors. A sociological approach to the study of legal problem-solving seeks to identify the interactive structure of the legal consultation process. Since the interaction between the participants in a consultation is structured primarily through linguistic activities of conversation, I consider the examination of these activities as key to understanding the social structure for legal problem solving. It should be noted, however, that this study takes only a small part of the whole organization of this phenomenon.

#### The Data Sets

This paper uses as data the first portions of the recordings of 11 legal consultation sessions in two legal advice centers. These 11 sessions took place at two legal counseling centers in 1994 and 2000. The set of 1994 including 8 cases comes from an advice center located in a large city in the western Japan (designated by the pseudonym "KANSAI") and the set of 2000 including 3 cases comes from a center located in a small city (designated by the pseudonym "YAESHIMA") on an island in the southernmost part of Japan. The counseling lawyers in 1994 set were local lawyers practicing in the same

city, but those in 2000 set were not local lawyers practicing in the nearest large city (because there were virtually no local lawyers in the YAESHIMA city). The study also draws on observation of numerous consultation sessions, including those recorded, in the legal advice centers in various places of Japan from 1994 - 2000. All the recordings and observations were made exclusively for use in academic research and with the expressed consent of the participants in the consultations. In the session, I operated the recording device and observed the discussion while seated near the counsel. I received generous support from local bar associations on all these occasions.

## II. THREE TYPES OF OPENING CONSULTATION SESSION

Conversation analysis sees each conversation as a structured sequence of moves made by the participants. Accordingly, any attempt to analyze the structure of a conversation must begin with an examination of the moves that initiate it. My study also follows the analytic strategy of the classic work by Schegloff on the identification and recognition sequence of telephone conversation openings (Schegloff 1979).

In each extracts, the letters "C" and "L" preceding the lines stand for "Client" and "Consultant Lawyer" (hereinafter referred as "Counsel"). The Jefferson's notation system is employed for transcribing the recordings. A Difference from ordinary form of transcript in the research tradition of CA, is that the transcripts in this article have 3 sub-lines for each utterance. The first sub-line represents the talk in Japanese notation system. The second sub-line represents, using the alphabets the pronunciation of the first sub-line. The third sub-line represents the English translation of the talk.

Focusing on which party makes the first utterance of the conversation and how he/she does so helps clarify the session's sequential characteristics and their relations to the institutional tasks, though what is the first utterance is a question to be asked first. It is a move to begin the "opening section." My data demonstrates three types of beginning the legal consultation session: (I) Beginning by Client's Narrative Initiation, (II) Beginning by Counsel's Request for Naming a Problem, and (III) Beginning by Counsel's Naming of a Problem.

### Type I. Beginning by Client's Narrative Initiation

In this type the client begins the consultation by prefacing the beginning of consultation through a demonstration of his/her willingness to discuss his/her concern and a need for advice.

There are three extracts that belong to this type. Let us first take a look at two of them.

Extract #1 [KANSAI CITY CASE 1 (Rough Transcript, Lawyer 1, May 17, 1994)]

- 1 C: て \*, わたしよくわからないです \* が、わたしそこらあたりも相談したいと \* 思いまして、  
 1 C: Te, \* watashi yoku wakaranai desu \* ga, watashi sokora atari mo sodan shitaito \* omoimashite,  
 1 C: Well, \* I don't know, \* but, I would like some advice on that, too. \*
- 2 L:           \* はい                               \* はい                               \* はい  
 2 L:           \* Hai                               \* Hai                               \* Hai

→ 1 C: それですね  
1 C: Sore de desune  
1 C: And, now

→ 2 L: はい  
2 L: Hai  
2 L: Yes

→ 3 C: あの:従業員がああ:女の子3人ほど含めて\*じゅう]- しごにんの会社なんです?  
3 C: Ano: Jugyoin ga ano: onnanoko 3 ninhodo fukumete \*ju]-shigo nin no kaisha nandesu?  
3 C: Well, we have about fifteen employees, \*including a couple of girls, in our company?

4 L: \*うん]  
4 L: \*Un]  
4 L: \* Uh huh.

5 L: 従業員が14, 5人  
5 L: Jugyoin ga 14~5 nin  
5 L: Fourteen or fifteen employees.

(1) Each extract begins with a sequence of three utterances. In both cases, the first utterance is made by the Client. One of the noticeable features of those utterances is that they take the form of "continued talk" by using "te" (line 1 of Extract #1) or "sore de" (line 1 of Extract #2). The presumably preceding talk was too short to be recorded. Also noticeable is that in both extracts, the Counsel responds minimally with the continuer in line 2, as the second utterance concurrently with, or immediately after, the Client's first utterance.

