

The Protection of Reputation in Japan: A Systematic Analysis of Defamation Cases

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Although Japanese defamation law has been a subject of legal interest for scholars and judges, their main focus was the defamation rules that appeared in cases publicized by legal reporters. The following study coded 232 defamation cases against the media that were decided in district courts in Japan, according to the type of database that reported the cases. Statistical results reveal that newspapers are more likely to report defamation cases than other databases because stories about defamation cases may satisfy readers' interest or because the newspaper might have been informed by plaintiffs who won their cases. The results also show that the professional status of the plaintiff is a predictor of the case outcome. Politicians and officials are less likely to win in defamation cases than are executives and criminals, and they received lower damages than athletes and entertainers.

I. INTRODUCTION

A sumo ex-champion, Asashōryu, other sumo wrestlers, and the Japan Sumo Association were accused of match fixing by a Japanese weekly magazine, *Shūkan Gendai*, in 2007. The wrestlers and the association filed a defamation suit against the media to restore their reputations. On March 26, 2009, the Tokyo District Court held that *Shūkan Gendai* was liable and granted 11,000,000 yen (\$110,000) to Asashōryu, and less amounts to the other plaintiffs (*No name given v. Kabushiki Kaisha Kōdansha*, Tokyo D. Ct. 2009).¹ If a similar case had been heard in the United States, the outcome would have been different based on US law (*New York Times v. Sullivan* 1964; *Gertz v. Robert Welch, Inc.* 1974). Public figure plaintiffs in the United States have difficulty winning defamation cases because they need to prove actual malice on the part of the defendant, which is knowledge that the statement was false, or reckless disregard of whether the statement was false or not. However, once plaintiffs succeed in proving the actual malice of defendants, they are awarded higher amounts of damages than in Japan

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1. The case was appealed and the Tokyo High Court cut the damage award to 7,700,000 yen.

because they receive punitive damages as well as higher compensatory damages (Media Law Research Center 2004, 48).²

In other words, Japanese defamation cases have shown a combination of (1) stricter liability rules that do not differentiate the plaintiff's status as a public or private figure and (2) low amounts of damages awarded to plaintiffs, which result in financial difficulty for plaintiffs who sue, given the legal costs (Gamble and Watanabe 2004, 115–16). The combination provides a stark contrast to defamation litigation in the United States, which is characterized by (1) lenient liability rules that differentiate the plaintiffs' status, and (2) higher damage awards (Media Law Resource Center 2004).

West (2006, 100–07) observes that a large portion of Japanese defamation lawsuits were filed by politicians and entertainment celebrities³ who were offended by Japanese media, especially weekly magazines, which do not hesitate to publish sensational articles due to the low amounts of damages awarded.⁴ The main purpose of filing lawsuits is not to receive high damage awards, but to show that the defamatory stories are not true, in answer to pressure from the plaintiffs' associated interest groups, such as political parties or production agencies (West 2006, 100–07). Failure to sue may be interpreted as an admission of guilt (West 2006, 109).

However, it is not clear if the main users of defamation litigation actually are politicians and entertainment celebrities or if they tend to sue because they are simply more likely to win defamation cases than other types of plaintiffs. Moreover, research based only on publicized cases cannot be free from the bias of publishers. There is no general practice of case reporting in Japan, and public or private publishers select cases without disclosure of the selection criteria. Public or private case publishers do not report all defamation cases, so readers can track only cases that publishers most likely deem interesting.

In response to the lack of empirical research concerning defamation cases in Japan, this article presents a systematic study of defamation cases that were publicized in Japan. Following quantifiable factors, this study analyzed 232 publicized district court opinions concerning defamation cases decided from January 2000 to May 2009. This research analyzes the range of cases rather than interpreting each individual case. Cases were coded according to the attributes of the plaintiffs and defendants, the jurisdiction of the courts, the type of database, the success of the plaintiffs, the amount of damages awarded to plaintiffs, and whether plaintiffs were granted a public apology.

2. The final award in US defamation cases averaged \$632,722 for 1980–2003.

3. Though the definition of a celebrity differs among scholars, this article follows Friedman's definition of celebrity, "a famous and familiar person," which includes politicians as well as entertainers (Friedman 2007, 225).

4. The reason weekly magazines tend to publish sensational articles is not clear. One possibility is that weekly magazines are free from the fear of sanctions of press clubs. Press clubs establish exclusive membership for journalists whose companies are members of the Japan Newspaper Publishers and Editors Association (*Nihon Shimbun Kyokai*) (Yamamoto 2004, 373–74; Hasegawa 2004, 143; West 2006, 13), and they obtain information from "newsworthy organizations," including the Prime Minister's Office, National Police Agency, and Ministry of Justice (Farley 1996, 136). Since weekly magazines are not members of press clubs, they might be free to publish news without fear of sanctions, such as restrictions on newsgathering (Farley 1996, 140–43; Asami 2004, 255–67; West 2006, 13–15).

The finding was that the analyzed newspaper database tends to report defamation cases more than other types of databases, which for the purpose of this research were one public and one private legal database. With regard to the type of plaintiff, the newspaper database is more likely to report cases filed by politicians and public officials than are the legal databases. Overall, not only politicians and entertainers, but also executives at corporations, professionals, corporations, and criminals file defamation lawsuits. The newspaper database might have carried news about defamation cases because sensational stories about politicians, officials, or entertainers attract readers. However, the results also showed that the success rates of each type of plaintiff reported by the newspaper database are higher than those reported by the private legal database. In addition to the fact that news regarding defamation cases attracts readers, the newspaper database might have carried defamation cases because the plaintiffs who won cases informed the newspaper agency of the results.

Statistical results also showed that the type of plaintiff is a predictor of the outcome of defamation cases when the content of articles and the type of database are considered. Politicians and officials had lower success rates than executives and criminals, and received lower amounts of damages than athletes and entertainers. Although Japanese defamation law appears to be content oriented rather than status oriented because the rules do not distinguish the status of the plaintiff, the finding was not precisely consistent with the expectation that Japanese defamation law is content oriented. The content of a defamatory statement was not as influential on the case outcome as the status of the plaintiff.

Part II describes the framework of Japanese defamation law. Part III explains the methodology of this research, and Part IV describes the attributes of plaintiffs, defendants, and courts. Finally, Part V examines whether there is a relationship between the outcome of litigation (success rate for plaintiffs and damage awards) and the status of the plaintiff, contents of defamatory statements, and type of database.

II. LEGAL FRAMEWORK

Japanese defamation law is distinguished from US law in both liability rules and remedies. First, Japanese defamation law imposes a heavier burden of proof on defendants than US law, no matter the legal status of the plaintiffs. Unlike the US rule, the Japanese defamation rule does not differentiate the legal status of plaintiffs as public figures or private figures. Second, in terms of remedies, Japanese defamation law does not have a punitive damage system and only grants compensatory damages, which have been criticized by politicians as being too low.

Japanese Rule: Heavier Burden of Proof on Defendants

Before going into detail, it would be helpful to explain briefly the overall structure of Japanese defamation law. First, a plaintiff needs to show that the defendant harmed the plaintiff's reputation, which is an objective appreciation the plaintiff receives from society concerning personal worth, such as one's character, virtue, honor, and trustwor-

thiness (*No name given* Sup. Ct. 1981),⁵ with intent or negligence (Minpō. art. 709).⁶ If a plaintiff meets this requirement, then the burden of proof shifts to the defendant.

According to a Supreme Court opinion (*No name given* Sup. Ct. 1966),⁷ defendants have to prove that (1) the allegation was of public concern, (2) the statement was made solely for the benefit of the public,⁸ and (3) the allegation was true or the defendants had reason to believe that the statement was true (defense of truth) in order to balance freedom of speech and interest to reputation.⁹ Although courts can address the three requirements in any order, they usually decide according to the order above. When defendants fail to prove any of these requirements, courts can rule in favor of the plaintiff without addressing the rest of the requirements. Therefore, plaintiffs can still win even if defamatory statements were true, as long as the statements lack the requirements of “public concern.”

Some Japanese legal scholars, from the point of view of protecting freedom of speech, were concerned about the deterrent effect on media reporting, stating that a defendant’s burden of proof is too heavy (Ōishi 2004, 106–08; Matsui 2005, 102–08). It is difficult for a defendant to fulfill the requirement to prove that defamatory statements were true or could be reasonably believed to be true (Matsui 2005, 107). These scholars proposed lowering the protection of public figures by requiring public figure plaintiffs to prove actual malice as in *New York Times v. Sullivan* (Ōishi 2004, 106–08; Matsui 2005, 102–08) or by lowering the burden of proving reasonable belief (Kyōno 2008, 50–52). However, Japanese courts never accepted these proposals.