From an analytical point of view, the Clients' decisions to move to present their concerns at the third utterance position reflect their understanding of the appropriateness of such behavior at that position. The question then becomes, what led them to such an understanding?

Looking again at the first utterances from this perspective, we note the following:

(3) The first utterance in Extract #1, made by the Client, expresses the speaker's uncertainty and desire for advice. While taking a different form, the first utterance in Extract #2 does express the desire to begin the talk.

First, let us take a close look at Extract #1. Note that the first utterance, made by the Client, reveals two facts about the speaker: one, that he/she felt uncertain about something, and the other, that he/she wanted advice. By communicating this, this utterance served to claim the speaker being "the Client," the one in need of advice.

We will see later that in most cases a consultation session begins by the Counsel's talk requesting naming of a problem, using such an expression as "What is your problem?" One of the conversational outcome of requesting is that a right to speak is transferred to the one who is requested.

The fact that the in Extract #1 Client's talk took the form of "continued talk" in these extracts may signify the Client's consciousness of lack of normality and ensuing instability of his/her right to talk first.

Anyway, the fact that the Counsel uttered "Yes" immediately after the Client's statements, "I don't know" and "I would like some advice," seems to provide the Client with something of a permission that he/she can continue. indicating that the hearer (the Counsel) understood these points.

Now let us consider Extract #2. This sequence is much shorter and simpler than that of Extract #1, but it also led to the establishment of a common understanding between the participants. In similar way as in Extract #1, we can notice that the talk of the Client in Extract #2 took the form of prefacing, being another way of displaying the lack of confidence of talking first. The "And, now" (line 1) is a resuming of some preceding talk. It may be translatable into "Let me continue." Thereby the Client projects the (re-)starting of his/her talk.

Uttering "Yes," the Counsel provides the Client with an assurance of continuing.

Thus, those utterances as a sequence helped establish a common and reasonably clear understanding between the participants: that the Client wanted to talk for advice and that the Counsel understood the Client's position as such.

Thus, the first two-turn sequences in Extracts #1 and #2 can be considered to have played the same role in the development of institutional character of respective processes: they helped clarify to both parties that the Client had a need and willingness to discuss his/her concern(s) with the Counsel and that the Counsel understood and accepted the Client's position.

Drawing on the above observations, it seems naturally consequential that the Clients in both extracts began to talk about their issues in the line 3 of their respective sessions. The Client's utterance in line 3 were built on the recognizably common understanding, just achieved through the preceding utterances in lines 1 and 2, in respective extracts, as the confirmation that the Client has the willingness to discuss something and the Counsel has



the willingness to listen to him/her.

Looking at the line 4 of Extracts #1 and #2 and the subsequent utterance of the Extract #2, the following observations can be made:

In both Extracts #1 and #2, just after or concurrently as the Client starts talking about his/her concern in line 3, the Counsel, in line 4, recognizably listens by delivering a continuer or a partial, even-toned repetition of what he/she had heard. This shows that the right of the Client to talk has been established successfully.

Diagram 1 below summarizes the above observations. When describing the sequence of a conversation, it is now important to distinguish "positions" from utterances. The concept of "positions" in conversation analysis refers to the sequential relationship between utterances. Enacted utterance is supposed to occupy a position. The need for this distinction arises from the fact that the same utterance can serve different functions depending on where it fits into a conversation in such case as an adjacency pair or a repair.

Diagram 1: Sequential Structure of Type I Extracts

Position	Speaker	Function
1	Client	Expresses the need and desire for advice, with some hesitations
2	Counsel	Expresses general acceptance of the Client's need and desire
3	Client	Begins talking about his/her concern
4	Counsel	Expresses general acceptance of the Client's move using a continuer

There is a case in the data set of 2000 where the Client began talking about his/her problem in the first turn, as shown below.

Extract #11 [YAESHIMA CITY CASE 3 (Rough Transcript, Counsel 4, March 9, 2000)]

- 1 C: え:年齢がはちじゅう:なな才:(のとし)です\*ね]  
 1 C: E: Nenrei ga hachijuu: nanasai (no toshi) desu \* ne]  
 1 C: We::ll, it was (the age) when he was 87 years old. \*
- 2 L: \* (ね) んれい 87 才  
 2 L: \* (Ne) n'rei 87 sai  
 2 L: \* (The age,) Eighty-seven years old.

In Extract #11, the Client happens to be an old acquaintance of the Counsel. They studied together to pass the bar examination long time ago. After the Counsel passed the examination, the Client quitted the challenge. The Counsel has known 87 year old father of the Client. Together with the information of type of problem from the preparatory form, the existing relationship might have allowed the Client to jump directly. Or, there may well have been that the Counsel has shown the recognition of the Client and the father before the recording started.

Thus, what would correspond to the first two turns in each of the previous extracts is absent from the case of Extract #11. Still, it is noticeable that the Counsel's utterance in line 2 does the "listening of C's talk" to retrospectively expresses the approval of the Client's move to begin talking about his/her problem.

## Type II. Beginning by the Counsel's request for naming the problem

In this type, the Counsel begins by inviting the Client to name the problem, asking general content of what brought the Client there.

In each of remaining 8 of my data, the Counsel speaks first. There are 2 ways in which the consultation is initiated in these extracts. I will divide them into Type II and Type III.

In this section I will examine Type II in which a Counsel invites a Client, in an open, or non-specific, manner, to begin talking of his/her problem, and the Client responds with naming of his/her problem. The type II cases consist of all the remaining cases of 1994 data set (a large city sample). The rest of the cases of 2000 set belongs to the Type III.

In the following three extracts in Type II, the Counsel "directly turn on" the opening of the consultation.

Extract #3 [KANSAI CITY CASE 3 (Rough Transcript, Counsel 2, May 17, 1994)]

→ 1 L: え::と、な::いようは何になるんですかね  
1 L: E::to, na:iyou wa nani ni narundesukane  
1 L: We::ll, what is it that brought you here

2 (1.2)

2 (1.2)

2 (1.2)

3 C: え::とそ::ですなあ::お:::ま、

3 C: E::to so::desuna ano::o:::ma,

3 C: We::ll, let me see ...

4 (0.5)

4 (0.5)

4 (0.5)

5 C: 私のほうが:

5 C: Watashi no ho ga:

5 C: My side i:s

6 L: はい

6 L: Hai

6 L: Yes.

7 C: 家主なんですか

7 C: Yanushi nandesu ?

7 C: the landlord, actually?

Extract #4 [KANSAI CITY CASE 5 (Rough Transcript, Counsel 2, May 17, 1994)]

→ 1 L: なんの話ですか  
1 L: Nanno hanashi desuka

1 L: What's the problem?

2 C: あの：いちおう隣地：の確定をしたい(0.5)んです

2 C: Ano: ichiou rinchi: no kakutei wo shitai (0.5) n desu

2 C: Well, for the present I want to have a property line drawn with(0.5) my neighbor.

3 L: はいはい

3 L: Hai hai

3 L: Yes, yes

Extract #5 [KANSAI CITY CASE 6 (Rough Transcript, Counsel 3, May 18, 1994)]

→ 1 L: あ、すみません、早速なんですけど、

1 L: A, sumimasen, sassoku nandesukedo,

1 L: Well, excuse me, but getting straight down to business,

2 C: はい

2 C: Hai

2 C: Yes.

→ 3 L: えっと：、どういっ た：こと(0.5) \* あのご相談なん] でしょうかね ( )

3 L: Etto :, dou i t t a : koto de (0.5) \* ano gosoudan nan] deshou kane ( )

3 L: U::m, what sort of things (0.5) \* are you going to consult] about?

4 C: \* え：と： ]

4 C: \* E::tto:: ]

4 C: \* We::ll:: ]

5 C: 借金で、首が、まわら H な H く H な \* っHH た (っという)](0.5) ことな

5 C: Shakkin de, kubi ga, mawara H na H ku H na \* tu HH ta (tte iu )](0.5) koto na,

5 C: It's, just that I cannot turn my ne::ck \* ((I'm up to my ne::ck)) in debt, you know

6 L: \* あ：あ：あ：あ：なるほど]

6 L: \* A:a:a:a:naruhodo]

6 L: \* ah ah ah ah I see.

In contrast to the above three, in each of the following three extracts, the arrowed utterance is preceded by a chunk of social exchanges, then the counsel makes a request. It is separated from the social exchanges by a gap (line 2 of Extract #6, line 10 of Extract #7 and line 10 of Extract #8), a starting marker and a prefacing ("Now, well, let's get straight down the business" of the line 3 of Extract #6, "the::n, We::ll" of the line 10 of Extract #7 and "Alright so please" of the line 11 of Extract #8).