5. Scholars and courts have classified reputation as absolute reputation, social reputation, and emotional reputation. Absolute reputation is the objective and inherent evaluation of an individual that cannot be tainted by others. Social reputation is the social evaluation of an individual that is influenced by thoughts of other people. Emotional reputation is the subjective evaluation of an individual—the internal feelings an individual has about himself or herself. Sometimes, courts protect emotional reputation (Mishima 1965, 252–53; Igarashi 2003, 23–24).

6. A general provision of tort in the Civil Code requires plaintiffs to show that the defendant, with intent or negligence, published a statement that harmed the plaintiff’s reputation (Minpō, art. 709). It also refers to reputation when discussing damages and remedies (Minpō, art. 710, 723). With regard to criminal defamation, the Penal Code stipulates that a person who defames another by alleging facts in public shall be punished, regardless of whether such facts are true or false (Keihō, art. 230). However, if the defamatory act is of public interest and is found to have been conducted solely for the benefit of the public, and the content is true, the alleged persons are exempted (Keihō, art. 230-2).

7. The Supreme Court of Japan held that the defense of truth in the current Penal Code applies to civil defamation cases (*No name given* 1966). The current Penal Code stipulates a defense to defamation to balance freedom of expression, which includes freedom of speech and interest to reputation (Keihō, arts. 230, 230–2).

8. The concept of public benefit is independent from the concept of public concern (Yamada 2005, 43). Public benefit focuses on the defendant’s motivation to publish an article. However, defamatory statements of public concern are likely held to be of public benefit by courts (Takeda 1991, 298–99).

9. “Freedom of assembly and association as well as speech, press, and all other forms of expression are guaranteed” (Nihonkoku Kenpō, art. 21, para 1). The Supreme Court of Japan distinguishes between defamatory statements consisting of “facts” or “opinions,” and provides independent defense of “appropriate opinion” for civil defamation cases involving statements of *opinions* instead of facts. Defendants have to prove that (1) the opinion was a matter of public interest, (2) the opinion was expressed solely for the benefit of the public, (3) facts on which the opinion was based were true or the defendant had a reasonable belief that the facts were true, and (4) the opinion was appropriate (*No name given* Sup. Ct. 1997). Note that defendants need to prove the truth or reasonable belief of the facts on which the opinion was based, so some scholars feel that this defense does not protect opinions (Igarashi 2003, 69).

In contrast, US defamation law (*New York Times v. Sullivan* 1964; *Gertz v. Robert Welch, Inc.* 1974) differentiates the burden of proof of plaintiffs according to their status (Franklin 1987, 1660–64).¹⁰ US defamation rule imposes on public figure¹¹ plaintiffs the burden of proof of falsity and actual malice. Private figure plaintiffs also need to prove the falsity of statements when the statements are of public concern (*Philadelphia Newspapers, Inc. v. Hepps* 1986, 776–77).

The contrast between US and Japanese rule has two implications. First, the legal status of the plaintiffs does not define the burden of proof of plaintiffs or defendants in Japan. Even a public figure plaintiff does not have to prove the falsity of statements or actual malice of the defendants, but only has to show that the defendants harmed the reputation of the plaintiff with intent or negligence.

Second, according to the requirement that defendants show the statements were of public concern and made solely for public benefit, Japanese defamation law is content oriented rather than status oriented. Defendants can be exempted only if they prove this element, in addition to showing that the statements were true or reasonably believed to be true. However, Japanese courts appear to consider the status of the plaintiff when they decide whether statements are of public concern by holding that private matters of nonpublic officials may be of public concern, depending on their social activities and social influence (*No name given v. Kuni* 1981).¹² It is not clear how Japanese courts consider the status of a plaintiff in practice.

Remedies: Low Compensatory Damages and Other Remedies

Remedies in Japanese defamation law can be divided into damages and other (public apologies and injunctions). First, Japanese defamation law grants only compensatory damages because tort law aims to compensate for damage to the plaintiffs and only secondarily considers punishing the tortfeasor (Mishima 1965, 292–98; Igarashi 2003, 252–56). The amount of compensatory damages is left to the discretion of the court in Japan.¹³ Since Japan does not have a jury system in civil cases, the court can decide the amount of damages.

Scholars, practitioners, and Diet members have criticized the amount of damages awarded as being too low. Until the 1990s, the average amount of damages was less than

10. Although the US rule is not standard around the world, this article only compares the Japanese rule with the US rule. The British rule was the traditional strict liability rule of defamation (Weaver et al. 2006, 17–18), but it has been changing since *Reynolds v. Times Newspapers* developed a qualified privilege in favor of freedom of expression.

11. Public figures in the United States include (1) involuntary public figures who become public figures through no purposeful action, (2) all-purpose public figures, who achieve such pervasive fame or notoriety that they become public figures for all purposes, and (3) limited-purpose public figures, who voluntarily thrust themselves into a particular public controversy and become public figures for a limited issue (*Gertz v. Robert Welch, Inc.* 1974).

12. The case held that the relationships between the leader of a huge religious sect and female members of the sect were of public concern, even though the leader was not a public official. The court emphasized his influence on society.

13. Courts consider the extent of harm, the status of the plaintiffs, the maliciousness of tort conduct, and the attitude of the defendants (Shiozaki 2001, 10–12).

1,000,000 yen (\$10,000).¹⁴ The main concern of critics has been that courts generally underestimate the value of reputation and dignity. In 1999, the dominant political party, the Liberal Democratic Party, issued a report that criticized the court's practice of granting low damages in defamation cases (Ōishi 2004, 106–07). In 2001, several Diet members in committees of the Lower House also criticized the low amounts of damages.¹⁵

Around the same time that politicians were criticizing the low amount of damages, practitioners, especially judges, also expressed concern over the low amounts of damage compensation (Inoue 2001, 14; Kitō 2001, 28; Shiozaki 2001, 4). In 2001, the Legal Training and Research Institute, an institution that offers legal training to persons who passed the Japanese national bar exam, also discussed the problem and published a guideline to scale damages (Shihō Kenshūjo 2001, 4). Some of these critics proposed increasing the amount of damages based on the social position of the plaintiff (Shiozaki 2001, 13; Tokyo Chihō Saibansho Songai Baishō Soshō Kenkyūkai 2001, 63). Influenced by these trends, courts began to increase the amount of damages awarded to 5,000,000 yen (\$50,000) or more in defamation cases after 2001 (*Kiyohara v. K.K. Shōgakukan*, Tokyo H. Ct. 2001; *No name given v. K.K. Kōbunsha*, Tokyo H. Ct. 2001). The highest amount of damages awarded was 14,300,000 yen (\$143,000) in 2004 to a representative of a hospital who was accused of murdering his wife for insurance money (*Yomiuri Shimbun* 2004, 38).

In contrast, damage awards in the United States were higher than in Japan. According to the Media Law Resource Center (2004, 48), the average of final awards in 1980–2003 was \$632,722, and the median in 1980–2003 was \$90,500. The amount of damages distinguished by the status of the plaintiff revealed that private plaintiffs received higher damage awards than public plaintiffs (Media Law Resource Center 2004, 53–54).¹⁶ The difference in the amount of damages between Japan and the United States in part resulted from Japan's lack of a jury system in civil cases. The average of final awards in US bench trials in 1980–2003 was only \$57,863, which is not significantly different from the amount of damages awarded in Japan.

Second, Japanese defamation law grants public apologies¹⁷ as well as damages.¹⁸ In the current legal scheme, the court may order the defendant to make a public apology

14. Gamble and Watanabe (2004, 115–16) cited a lawyer's story that the average legal cost of suing a defendant for libel was 1,666,700 yen (\$16,667). If they were to be awarded only 1–5 million yen, there would be little incentive to sue. Justice Ōhashi, a Supreme Court Justice in Japan, mentioned the low amount of damages typically awarded in his concurring opinion in *Igarashi v. No name given* (Sup. Ct. 1986).

15. On May 16, 2001, at a meeting of the Committee on Judicial Affairs of the Lower House, a Diet member asked Katsumi Chiba, a representative of the Chief Justice of the Supreme Court of Japan, about the low amount of damages. Mr. Chiba answered that he would inform lower court judges of these concerns. Minister of Justice Mayumi Moriyama stated that amounts of damages for defamation had been too low (*Shūgin Hōmu Inkai* 2001).