Extract #6 [KANSAI CITY CASE 7 (Rough Transcript, Counsel 3, May 18, 1994)]

1 L: じゃ(。)だいぶ遠方から来られたんですね:

1 L: Ja(.) daibu empou kara koraretan desune:

1 L: Then(.) you've traveled quite a long way to be here, I understand.

2: (1.0)

2: (1.0)

2: (1.0)

- 3 L: ええっと、あの、さっそくなんですけど、どういったご相談、でしょうかね:  
 3 L: Eetto, ano, sassoku nandesukedo, douitta gosoudan, deshoukane:  
 3 L: Now, then, let's get straight down the business, What sort of things are you going to discuss?
- 4 C: えっと、自己破産のことなん- につい\*て:  
 4 C: Etto, jikohasan no koto nan- ni tsui \* te:  
 4 C: Let's see, it's a personal bankruptcy- it's about \* it.
- 5 L: \* は:: \* ::  
 5 L: \* Ha:: \* ::  
 5 L: \* O::h

Extract #7 [KANSAI CITY CASE 10 (Rough Transcript, Counsel 3, May 18, 1994)]

- 1 L: えっとXさん::は、何? けん- 何や、けんばんきんゆ:たらなんですか  
 1 L: Etto xxx san::ha, nani? Ken- nani ya, kenbankin yu: tara nan desuka  
 1 L: Well, Mr. X, what you do, what? "ken-", what is it, could you tell me what this "kenbankin" is?
- 2 C: あの: 建: 築板金なんですけど  
 2 C: Ano: ken: chiku bankin nandesu kedo  
 2 C: Well, it's actually "kenchiku bankin (sheet metal for construction use)."
- 3 L: あ: 建築板金  
 3 L: A: Kenchiku bankin  
 3 L: O:h, Kenchiku bankin.
- 4 C: はい  
 4 C: Hai  
 4 C: Yes.
- 5 L: (1.0)ん: ご自分で、なさってるの:= \* ? つとめ? ]  
 5 L: (1.0) Nn: Gojibun de, nasatteruno:= \* ? Tsutome? ]  
 5 L: Are you self-supporting? \* Or are you hired by some company?
- 6 C: \* はいそうです]  
 6 C: \* Hai sou desu]  
 6 C: \* Yes, I am.
- 7 L: \* じえ:] ですか  
 7 L: \* Jie:] desu ka  
 7 L: \* You own the business?
- 8 C: \* じえ:]  
 8 C: \* Jie:]  
 8 C: \* I own
- 9 C: 自営です  
 9 C: Jie: desu  
 9 C: I own the business((self-employed)).

- 10 L: 自営ですか、は:は:(0.5)それじゃ:あの:::お話し伺いますが、  
 10 L: Jie: desuka, ha:ha:(0.5) Sore ja::ano::: ohanashi ukagaimasu ga,  
 10 L: So, you own your business, okay, okay(0.5) the::n, We::ll, I' like to listen to your story.
- 11 L: え:と、まどうぞ、どういふあの、ことですか？  
 11 L: E:to, ma douzo, douiu ano, koto desuka ?  
 11 L: We:l, then, please...what- uh brings you here?
- 12 C: え:っとですね::とりあえず:飲 酒 検 問 で:あの:, つかまったん  
 12 C: E:tto desu ne::toriaezu:inshu kenmon de:ano:, tsukamattan  
 12 C: We:ll, first of a:ll, I was caught at drunk deriving checking point,
- 13 C: ですけど:  
 13 C: Desu kedo:  
 13 C: bu:t
- 14 (0.8)  
 14 (0.8)  
 14 (0.8)
- 15 L: 飲酒運転されてたの  
 15 L: Inshu unten sareteta no  
 15 L: You were driving drunk

Extract #8 [KANSAI CITY CASE 11 (Rough Transcript, Counsel 3, May 18, 1994)]

- 1 L: あ、吹田市のほうから来られてるの:=  
 1 L: A, Suita-shi no hou kara korareteruno:=  
 1 L: Oh, you are from Suita City((a city in the distant region ifrom the present city)).
- 2 C: =そうなんですよ \* 大阪なんで]す  
 2 C: =sou nan desuyo \* osaka nande]su  
 2 C: =Ri::ght, \* I'm from Osaka region.
- 3 L: \* あ:::]  
 3 L: \* A:::]  
 3 L: \* Ah:::]
- 4 (1.0)  
 4 (1.0)
- 5 K: \* (それは近い]  
 5 K: \* (Sore wa chikai)]  
 5 K: \* (That's pretty close.)
- 6 C: \* HeHeHeHeHeHe]  
 6 C: \* He, he, he, he, he, he]  
 6 C: \* He, he, he, he, he, he.
- 7 L: =( )な]

7 L: =( )na]

7 L: =( ) ly

8 C: = He He He He ]神戸大学ゆ:たらね:あHaHaHaの:神戸のほうの

8 C: = He He He He ]Kobe Daigaku yu: tara ne: a HaHaHa no: Kobe no hou no

8 C: = He, he, he, he. You know, Kobe University is, well, out there in Kobe,

9 L: そうですね:

9 L: Sou desu ne:

9 L: That's right.

10 (0.2)

10 (0.2)

10 (0.2)

→ 11 L: は(い)っ、それではどうぞお話してください\*ます?かね:]

11 L: Ha(i) ttsu, soredewa douzo ohanashi kudasai \* masu ? kane:]

11 L: All right, so, please, would you tell me \* about your story

12 C:

\* はいあの: ]ちょっとね=

12 C:

\* Hai ano: ] chotto ne=

12 C:

\* Yes, we::ll, it's a little=

13 L: =うん=

13 L: =Un=

13 L: =Uhuh=

In these 6 extracts above, the utterances by the Counsels and the responses by the Clients have distinct characters. But, note that the above sessions were handled by two different Counsels, one for Extracts #3 and #4 and another for Extracts #5 through #8. Clearly, these exchanges exhibit the following characteristics:

(1) In each extract, the utterance marked with an arrow requests or encourages the Client to begin talking about his/her problems.

The utterances have an almost identical or a very similar form. They are all questions, asking the sort of things the Client want to discuss (Extracts #5 and #6), what the content of the problem was (Extract #3), or what the problem was (Extract #4). In Extract #7, the Counsel was asking what brought the Client there. We find a slightly different approach in Extract #8, where the Counsel is explicitly requesting the Client to tell the story.

(2) Apparently, the Clients themselves in the above extracts all seem to have noticed the intended purpose: they made almost identical responses to these utterances. The observation leads to following observations:

Without exception, the Clients began discussing their issues in response to these requests or invitations. The forms of the response can be divided into two subtypes, however; The one is beginning of a narrative, the other is naming of a legal problem by its category. The Client's responses in Extracts #3 and #8 belong to the first subtype: "We::ll, let me see ... my side i:s" in Extract #3, and "Yes, we::ll, it's a little=" in Extract #8. The responses in Extracts #4, #5, #6 belong to the second subtype: "have a property line drawn" in line 4

of Extract #4, "I cannot turn my ne::ck((I'm up to my ne::ck))\* in debt" in line 5 of Extract #5, "a personal bankruptcy" in line 4 of Extract #6, "I was caught at drunk deriving checking point" in line 12 of Extract #7.)

(3) The Counsel's second response to the Client's utterance(which responds to the arrowed utterance by the Counsel) was either to give a continuer or express comprehension of the "point" of the Client's utterance. A noteworthy feature of the Counsel's response is that they occur either during, i.e. overlapping with, or immediately after, or after completion of, the Client's utterances, as will be described below in detail.

In Extracts #3(line 6, after a delay in line 4), #4(line 3), and #8(line 13), the Counsel supplies a continuer after completing of the Client's utterance.