16. The average of initial damage awards for public plaintiffs in 1980–2003 was \$2,491,371 and for private plaintiffs \$3,602,351. The median of initial damage awards for public officials was \$380,000 and for private officials \$150,011. The average of final awards for public officials was \$335,953 and for private officials \$334,731. The median of final awards for public plaintiffs was \$87,500 and for private plaintiffs \$57,124 (Media Law Resource Center 2004, 48).

17. The Supreme Court held that it does not violate Article 21 of the Constitution, which guarantees the freedom of conscience, to grant a public apology (*No name given* Sup. Ct. 1956).

18. Japanese defamation law also grants injunctions against future publication of defamatory statements. In the *Hoppō Jānaru* case (1986), the Supreme Court of Japan approved the constitutionality of using

instead of or in addition to awarding damages under the Civil Code (Minpō art. 723).¹⁹ The court grants a public apology only if it is necessary and effective to restore the plaintiff's reputation, such as when the defamation is severe, the plaintiff's reputation has not already been recovered after voluntary retractions, or when the monetary damage awarded is not sufficient (Igarashi 2003, 264–66; Ikuyo 1972, 252).

III. DATA AND METHODOLOGY

This article includes a comprehensive analysis of court opinions on defamation lawsuits against the media from January 2000 to May 2009. It is important to note that the analysis begins in 2000, when some politicians began to criticize the low amounts of damages awarded in Japan and Japanese judges published proposals to increase the amount of damages awarded to plaintiffs who were successful in defamation litigation. This study seeks to establish a relationship between the amount of damages and the status of the plaintiff after the criticism by politicians and judges that the awarded damage amounts were too low.

The data collection comprises two parts. First, searches were conducted on a Japanese online private legal database provided by Legal Base (*Rīgaru Bēsu*) and the public legal database provide by the Supreme Court of Japan, using the keywords *meiyo kison*²⁰ (defamation) and *hakkō* (issue), *meiyo kison* and *shuppan* (publication), *meiyo kison* and *hōsō* (broadcast), and a case-sorting function related to civil code. Legal Base is a private legal database that includes 153,484 cases originally published in thirty-five law reports.²¹

Next, a Japanese newspaper database *Yomidasu* provided by Yomiuri Shinbun, which included articles published by Yomiuri Shinbun, was searched for cases using the keywords *meiyo kison* (defamation) and *hanketsu* (adjudication). Although news agencies only select newsworthy cases for publication without reporting details, this research used the newspaper database to search for cases because it covers more cases than the legal databases.

injunctive relief for defamation. The plaintiff, a potential candidate for governor, filed for an injunction after realizing that the defendant, the publisher of *Hoppō Jānaru*, had prepared the publication of a magazine with an article, "A Power Seeker's Temptations," about the plaintiff. The Supreme Court held that an injunction was admissible when the plaintiff receives serious and irreparable harm as well as when the statement is not true and lacks benefit to the public. The use of injunctions in Japan contrasts with that in the United States because injunctions based on defamation claims were prohibited in *Near v. Minnesota* (1931).

19. Historically, apology had been the center of remedy for defamation (Segawa 2003, 182–88). Segawa pointed out that courts often apologized on behalf of the defendant in judgments in the Meiji Era. He states that this practice had roots in the former Criminal Code and the tradition of *wabi-shōmon*, a deed of apology in the Edo Era. However, he points out that public apology no longer restored the relationship between the plaintiff and the defendant as *wabi-shōmon* did. The apology was granted only because of the emotional need for the apology by the plaintiff.

20. *Meiyo Kison* has two renderings in Japanese and this research included both terms.

21. Covered law reports include the Supreme Court Civil Case Report (Saikō Saibansho Minji Hanrei shū) founded in 1947, the High Court Civil Case Report (Kōtō Saibansho Minji Hanrei shū) founded in 1947, Hanrei Jihō founded in 1953, and Hanrei Taimuzu founded in 1950.

Among cases that were found by the keyword search, the following cases were excluded: (1) cases in which plaintiffs claimed copyright infringement or right to publicity, (2) cases in which mass media were not involved, and (3) criminal defamation cases.

The research defines the media as producers and distributors of books, magazines, and newspapers, and radio and television broadcasters (Media Law Resource Center 2004, 70–71). Since a different legal rule applies to Internet defamation, this research excluded Internet defamation cases. The study also excluded cases in which only individuals and not media companies were named as defendants.²²

After searching and selecting according to the standard above, 232 district court opinions, eighty-nine appellate court opinions, and eighteen Supreme Court opinions (339 cases in total) were gathered. Among the eighty-nine appellate court cases, thirty-nine cases were upper decisions of cases included in district court opinions. Among the eighteen Supreme Court cases, sixteen were upper decisions of cases included in district court opinions or appellate court opinions.

To avoid counting the same case twice, this research identified cases in the legal databases that were also in newspapers by using the date of judgment, the names of the judges, and the content of the defamatory article. However, the private and public legal databases usually cover cases anonymously, especially with regard to the names of plaintiffs, so some cases might be counted in both the legal database and the newspaper database.

These data have inherent limitations. First, this article only analyzed cases in which a judiciary opinion was publicized by legal reporters or a newspaper. The article necessarily excludes the vast majority of defamation issues that were not filed and cases that were later settled or dropped after filing a suit. Second, this article excludes cases for which opinions were not publicized by legal reporters or Yomiuri Shinbun. Gathered data are inherently skewed by the selection bias of legal case reporters or Yomiuri Shinbun, so the results of research cannot be generalized to the law itself.

The extracted cases were coded in a systematic way (Hall and Wright 2008) by using the type of database, attributes of the parties (sex, age, and status of plaintiffs and type of defendant media), jurisdictions and levels of courts, contents of defamatory statements, outcomes of cases (whether courts held defendants to be liable), the amount of damages, and whether courts ordered a public apology.

IV. FREQUENCIES

Aggregate Publication Rate

Figure 1 shows the distribution of the decisions in all courts during this period of time.

22. Examples are authors of books and talk show guests.

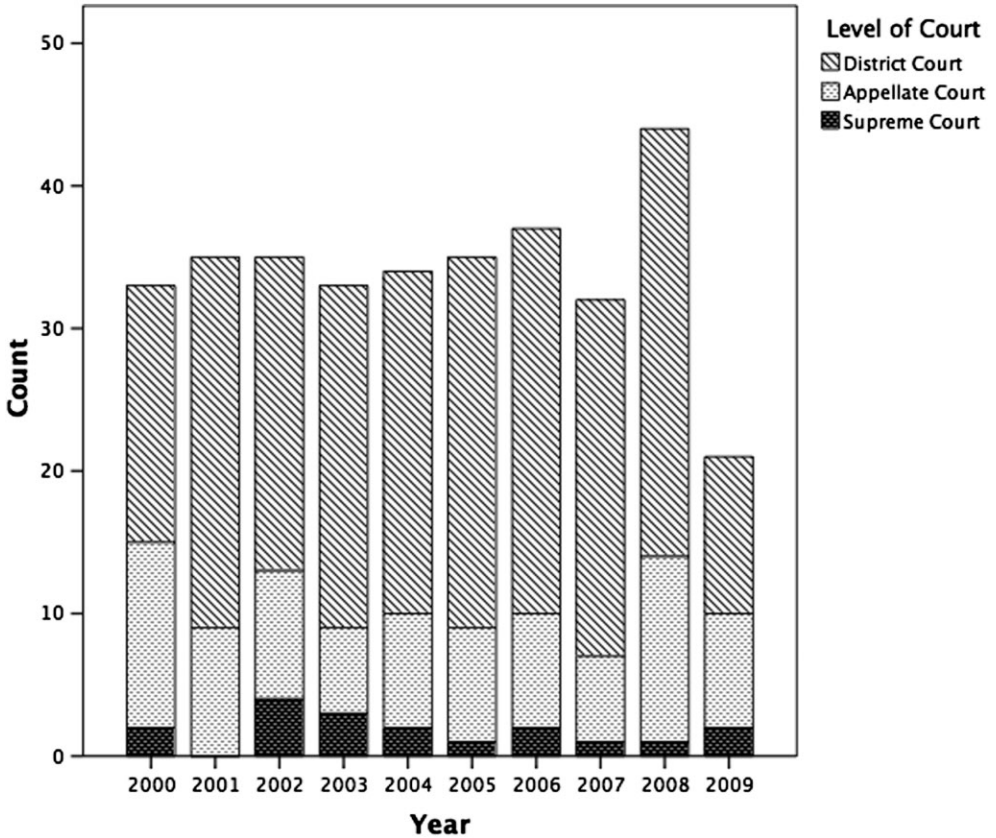


FIGURE 1.
Number of Cases under Level of Court

The number of cases increases throughout the nine years and peaks in the year 2008. The number of decisions in 2009 is fewer than in other years because this research only includes decisions made through May 2009.²³

It is important to capture a representative sample of publicized defamation cases to realize the significance of this research. First, the ratio between the actual number of civil case decisions and the number of publicized civil case decisions provides a rough comparison between the actual number of defamation case decisions and the number of publicized defamation case decisions. The number of general civil case decisions in district courts per year was gathered from official statistics compiled by the Supreme Court of Japan titled *Shihō Tōkei Nempō* (Saikō Saibansho 2006).