In Extracts #5(line 6) and #6(line 5) the Counsel returned extraordinary (in tone and in length of the utterance relative to the talk's environment) responses. It is uttered in both cases as overlaps, i.e. it is uttered both before the Clients had completed their utterances and after the delivery of the "category terms" in the Client's utterances. These responses, displaying the listening to the Clients' utterances as well as expressing approval of their moves to begin talking about their problems, can be said to have come at an earlier point than the prior 3 extracts. The Counsel in line 6 of Extract #5 responds just after the Client's utterance of "ne::ck" in line 5. "One cannot turn her/his neck because of the debt" is a common figurative expression (Drew & Holt 1998), and in Japanese the order of words in original data "shakkin-de-kubi-ga-marara-naku-natta" is something like "debt-CP-neck-CP-turn-can-not-become", where CP stands for the Case Particles for a sentence. The Counsel's "Ah huh" expression came just in the course of expressing "mawaranaku", a negative variation of Japanese word meaning "can turn") preceded by "debt" in line 5 of Extract #5. In the similar way, the Counsel's "O::h" in line 5 of Extract #6 took place partially overlapping with the Client's "Jiko hasan (personal bankruptcy)" in line 4 of Extract #6. These extraordinarily active "Ah ha"-type responses on the part of the Counsel in Extracts #5 and #6 seem to have been intended to communicate to the Clients that their points were understood, at the very moment of its comprehension.

In Extract #7 (lines 13-14) the Counsel responds after 0.8 delay after completion of the Client's naming of a problem. It is exceptional in this regard. It also shows the Client trailing off in line 13 by saying "kedo" (a Conjunctive Particle meaning "but"), presumably alluring a response from the Counsel (Kashimura 1996), who, on the contrary, remained silent to create a gap that lasted 0.8 seconds. Then, the Counsel responded with a kind of corrective utterance, "You were driving drunk"(line 15).

The lack of response/approval in Extract #7 seems to be related to the somewhat abnormal character of naming of a problem, i.e. instead of a more straightforward naming like "I was caught by drunk driving", what is said actually was "I was caught at a drunk driving check point". The correction seems to aim at the failure of appropriate naming of a problem. The Counsel anticipates a difficult case coming up in that the Client possibly will be requesting him/her to challenge the routine accomplishment of the police.

The above observations can be summarized in the following diagram.

Diagram 2. Sequential Structure of Type II Extracts

Position	Speaker	Function
1	Counsel	Invites Client to name his/her problem
2	Client	Begins talking about his/her problem either in narrative form or in naming of a problem
3	Counsel	Expresses approval of Client's move or comprehension of his/her point dispreferred variation: Corrects or failure of appropriate naming

### Type III. Beginning by the Counsel's naming the problem

In this type, the Counsel opens the consultation by mentioning the subject category. We have two extracts belonging to Type III. As I pointed out earlier, in our data, this type of opening is confined in small city/outside lawyer setting.

Extract #9 [YAESHIMA CITY CASE1 (Rough Transcript, Counsel 4, March 9, 2000)]

- 1 L: はい、え、あのですね  
 1 L: Hai, e:, ano desu ne  
 1 L: Yes, well, I...
- 2 C: はい  
 2 C: Hai  
 2 C: Yes
- 3 L: え:と交通事故の、という、ことなんですけど  
 3 L: E:to kotsujiko no, toiu, koto nandesu kedo  
 3 L: Let's see:, I understand it has something to do with a traffic accident, but....
- 4 C: はい  
 4 C: Hai  
 4 C: Yes
- 5 (0.4)  
 5 (0.4)  
 5 (0.4)

Extract #10 [YAESHIMA CITY CASE2 (Rough Transcript, Counsel 4, March 9, 2000)]

- 1 C: はい  
 1 C: Hai  
 1 C: Yes
- 2 L: はい、あの:内容が定期借家制度の\*その]他ということ\*なんですけど]  
 2 L: Hai, ano:naiyou ga teiki shokuchi seido no \* sono]hoka to iu koto \* nandesu kedo]  
 2 L: Yes, we:ll, I understand that it has to do with the fixed-time house lease legislation \*, but \*]
- 3 C: \* はい] \* sh hhhhh え:]とですね:  
 3 C: \* Hai] \* sh hhhhh E:]to desu ne  
 3 C: \* Yes] \* sh hhhhh We:]ll, let's see



4 C: いま、shshshh えっと:かし:やがあるんですが:  
4 C: Ima, shshshh etto:kashi:ya ga arundesu ga:  
4 C: Now, ssh- shshh let's see, I have a house to let, and...  
  