Table 1 suggests that private law databases publicized only 0.3 percent to 0.5 percent of the general civil case decisions, and the public legal database publicized only 0.1 percent to 0.2 percent of the general civil decisions. The numbers were not precise, since the legal databases do not have the search scheme to filter general civil cases as

23. It should be noted that in some cases, the fates of the appeals are not clear because legal periodicals or newspapers did not report the outcomes.

TABLE 1.
Number of Civil Case Decisions

	Number of Civil Cases Provided by Official Statistics of the Supreme Court	Number of Civil Cases Provided by the Private Legal Database	Number of Civil Cases Provided by the Public Legal Database
2000	149,937	761	NA
2001	148,323	711	NA
2002	146,064	606	NA
2003	148,666	590	335
2004	140,424	575	328
2005	133,006	559	286
2006	142,976	584	288
2007	172,885	489	318
2008	192,234	563	210

used to calculate official statistics. However, the numbers show a representative picture of publicized civil damage cases. Assuming that the ratio is applicable to defamation cases, this study only looks at a tiny fraction of publicized cases, 0.5 percent at most. The actual percentage might be lower considering that defamation cases are more likely to be publicized than other civil cases, such as contracts or torts, due to their newsworthiness. The private and public legal databases only report cases that include new or interesting legal interpretations and findings that may be useful to law practitioners. The remaining 99.95 percent of cases were excluded because they do not include findings of legal interest.

Plaintiffs

This section focuses on the types of people who filed defamation suits. Table 2 shows the number of defamation decisions made by district courts based on attributes of the plaintiffs, according to the databases.

This study divided plaintiffs into the following groups: politicians, officials, executives at corporations, professionals, athletes, entertainers, criminals, corporations without individual plaintiffs, and others. Criminals include not only those who were convicted and sentenced for a crime, but also suspects, such as persons who were involved in criminal proceedings by being arrested or indicted but who were acquitted. Professionals include lawyers, architects, professors, and writers.

The databases used are the public legal database provided by the Supreme Court of Japan, a private legal database "Legal Base," and the newspaper database *Yomidasu*. Since each database may include the same case, the total number of cases is acquired by eliminating duplicate cases. The total number of defamation cases reported by the newspaper database (193) is the largest reported of all three databases. The public legal database reported thirty-three cases and the private legal database reported eighty-three.

TABLE 2.
Status of Plaintiffs (District Court Decisions)

	Politician or Official	Executive	Professional	Athlete or Entertainer	Criminal	Corporation	Other	Total
Public Legal Database	7 (21.2%), win rate 71.4%	6 (18.2%), win rate 100%	6 (18.2%), win rate 83.3%	2 (6.1%), win rate 100%	2 (6.1%), win rate 100%	6 (18.2%), win rate 50.0%	4 (12.1%), win rate 100%	33 (100%), win rate 69.7%
Private Legal Database	15 (18.1%), win rate 46.7%	12 (14.5%), win rate 83.3%	13 (15.7%), win rate 53.8%	8 (9.6%), win rate 87.5%	11 (13.3%), win rate 72.7%	19 (22.9%), win rate 78.9%	5 (6.0%), win rate 40.0%	83 (100%), win rate 67.5%
Newspaper Database	47(24.4%), win rate 57.4%	29 (15.0%), win rate 86.2%	23 (11.9%), win rate 65.2%	18 (9.3%), win rate 88.9%	29 (15.0%), win rate 86.2%	32 (16.6%), win rate 71.9%	15 (7.8%), win rate 53.3%	193 (100%), win rate 72.0%
Total	53 (22.8%), win rate 58.5%	34 (14.7%), win rate 88.2%	32 (13.8%), win rate 65.6%	20 (8.6%), win rate 90.0%	33 (14.2%), win rate 84.8%	42 (18.1%), win rate 69.0%	18 (7.8%), win rate 44.4%	232 (100%), win rate 71.1%

In overall numbers, the most populated status of plaintiff is politician or public official (22.8 percent), followed by corporation (18.1 percent), executive (14.7 percent), and professional (13.8 percent). Athletes or entertainers do not commonly file defamation cases (4.3 percent for athletes, 4.3 percent for entertainers, 8.6 percent in total).

The win rate of cases included in the private legal database is 67.5 percent, and the rate is 69.7 percent in the public legal database. The win rate of cases in the newspaper database is higher: 72.0 percent. The overall success rate of 71.1 percent for liability claims seems high compared to an overall success rate of 17 percent in the United States.²⁴ It should be noted that the Japanese legal system does not have summary judgment because decisions made by the courts are usually considered “final judgments.”²⁵ However, due to the difference in legal systems between Japan and the United States, it is not very meaningful to compare these ratios and numbers. The comparison of overall success rates for defamation cases between Japan and the United States is left for future research.

However, there is a difference in coverage in each database. The newspaper database is more likely to report defamation cases involving politicians or public officials (24.4 percent) than the other legal databases (21.2 percent for the public legal database, 18.1 percent for the private legal database). The public legal database carries as many cases involving executives, professionals, and corporations as cases involving politicians, but does not report as many cases involving athletes or entertainers (only 6.1 percent). The private legal database carries more cases involving corporations than politicians (22.9 percent for corporations, 18.1 percent for politicians or officials).

One hypothesis to explain the difference in coverage in each database is that plaintiffs who won informed newspapers of the decisions so that they could distribute the results. To test this hypothesis, this article looks at the success rate of each plaintiff status, according to the reporting database. If this hypothesis is correct, the success rate of cases in the newspaper database should be higher than in the public legal database. Table 2 shows that in all categories of plaintiffs except corporations, the win rate of cases in the newspaper database is lower than in the public legal database. The success rate of corporations reported by the newspaper database is higher than that reported by the public legal database. However, due to the small number of cases gathered by the public legal database, the success rate of cases in the public legal database is significantly skewed.

When comparing the private legal database with the newspaper database, the win rates dependent on plaintiff status, as reported by the newspaper database, are higher than those reported by the private legal database, except for corporations. The differ-

24. According to the research of libel cases from 1974 to 1984 conducted by Randall P. Bezanson, Gelbert Cranberg, and John Soloski, the success rate in defamation cases was 17 percent. This number includes the outcomes of motions to dismiss, summary judgments, and final judgments (Bezanson, Cranberg, and Soloski 1987, 177). According to a study by David A. Logan, the success rate of plaintiffs for summary judgment motions from 1980 to 1996 was 17.7 percent (2001, 500–11). Plaintiffs in 60 percent of cases prevailed in trial once they survived the summary judgment (Logan 2001, 512–13). The success rate from 1980 to 2003 after trial rises to 38.7 percent, according to Media Law Research Center (2004, 19).

25. Regardless of whether the case had a trial or not, all court decisions were treated as final judgments except in limited cases.

ence among success rates according to the status of plaintiffs, especially politician or official, professional, and criminal, might support the hypothesis that plaintiffs who won informed the newspaper agency of their success to spread the results.

Another explanation of the difference in coverage in each database is that the purpose of each database differs. The newspaper database tends to report newsworthy items, so it covers more defamation cases than the public and private legal databases because it regards defamation cases as newsworthy whatever the outcome. The public and private legal databases do not include defamation cases as often as the newspaper database because the legal databases select cases that deal with issues important to law practitioners. The rest of the defamation cases that were not reported by the legal database do not include these legal issues.

In cases where the name of the plaintiff could be identified, thirty-nine cases were filed by plaintiffs who filed more than one defamation case.

Excluding these cases, Table 3 shows that the distribution of plaintiffs changed slightly, but politicians or officials still comprise the largest segment (23.3 percent). All databases report cases of certain politicians, criminals, and corporations.²⁶ This concentration of a few plaintiffs resulted from the media rushing to publish reports about the same scandal or news, once certain information was disclosed.

Tables 4 and 5 show the number of defamation decisions made by appellate courts and the Supreme Court of Japan based on attributes of the plaintiffs, according to the databases.

The most populated status of plaintiffs in appellate court is politician or official, and the percentage (29.2 percent) is higher than the percentage of district court cases brought by politicians or officials. The most populated status of plaintiff in the Supreme Court of Japan is criminal (38.9 percent).

Table 6 shows the status of plaintiffs, the type of database, and the mean, maximum, and minimum amount of damages awarded on the condition that the plaintiffs won.

In overall tendency, the mean amount of damages awarded for executives, entertainers, and athletes is higher than the mean amount of damages awarded for other plaintiff categories. The mean amount of damages awarded for each plaintiff status is different depending on the type of database.

Disputes

Table 7 shows the type of database and the identifiable content of the defamatory statements in cases decided by district courts.

Table 7 indicates that the newspaper database is more likely to report cases concerning crime and illegal conduct than cases concerning professional ethics, competence, and private affairs, while the public legal database and the private legal database are more likely to report cases concerning professional ethics and competence than cases concerning crimes or private affairs.

26. Out of thirty-three cases filed by criminals, seven plaintiffs filed nineteen cases. Out of forty-two cases filed by corporations, five plaintiffs filed thirteen cases. Out of forty-five cases filed by politicians, six plaintiffs filed fourteen cases.

TABLE 3.
Status of Plaintiffs with Duplicate Plaintiffs Excluded (District Court Decisions)

	Politician or Official	Executive	Professional	Athlete or Entertainer	Criminal	Corporation	Other	Total
Public Legal Database	6 (21.4%), win rate 66.7%	5 (17.9%), win rate 100%	6 (21.4%), win rate 83.3%	2 (7.1%), win rate 100%	0	5 (17.9%), win rate 40.0%	4 (14.3%), win rate 0%	28 (100%), win rate 64.3%
Private Legal Database	11 (16.4%), win rate 36.4%	11 (16.4%), win rate 81.8%	12 (17.9%), win rate 50.0%	7 (85.7%), win rate 85.7%	7 (10.4%), win rate 57.1%	14 (20.9%), win rate 71.4%	5 (7.5%), win rate 40.0%	67 (100%), win rate 61.2%
Newspaper Database	41 (25.6%), win rate 58.5%	24 (15.0%), win rate 83.3%	22 (13.8%), win rate 63.6%	14 (8.8%), win rate 85.7%	18 (11.3%), win rate 77.8%	27 (16.9%), win rate 66.7%	14 (8.8%), win rate 57.1%	160 (100%), win rate 68.8%
Total	45 (23.3%), win rate 60.0%	29 (15.0%), win rate 86.2%	31 (16.1%), win rate 64.5%	16 (8.3%), win rate 87.5%	21 (10.9%), win rate 76.2%	34 (17.6%), win rate 76.2%	17 (8.8%), win rate 47.1%	193 (100%), win rate 67.9%

TABLE 4.
Status of Plaintiffs (Appellate Court Decisions)

	Politician or Official	Executive	Professional	Athlete or Entertainer	Criminal	Corporation	Other	Total
Public Legal Database	4 (36.4%), win rate 50.0%	0	3 (27.3%), win rate 66.7%	0	2 (18.2%), win rate 50.0%	1 (9.1%), win rate 0%	1 (9.1%), win rate 0%	11 (100%), win rate 45.5%
Private Legal Database	10 (25.6%), win rate 60.0%	4 (10.3%), win rate 75.0%	7 (17.9%), win rate 57.1%	3 (7.7%), win rate 100%	7 (17.9%), win rate 57.1%	4 (10.3%), win rate 25.0%	4 (10.3%), win rate 50.0%	39 (100%), win rate 59.0%
Newspaper Database	22 (30.6%), win rate 50.0%	9 (12.5%), win rate 88.9%	10 (13.9%), win rate 70.0%	5 (6.9%), win rate 100%	9 (12.5%), win rate 55.6%	8 (11.1%), win rate 62.5%	9 (12.5%), win rate 66.7%	72 (100%), win rate 65.3
Total	26 (29.2%), win rate 50.0%	12 (13.5%), win rate 83.3%	13 (14.6%), win rate 61.5%	5 (5.6%), win rate 100%	14 (15.7%), win rate 57.1%	9 (10.1%), win rate 55.6%	10 (11.2%), win rate 60.0%	89 (100%), win rate 61.8%

TABLE 5.
Status of Plaintiffs (Supreme Court Decisions)

	Politician or Official	Executive	Professional	Athlete or Entertainer	Criminal	Corporation	Other	Total
Public Legal Database	0	0	0	0	1 (50%), win rate 100%	0	1 (50%), win rate 100%	2 (100%), win rate 100%
Private Legal Database	1 (12.5%), win rate 100%	0	0	0	4 (50%), win rate 50.0%	0	3 (37.5%), win rate 100%	8 (100%), win rate 75.0%
Newspaper Database	4 (23.5%), win rate 60.0%	2 (11.8%), win rate 100%	0	0	7 (41.2%), win rate 57.1%	1 (5.9%), win rate 100%	2 (11.8%), win rate 100%	17 (100%), win rate 70.6%
Total	5 (27.8%), win rate 60.0%	2 (11.1%), win rate 100%	0	0	7 (38.9%), win rate 57.1%	1 (5.6%), win rate 100%	3 (16.7%), win rate 100%	18 (100%), win rate 72.2%

TABLE 6.
Status of Plaintiffs and Amount of Damages Awarded

		No.	Mean (yen)	Minimum (yen)	Maximum (yen)
Politician or Official	Public Legal Database	5	2,720,000	500,000	5,000,000
	Private Legal Database	7	2,971,428.57	500,000	5,000,000
	Newspaper Database	25	2,062,000	200,000	5,000,000
	Total	29	2,053,448.28	200,000	5,000,000
Executive	Public Legal Database	6	2,866,666.67	500,000	5,500,000
	Private Legal Database	10	3,840,000	500,000	8,800,000
	Newspaper Database	18	3,210,000	330,000	8,800,000
	Total	23	3,020,869.57	330,000	8,800,000
Professional	Public Legal Database	5	2,380,000	300,000	3,300,000
	Private Legal Database	7	2,371,428.57	500,000	5,000,000
	Newspaper Database	14	2,492,857.14	0	5,500,000
	Total	20	2,300,000	0	5,500,000
Athlete or Entertainer	Public Legal Database	2	2,500,000	2,200,000	2,800,000
	Private Legal Database	7	5,914,285.71	2,200,000	11,000,000
	Newspaper Database	14	4,003,571.43	400,000	11,000,000
	Total	16	3,815,625	400,000	11,000,000
Criminal	Public Legal Database	2	1,500,000	800,000	2,200,000
	Private Legal Database	8	1,637,500	1,000,000	3,000,000
	Newspaper Database	25	1,599,200	330,000	7,700,000
	Total	28	1,629,642.86	330,000	7,700,000
Corporation	Public Legal Database	3	2,366,666.67	1,100,000	3,000,000
	Private Legal Database	15	2,936,666.67	1,000,000	5,500,000
	Newspaper Database	22	2,465,909.09	0	5,500,000
	Total	28	2,333,928.57	0	5,500,000
Other	Public Legal Database	—	—	—	—
	Private Legal Database	2	2,325,000	1,650,000	3,000,000
	Newspaper Database	6	2,808,333.33	1,100,000	4,400,000
	Total	6	2,808,333.33	1,100,000	4,400,000
Total	Public Legal Database	23	2,513,043.48	300,000	5,500,000
	Private Legal Database	56	3,196,428.57	500,000	11,000,000
	Newspaper Database	124	2,510,967.74	0	11,000,000
	Total	150	2,426,066.67	0	11,000,000

TABLE 7.
Contents of Defamatory Statements

	Suspicion of Crime/Illegal Conduct	Professional Ethics/Competence	Private Affairs	Total
Public Legal Database	12 (36.4%)	15 (45.5%)	6 (18.2%)	33 (100%)
Private Legal Database	36 (43.4%)	40 (48.2%)	7 (8.4%)	83 (100%)
Newspaper Database	102 (56.0%)	61 (33.5%)	19 (10.4%)	182 (100%)
Total	116 (52.5%)	80 (34.5%)	25 (11.3%)	221 (100%)

TABLE 8.
Contents of Defamatory Statements and Amount of Damages Awarded

		No.	Mean (yen)	Minimum (yen)	Maximum (yen)
Suspicion of Crime/Illegal Conduct	Public Legal Database	9	2,588,888.89	800,000	5,500,000
	Private Legal Database	21	2,721,428.57	1,000,000	8,800,000
	Newspaper Database	66	2,263,787.88	0	8,800,000
	Total	73	2,215,890.41	0	8,800,000
Professional Ethics/Competence	Public Legal Database	9	2,544,444.44	500,000	5,500,000
	Private Legal Database	28	3,441,071.43	500,000	11,000,000
	Newspaper Database	40	2,831,750	0	11,000,000
	Total	54	2,679,074.07	0	11,000,000
Private Affairs	Public Legal Database	5	2,320,000	300,000	3,300,000
	Private Legal Database	7	3,642,857.14	500,000	8,000,000
	Newspaper Database	13	2,992,307.69	400,000	8,000,000
	Total	18	2,650,000	300,000	8,000,000
Total	Public Legal Database	23	2,513,043.48	300,000	5,500,000
	Private Legal Database	56	3,196,428.57	500,000	11,000,000
	Newspaper Database	119	2,534,285.71	0	11,000,000
	Total	145	2,442,275.86	0	11,000,000

Table 8 shows the content of defamatory articles, the type of database, and the mean, maximum, and minimum amount of damages awarded on the condition that the plaintiffs won.