5 L: はい  
5 L: Hai  
5 L: Yes

The utterances marked with an arrow, made by the Counsels, appear quite different from their counterparts in Type II. The distinguishing features can be described as follows:

- (1) These utterances refer to specific categories of legal problems.
- (2) By beginning with the phrase "I understand" the Counsel suggests that he/she had obtained the information indirectly from a different source than this ongoing conversation.
- (3) In Japanese, "kedo," a conjunction particle (in the above transcripts rendered as "but" at the end of the utterances), gives the utterances a tentative air, which in turn could prompt the other party occupying the next turn to supply a talk of their versions of the event, or to fill in the detail as the immediate response. Through this, these utterances can be heard as inviting the Client to start telling the problem.
- (4) The Clients responded to the Counsels in different ways, however. In Extract #9, the Client did not make any move that would have started the telling of the issues. In contrast, in Extract #10, the Client started the narrative.

Let us first focus on the Counsels' utterances in these extracts and then on the responses they elicited from the Clients.

The Counsels' utterances take the following form: "I understand it's about" + "legal issue category term" + "kedo." The rough order of the components in Japanese is "legal issue category term" + "I understand it's about" + "kedo." Here I would like to focus on two points in examining the ways of their construction.

First, these utterances recognizably re-present the subject of the consultation meeting based on the information that the Clients have supplied to the Counsels via an institutional channel, i.e. the standard questioning form. Since those information is supplied the counsels because of their acting as legal consultants, the Counsels were able to identify themselves as the consultants and to establish their professional identity by using those information recognizably as the basis of his/her talk. At the same time, in so doing, these actions served for the Counsel to claim the fact that the addressees were the Clients.

To summarize, through these utterances the Counsels claim the common understanding of the appropriate identities of both parties for the consultation as formal organizational procedure.

Second, a reference to a specific legal problem serves for the Counsel to define the subject of the consultation. As I pointed out earlier, the Type II extracts included naming

by category terms, in later points in conversation, by the Clients (e.g., in Extract #4: "property line," in Extract #5 "up to my neck in debt," in Extract #6 "personal bankruptcy," and in Extract #7 "caught driving while drunk" all refer to categories of legal issues).

In contrast to the Type II cases, the examples in Type III show that the Counsel makes reference to legal problem categories before the Clients does. The Counsel makes the move to elicit the beginning of consultation by using his/her first turn to name the subject to be discussed, before the Client bring it up.

Based on the above interpretation, it can be said that through the Counsels' first utterances in Type III and their references to the topics of the Clients' concern, serves to elicit strongly the Client into the context of movement to the expansion section. The tentative and incomplete tone of those utterances, achieved through the use of "kedo," can be considered as means to reinforce this inviting effect, but basically the Counsel seems to take the lead.

Now let us look at how the Clients responded to those utterances.

In Extract #10, after the Counsel's first utterance of elicitation (line 2), the Client starts a narrative(lines 3-4), then the Counsel responded with a general approval of the Client's move(line 5). This structure is the same as in the Type II extracts.

The sequence of Extract #9, on the other hand, can be described as follows: while the Counsel's first utterance is similar to its counterpart in Extract #10, the Client's response is at odds with the request. Here, the Client uttered "Yes", displaying a general approval of the Counsel's prior utterance(line 4), and apparently waited for the Counsel to continue, resulting in the gap at line 5. This move can be considered to have resulted from the Client's interpretation of the Counsel's utterance as the beginning of the Counsel's talk rather than the Client's talk.

The above observations suggest that a type III attempt by the Counsel to open the consultation through reference to problem category ends up in an ambivalent response. In beginning of consultation the parties seem to have to accomplish a mutually shared understanding on social roles, rights to speak and turn-taking rules under such conditions as: (a) the Counsel is supposed to be a hearer of the Client's story of trouble and speaker delivering advice; (b) the Client has direct knowledge and experience of the trouble (which consists of the foundation of the session) to be discussed, but is uncertain of how to deal with it and therefore is eager to receive advice from the Counsel; and (c) the subject of the consultation must be appropriately brought up in the opening section.

In this context, the accomplishment of which is party's joint and urgent concern, when the Counsel mentions the subject, it can mean that it is the Counsel that who either intends to speak or is ready to speak further to talk about the subject: in this case, the Client is encouraged to be passive to remain silent. On the other hand, the Counsel might be just inviting the other to start talking about it: in this case, the Client is encouraged to start talking actively. Therefore, such a move has the effect of causing ambiguity as to which party is supposed to take the next turn. The misunderstanding that occurred between the Counsel and the Client in Extract #9 is simply an expression of the ambivalence that had existed in the way the short exchange of utterances developed thus far.

### III. SUMMARY AND IMPLICATION

The sequential structure of the three types and their subtype variations discussed in this study can be illustrated as follows.