It seems that in overall tendency, the mean amount of damages differs according to the type of database, but it does not differ according to the content of defamatory articles. The mean amount of damages awarded in cases reported by the private database is higher than the mean amount of damages awarded in cases reported by the public or newspaper database.

Tables 9, 10, and 11, respectively, show the occupations of plaintiffs and the identifiable content of the defamatory statements reported by the public legal database, private legal database, and newspaper database.

Tables 9, 10, and 11 indicate that in all databases, criminals or suspects mostly file defamation cases due to articles that state they committed certain crimes but not articles regarding professional ethics or private affairs. Professionals file defamation cases due to articles regarding professional ethics or competence. Corporations file defamation cases due to articles regarding suspicion of crime or illegal conduct and professional ethics or competence.

Tables 9, 10, and 11 also indicate a difference in the content of defamatory statements in cases politicians or officials filed, according to the type of database. Table 11 shows that the newspaper database tends to report defamation cases filed by politicians or officials involving suspicion of crime or illegal conduct. However, Tables 9 and 10 show that the public and private legal databases tend to report defamation cases filed by politicians or officials involving both crime or illegal conduct and professional

TABLE 9.
Status of Plaintiffs and Contents of Defamatory Statements (Public Legal Database)

	Politician or Official	Executive	Professional	Athlete or Entertainer	Criminal	Corporation	Others	Total
Suspicion of Crime/Illegal Conduct	4 (57.1%)	3 (50.0%)	0	0	2 (100%)	3 (50.0%)	0	12 (36.4%)
Professional Ethics/Competence	3 (42.9%)	3 (50.0%)	3 (50.0%)	0	0	3 (50.0%)	3 (75.0%)	15 (45.5%)
Private Affairs	0	0	3 (50.0%)	2 (100%)	0	0	1 (25.0%)	6 (18.2%)
Total	7 (100%)	6 (100%)	6 (100%)	2 (100%)	2 (100%)	6 (100%)	4 (100%)	33 (100%)

TABLE 10.
Status of Plaintiffs and Contents of Defamatory Statements (Private Legal Database)

	Politician or Official	Executive	Professional	Athlete or Entertainer	Criminal	Corporation	Others	Total
Suspicion of Crime/Illegal Conduct	6 (40.0%)	6 (50.0%)	4 (30.8%)	1 (12.5%)	10 (90.9%)	6 (31.6%)	3 (60.0%)	36 (43.4%)
Professional Ethics/Competence	8 (53.5%)	4 (33.3%)	7 (53.8%)	5 (62.5%)	1 (9.1%)	13 (68.4%)	2 (40.0%)	40 (48.2%)
Private Affairs	1 (6.7%)	2 (16.7%)	2 (15.4%)	2 (25.0%)	0	0	0	7 (98.4%)
Total	15 (100%)	12 (100%)	13 (100%)	8 (100%)	11 (100%)	19 (100%)	5 (100%)	83 (100%)

TABLE 11.
Status of Plaintiffs and Contents of Defamatory Statements (Newspaper Database)

	Politician or Official	Executive	Professional	Athlete or Entertainer	Criminal	Corporation	Others	Total
Suspicion of Crime/Illegal Conduct	29 (65.9%)	17 (60.7%)	6 (27.3%)	2 (11.1%)	25 (92.6%)	15 (51.7%)	8 (57.1%)	102 (56.0%)
Professional Ethics/Competence	12 (27.3%)	8 (28.6%)	14 (63.6%)	6 (33.3%)	2 (7.4%)	14 (48.3%)	5 (35.7%)	61 (33.5%)
Private Affairs	3 (6.8%)	3 (10.7%)	2 (9.1%)	10 (55.6%)	0	0	1 (7.1%)	19 (10.4%)
Total	44 (100%)	28 (100%)	22 (100%)	18 (100%)	27 (100%)	29 (100%)	14 (100%)	182 (100%)

TABLE 12.
Types of Defendant Media

	Weekly	Monthly	Newspaper	Book	TV	Other	Total
Public Legal Database	19 (57.6%)	5 (15.2%)	3 (9.1%)	4 (12.1%)	2 (6.1%)	0	33 (100%)
Private Legal Database	46 (55.4%)	12 (14.5%)	6 (7.2%)	8 (9.6%)	11 (13.3%)	0	83 (100%)
Newspaper Database	114 (59.1%)	13 (6.7%)	31 (16.1%)	12 (6.2%)	19 (9.8%)	4 (2.1%)	193 (100%)
Total	130 (56.0%)	23 (9.9%)	34 (14.7%)	18 (7.8%)	23 (9.9%)	4 (1.7%)	232 (100%)

TABLE 13.
Jurisdiction

	Tokyo	Osaka	Other	Total
Public Legal Database	19 (57.6%)	3 (9.1%)	11 (33.3%)	33 (100%)
Private Legal Database	70 (84.3%)	4 (4.8%)	9 (10.8%)	83 (100%)
Newspaper Database	142 (73.6%)	10 (5.2%)	41 (21.2%)	193 (100%)
Total	173 (74.6%)	11 (4.7%)	48 (20.7%)	232 (100%)

ethics or competence. Defamation cases filed by politicians or officials involving private affairs are rarely reported by all three databases.

Another difference in database type is the content of defamatory articles in cases involving athletes or entertainers. The newspaper database is likely to report defamation cases filed by athletes or entertainers regarding private affairs,²⁷ while the private legal database is likely to report those filed by athletes or entertainers regarding professional ethics or competence rather than private affairs.

These differences reflect the selection bias of each database. The newspaper database reports defamation cases involving an athlete's or an entertainer's private affairs because readers want to read articles containing gossip rather than information about professional ethics or competence. The public and private legal databases do not need to report scandalous news to attract readers' interest, but tend to report issues that include interesting legal questions.

Defendants

Table 12 shows the type of database and the media of the defendants: weekly magazines, monthly magazines, newspapers, books, television, and others. Newspapers included daily tabloids as well as major newspapers.

Table 12 shows that each database covers defamation cases involving weekly magazines more than those involving other categories of media. The second-most-populated category is newspaper. These results are not surprising considering Japanese weekly magazines are more likely to publish sensational articles than are newspapers.

Jurisdiction

In this study, trial court jurisdictions were divided into Tokyo, Osaka, and others. Table 13 shows the district court jurisdictions of identified cases and database type.

Overall, the databases are more likely to report cases held in Tokyo District Court than those held in Osaka District Court or other places. However, the public legal

27. It should be noted that in Japan, plaintiffs regularly bring both defamation claims and right-to-privacy claims because they are based on the same tort provision.

database is less likely to carry cases held in Tokyo District Court than the private legal database or the newspaper database. Only 57.6 percent of cases the public legal database carried were brought in Tokyo, while 84.3 percent of cases the private legal database carried and 73.6 percent of cases the newspaper database carried were filed in Tokyo.

The overall tendency to concentrate cases in Tokyo District Court probably reflects the fact that the number of defamation cases brought in Tokyo is higher than in other places. Because the place where the tort was committed defines the venue for a tort case (Minji Soshōhō. art. 5, no. 9), theoretically almost all districts in Japan could be the venue for defamation as the place where defamatory articles were published or distributed throughout Japan (Igarashi 2003, 34). However, plaintiffs tend to choose Tokyo District Court, possibly because most magazines or books are published in Tokyo, or because it was the most convenient place for plaintiffs; they most likely have residences or offices in Tokyo.

V. OUTCOMES

This section considers the relationship between variables and outcomes of cases. The outcome is defined as follows: (1) whether courts held that defendants were liable or not and (2) the amount of damages awarded in cases where the defendants were held to be liable. Variables that this research used in regression analyses are plaintiff status, the content of defamatory statements, the type of database reporting cases, and the amount of damages demanded. Since some cases were reported by the newspaper database and the public database or the private database, there was an overlap of cases reported by each database. Therefore, the variable concerning type of database is divided into seven categories: cases reported only by the public database, the private database, or the newspaper database, cases reported by two of the databases (the public and the private databases, the public and the newspaper databases, the private and the newspaper databases), and cases reported by all databases.

Although the sex and age of the plaintiff might also be relevant predictors, these variables were excluded because much of the recorded information about defamation trials does not include this information.

The result was that with regard to type of plaintiff, politicians and officials are less likely to win than are executives and criminals, and they are likely to receive lower damages than are athletes and entertainers. Article contents do not have an impact on whether defendants were held liable or on the amount of damages awarded. The type of reporting database has a relationship to the amount of damages awarded. In cases reported only by the newspaper database, plaintiffs are more likely to receive lower damages than in cases reported by both the newspaper and private database. None of these variables had an impact on whether plaintiffs were granted a public apology.

Win Rate

This section explores the possibility of a relationship between a plaintiff's status, content of defamatory statements, type of database, and whether the plaintiff won. This

TABLE 14.
Logistic Regression (Outcome of Cases)

	Variables in the Equation	B	S.E.	Wald	Sig.
Step 1a	Executive	1.535	0.624	6.045	0.014
	Professional	0.249	0.508	0.24	0.624
	Athlete or Entertainer	1.379	0.868	2.524	0.112
	Criminal	1.514	0.588	6.625	0.01
	Corporation	0.721	0.482	2.238	0.135
	Other	-0.448	0.587	0.583	0.445
	Professional Ethics or Competence	0.358	0.372	0.926	0.336
	Private Affairs	0.958	0.703	1.858	0.173
	Public Legal Database Only	-0.535	0.821	0.424	0.515
	Private Legal Database Only	-0.831	0.509	2.664	0.103
	Newspaper and Public Legal Database	-0.319	0.419	0.579	0.447
	Newspaper and Private Legal Database	0.016	0.737	0	0.982
	Public and Private Legal Database	19.622	14655.049	0	0.999
	All Databases	-1.58	0.938	2.84	0.092
	Constant	0.321	0.337	0.904	0.342

Note: Variables entered: Public Legal Database Only, Private Legal Database Only, Newspaper and Public Legal Database, Newspaper and Private Legal Database, Public and Private Legal Database, and All Databases.

research classified a case outcome as a “win” for the plaintiff if the court upheld the plaintiff’s defamation claim in whole or in part. The results of a binary logistic regression are presented in Table 14.

Table 14 shows the ability of factors to predict whether plaintiffs win or not. Positive numbers in the “B” column show factors that made it more likely for courts to decide in favor of the plaintiffs. Negative numbers in that column show factors that made it less likely for plaintiffs to win. The “Sig.” (significance) column measures the probability that the impact of this variable on whether plaintiffs win or not is a product of chance. Any value below 0.010 means that there is only a 1 percent chance that a given difference could have occurred by chance.

The first six lines from “Executive” to “Other” in Table 14 show a statistical comparison between cases involving politicians and officials, and cases involving the rest of the plaintiff types listed. The next two lines (“Professional Ethics or Competence,” “Private Affairs”) show a comparison between cases concerning defamatory statements about crime and cases concerning remaining content of defamatory statements. The next six lines from “Public Legal Database Only” to “All Databases” show a comparison between cases reported only by the newspaper database and cases reported by the other types of databases.

Results indicate that cases involving politicians and officials are significantly less likely to be won than those involving executives or criminals, even after controlling for content and databases: Wald $\chi^2(1, N = 221) = 6.045, p = .014$ (compared to executives) and Wald $\chi^2(1, N = 221) = 6.625, p = .01$ (compared to criminals). However, cases involving politicians and officials are not less likely to win than those involving professionals, athletes and entertainers, corporations, and others.

With respect to case content, the results suggest that types of statements do not have an impact on victory of the plaintiffs. Cases with defamatory statements concerning crime are not more or less likely to be decided in favor of the plaintiffs than other categories of defamatory statements (controlling for the type of plaintiff and the type of database), such as professional ethics or competence and private affairs. The results seem inconsistent with the Japanese defamation rule that defendants need to prove that the statement was of public concern. Cases with defamatory statements concerning crime might have lower success rates than cases with defamatory statements concerning private affairs under this rule, but this was not found to be the case.

Nor is the type of database a predictor of the win rate of cases. Table 14 shows that in cases that were reported only by the newspaper database (controlling for the type of plaintiff and content of defamatory statements), the results do not significantly differ from cases that were reported by the other types of database (public and private).

Amount of Damages

This section examines whether there is a relationship between plaintiff status, type of case, amount of damages demanded, type of database, and amount of damages a plaintiff was awarded conditional on the plaintiff's win.

A linear regression analysis was conducted with plaintiff status dummy coded to compare politicians and officials to the other types of plaintiffs, controlling for type of defamatory statement, type of database, and amount of damages demanded.

The first six lines from "Executive" to "Other" in Table 15 show a statistical comparison between cases involving politicians and officials, and cases involving the rest of the types of plaintiff listed. The next two lines ("Professional Ethics or Competence," "Private Affairs") show a comparison between cases concerning defamatory statements about crime and cases concerning other types of defamatory statement content. The next six lines from "Public Legal Database Only" to "All Databases" show a comparison between cases reported only by the newspaper database and cases reported by the other types of databases. The last line shows the amount of damages demanded.

Results indicate that in cases involving politicians and officials, plaintiffs are significantly more likely to receive smaller amounts of damages than in cases involving athletes and entertainers ($t(115) = 2.839$, $p = .005$), even after controlling for content and databases, but they are not more likely to receive smaller amounts of damages than in cases involving executives, professionals, criminals, corporations, and others.

However, with respect to the content of defamatory statements, results suggest that the content does not have an impact on the damages awarded because of the significance level. In cases with statements regarding suspicion of crime or illegal conduct (controlling for type of plaintiff and database and the amount of damages claimed), the amount of damages awarded does not significantly differ from cases involving statements regarding professional ethics and competence or privacy.

The type of database has a relationship to the amount of damages awarded. In cases reported only by the newspaper database (controlling for the type of plaintiff, content

TABLE 15.
Linear Regression Analysis

Coefficients		B	S.E.	t	Sig.
Step 1a	Executive	855,494.689	5.79E+05	1.478	0.143
	Professional	15,334.433	594,538.199	0.026	0.979
	Athlete or Entertainer	2.04E+06	7.17E+05	2.839	0.005
	Criminal	-5.38E+05	633,507.86	-0.849	0.398
	Corporation	-2.29E+05	557,206.67	-0.411	0.682
	Other	259,535.588	9.90E+05	0.262	0.794
	Professional Ethics or Competence	98,770.799	434,670.525	0.227	0.821
	Private Affair	-2.84E+05	657,717.011	-0.431	0.667
	Public Legal Database Only	-3.11E+05	8.19E+05	-0.379	0.705
	Private Legal Database Only	491,252.333	652,534.249	0.753	0.453
	Newspaper and Public Legal Database	992,654.094	6.96E+05	1.427	0.157
	Newspaper and Private Legal Database	1.67E+06	4.20E+05	3.968	0
	Public and Private Legal Database	-5.71E+05	773,961.207	-0.737	0.463
	All Legal Databases	2.60E+06	1.34E+06	1.938	0.055
	Amount of Damages Claimed	0.008	0.004	1.968	0.052

Note: Dependent variable: Amount of Damages Awarded.

of cases, and amount of damages claimed), plaintiffs are more likely to receive lower amounts of damages than in cases that were reported by both the newspaper and private legal databases ($t(115) = 3.968$, $p = 0$).

The amount of damages demanded might have a impact on the amount of damages awarded ($t(115) = 1.968$, $p = .052$), but the result is not significant. The higher the amount of damages plaintiffs claim (controlling for type of plaintiff, content of cases, and databases), the higher the amount they receive. The result indicates that the amount of damages awarded is not at the total discretion of the judges.

Public Apology

Among 232 cases reported by district courts, 109 plaintiffs sought a public apology in identifiable cases. The outcomes of these apology requests were available in 105 cases. Table 16 shows the status of the plaintiffs and the number of successful outcomes with public apologies granted to the plaintiffs.

Among 105 identifiable cases in which plaintiffs sought a public apology, courts ordered a public apology in only twenty-seven cases (25.7 percent). The success rate of public apology in cases the newspaper database carried (32.5 percent) is higher than that of cases carried by the public database (20.0 percent) and the private database (17.7 percent).