Diagram 3: Sequential Structure of the Extracts for Types I, II, and III

Position	Speaker	Type I	Type II		Type III	
1	Client	Expresses the need and willingness to receive advice in prefacing a narrative	None		None	
2	Counsel	Expresses approval of the Client's need and willingness	Generally requests the Client to name his/her problem		Names the Client's problem (inherent ambivalence about who speaks next)	
3	Client	Begins a narrative	Names the problem / begins a narrative		Begins a narrative	Approves for the Counsel to continue = refuses to talk about the issue to remain silent
4	Counsel	Expresses general approval of the Client's move	Expresses general approval of the Client's move	Expresses comprehension of the Client's point of talk	Expresses general approval of the Client's move	Refuses to begin to talk = remains silent and waits for the Client to speak

Diagram 3 shows that all the extracts mentioned above have the common structure in which each utterance is interrelated with each other within the type, especially with the utterances in Position 3—the beginning of the Client's talk about his/her issue—constituting the common core. Position 3 in Type III shows 2 different realization of the potential structure, each being the Clients' two different moves based on two different interpretations. The ambiguity that led to this phenomenon remains in Position 4.

One way of noticing the commonality of the structures is to examine Positions 1 and 2 in Type I, Position 2 in Type II, and Position 2 in Type III. Seeing the relationships of those utterances with the Position 3 in respective structure type, we can notice that these preceding utterances were all designed to elicit the Clients' following utterances in Position 3.

As indicated in the above diagram describing the relationship between utterances and sequential positions, the key (target) utterance of this phase of the consultation conversation, shown here in Position 3, is made possible and acceptable by the preceding sequence. In Type I, the first utterance, made by the Client, formed the basis for the

second one, made by the Counsel, and they together provide the conversation with the accomplished moment where it seemed logical for the Client to start talking about his/her concern. In Type II, the Counsel's first utterance, put in Position 2, was designed to serve in a single step as a foundation on which the Client would find it natural to begin discussing his/her problem once the Counsel's intention was found by the Client as a sufficient basis for his/her move to start talking about the problem. In these ways, under each structural format, the progress of conversation depends on the participants being aware of its sequential structure and willing to act on that structure. This may require that each participant have sufficient common sense, including the commonsensical knowledge of institution, but nothing more. In Type III, the first utterance, put in Position 2, shows the Counsel taking part of the Client's role-behavior by bringing up the Client's problem in the conversation, either so as to elicit for the Client to start talking about it him-/herself or to remain silent to wait the Counsel's direction. Such a move can lead to ambiguity over the right and obligation to speak (in particular regarding which participant is supposed to play the leading role in describing the issue in the present conversation). In fact, the Client was faced in Position 3 with the choice of accepting the role of speaker (as in Extract #10) or letting the Counsel continue his/her turn (as in Extract #9).

This structure consists of a process whereby participants fill four sequential positions with their utterances. As this process unfolds, each participant try to understand, and manage, the sequential implication of each utterance in the light of overall positional structures of the sequence. By observing how the other party handles this process, one will know, to an extent that is considered adequate in an institutional context, what has been/is/will be "institutionally intended" by the other. Likewise, in contributing to this process, one will display, to an extent that is considered adequate in an institutional context, what has been/is/will be intended him-/herself. Thus, Diagram 3 indicates that this scheme represents just what people follow, in terms of this particular institution, to enable themselves to interpret other people and make his/her own action meaningful.

The above observation testifies, in accord with many other studies in the tradition, that EM/CA can provide a fruitful approach to investigate institutional interactions, one that assumes they result from the unfolding exchange of utterances in the recognizable social process with a recognizable institutional background, rather than from universally and mystically shared knowledge/rules. The institutional motive for action is generally observable and identifiable from within the institution as an interactive process.

It follows, further, that the institutional meaning of an utterance does not derive solely from the professional participant who is accustomed to its work: it is also shaped by how the layperson interprets it and responds. In other words, the institutional meaning of an utterance is subject to intricateness and contingency of utterances and developmental indeterminacy of interpretation among the participants.

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\*The present study is a translation of my study, Kashimura (2002a) with some correction and expansion. A chapter and notes on EM/CA methodology is omitted because it is mainly written for introductory purposes. It is also based on a series of my study of public legal counseling system of Japan since 1990. I am grateful to professor Paul Drew for helpful comments on earlier version of this paper.

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