TABLE 16.
Status of Plaintiffs Who Demanded Public Apology

	Politician or Official	Executive	Professional	Athlete or Entertainer	Criminal	Corporation	Other	Total
Public Legal Database	7 (28.0%), success rate 28.6%	6 (24.0%), success rate 16.7%	3 (12.0%), success rate 33.3%	0	1 (4.0%), success rate 25.0%	4 (16.0%), success rate 25.0%	4 (16.0%), success rate 0%	25 (100%), success rate 20.0%
Private Legal Database	13 (21.0%), success rate 15.4%	11 (17.7%), success rate 27.3%	10 (16.1%), success rate 0%	3 (4.8%), success rate 27.3%	7 (11.3%), success rate 0%	15 (24.2%), success rate 20.0%	3 (4.8%), success rate 0%	62 (100%), success rate 17.7%
Newspaper Database	19 (23.8%), success rate 15.8%	14 (17.5%), success rate 42.9%	15 (18.8%), success rate 40.0%	4 (5.0%), success rate 100%	8 (10.0%), success rate 12.5%	14 (17.5%), success rate 35.7%	6 (7.5%), success rate 16.7%	80 (100%), success rate 32.5%
Total	24 (22.9%), success rate 16.7%	19 (18.1%), success rate 31.6%	19 (18.1%), success rate 31.6%	4 (3.8%), success rate 100%	9 (9.5%), success rate 10.0%	21 (20.0%), success rate 23.8%	8 (7.6%), success rate 12.5%	105 (100%), success rate 25.7%

TABLE 17.
Logistic Regression Analysis (Public Apology)

Variables in the Equation		B	S.E.	Wald	Sig.
Step 1a	Executive	0.928	0.819	1.286	0.257
	Professional	0.755	0.835	0.817	0.366
	Athlete or Entertainer	22.784	19,290.021	0	0.999
	Criminal	-0.43	1.252	0.118	0.731
	Corporation	0.895	0.845	1.122	0.29
	Other	-0.593	1.268	0.219	0.64
	Professional Ethics or Competence	0.152	0.592	0.066	0.798
	Private Affairs	0.956	1.079	0.785	0.376
	Public Legal Database Only	-1.263	1.244	1.031	0.31
	Private Legal Database Only	-20.971	10,554.243	0	0.998
	Newspaper and Public Legal Database	-0.208	0.856	0.059	0.808
	Newspaper and Private Legal Database	-1.177	0.631	3.476	0.062
	Public and Private Legal Database	-21.248	17,808.371	0	0.999
	All Databases	-1.14	1.307	0.76	0.383
	Constant	-0.88	0.692	1.62	0.203

Note: Variables entered: Public Legal Database Only, Private Legal Database Only, Newspaper and Public Legal Database, Newspaper and Private Legal Database, Public and Private Legal Database, and All Databases.

A logistic regression was also conducted in which the dependent variable was the success rate of apology requests and the independent variables were plaintiff status, content of the defamatory articles, and type of database, with the condition that the plaintiffs sought a public apology.

Table 17 shows the results of the logistic regression. The results show that none of the independent variables above had an impact on whether plaintiffs were granted a public apology. This is surprising because the status of the plaintiff has an impact on whether plaintiffs were granted damages. In seventy-two out of 105 cases, courts granted damage awards.²⁸ Courts were reluctant to grant a public apology when compared to awarding damages.

The reluctance of courts to grant a public apology can be explained in two ways. One is that courts are wary that a public apology might be a negative influence on the media's freedom of speech because it entails ordering the media to carry an advertisement apologizing for their statements and stating that the original article was inaccurate. Not only might freedom of speech be threatened, but also freedom of thought and conscience. Perhaps fear of infringing on these rights is why the courts require plaintiffs to show a special necessity for a public apology over and above the defamation finding.

Another reason for not ordering a public apology is that the courts might see defamation litigation as a way to set the record straight. The courts might view

28. In two cases, courts rejected granting damage awards because there was no damage to the plaintiff's reputation but the courts did order a public apology.

adjudications declaring the falsity of defamatory statements and damage awards as sufficient to achieve this purpose. If plaintiffs want to restore their reputational interests, they are able to pronounce to the world that they received official certification that the defamatory statements were untrue.

Inferences

The analyses in this section indicate that the newspaper database reports more defamation cases than the public or private legal databases. The newspaper database is the general public's main source of reports for defamation case outcomes. Moreover, the success rates of politicians or officials, executives, professionals, athletes or entertainers, and criminals that were reported by the newspaper database were higher than those reported by the private legal database. It may be inferred from the results that newspapers report the outcomes because the plaintiffs who won in the courts, such as politicians and officials, professionals, and criminals, informed the newspaper database of the results.

The statistical analysis indicates that plaintiff status has a significant influence on case outcome. The results show that politicians and officials are less likely to win than executives and criminals, but not less likely to win than professionals, corporations, athletes and entertainers, or others. This is surprising because Japanese defamation law appears to be more content oriented than status oriented, in that defendants are required to prove statements are (1) of public concern, (2) of public benefit, and (3) true or reasonably believed to be true. However, as a practical matter, in addition to the content of statements, status also influences the win rate of plaintiffs. In this sense, Japanese defamation law is also status oriented.

The difference in success rates can be explained in several ways. One is in the context of freedom of speech. The lower success rate of politicians and officials may be an indication that courts try to protect freedom of speech in statements concerning politicians and officials. From the point of view that robust discussion regarding politics, economy, and society should be protected, open discussion about politicians and officials should be facilitated. Although Japanese judges do not clearly invoke US law in defamation cases, there might be an influence through Japanese scholars who introduce and interpret US law. The caveat here, however, is that discussion about executives and criminals, who are subject to criticism as public figures in the United States, is not as protected in Japan. Of course, the success rate does not show the tendency of courts to protect certain kinds of plaintiffs. Plaintiffs have the choice not to file a suit or to settle and withdraw in the middle of litigation.

Another explanation for the difference in success rates is that the data reflect the behavior of the plaintiffs. Politicians and officials are less likely to win because they file suits regardless of the potential outcome. They might need to file because of pressure from voters in their election districts. They do not care about the outcome of the cases because they have only short-term incentives to sue, namely, reelection. However, there is no reason to think that only politicians and officials would file lawsuits to protect their reputation, regardless of the outcome. Executives, corporations, and professionals might want to file defamation litigation in order to show customers and colleagues that the

defamatory articles were inaccurate. Entertainers are also pressured by promotion agencies to file lawsuits.

Next, the results also showed that the amount of damages is influenced by plaintiff status and skewed by the cases included in each type of database studied, though there is no influence of content on the amount of damages awarded. Politicians and officials receive lower damages than athletes and entertainers. Plaintiffs in cases that were reported only by the newspaper database were granted lower damages than cases that were reported by both newspaper and private legal databases. The difference in the amount of damages is revealing because Japanese courts seem to differentiate the amount of damages awarded based on status, rather than content.

One inference is that the courts try to protect freedom of speech by lowering the amount of damages in defamation cases brought by politicians and officials. This practice would contribute to robust debate about public officials and, ultimately, freedom of speech, reaching a standard similar to that prevalent in the United States (*New York Times v. Sullivan* 1964) in the end. However, Japanese courts obviously do not classify executives, athletes, and entertainers with politicians, officials, and criminals. In US law, executives, athletes, and entertainers would be categorized as public figures who need to prove actual malice. However, in Japan, executives, athletes, and entertainers are subject to protection instead of being subject to criticism.

VI. CONCLUSION

The purpose of this study was to code defamation cases against the media. This study then examined the frequencies of cases depending on the type of database, the plaintiff status, and the overall characteristics of cases. The advantage of this approach is that this research includes an extensive number of defamation cases compared to previous studies.

The results of this study were surprising. First, the data revealed that the newspaper database mainly reported defamation cases with higher success rates than the private legal database. The finding supports the hypothesis that the newspaper reported the outcomes of these cases because the plaintiffs who won informed the newspapers to spread the news. Second, politicians and officials are less likely to win than are executives and criminals, and they are likely to receive lower amounts of damages than athletes and entertainers. The type of database skewed the amount of damages awarded.

The difference in treatment of executives, athletes, and entertainers compared to politicians and officials in Japan contrasts with US defamation law in terms of the public figure status of the plaintiff, which is subject to criticism in the context of freedom of speech. However, the finding that politicians and officials were less protected also suggests that Japanese courts might lean toward protecting freedom of speech regarding politicians and officials. In this sense, Japanese defamation law, which appears to be content oriented, is actually status oriented and provides low protection to politicians and officials, similar to US defamation law.

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