THE NEW JAPANESE LAW SCHOOLS: PUTTING THE PROFESSIONAL INTO LEGAL EDUCATION

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Abstract: In April 2004, more than sixty law schools began operation in Japan. Legal education, previously treated as a combination of undergraduate education in law and extra-university training in professional skills, will now be concentrated in new professional law schools. The reforms of Japanese legal education are intended both to produce more attorneys in a nation that has a shortage of legally trained professionals, and to help increase the role of law in Japanese society generally.

In order for Japan’s new law schools to achieve their educational objectives, they must successfully address a host of conceptual, pedagogical and organizational challenges. Foremost among these challenges is making legal education professional by placing a focus upon legal reasoning. This Article, written by two Professors who have closely followed Japanese reforms, describes contemporary developments within Japanese legal education.

I. INTRODUCTION

April 1, 2004 will be remembered as a remarkable day in legal education—the day on which more than sixty new law schools officially began operation in Japan.¹ Such a wholesale appearance of new law schools at one time is unprecedented. While legal educators elsewhere have talked about making major changes in legal education, Japanese legal educators are making them.

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* This Article is a collaborative work of Professor Maxeiner and Professor Yamanaka. The former drafted the report based on English and German language publications and interviews, while the latter provided up-to-date information on current developments not yet reported or available only in Japanese. This work was prepared while Professor Maxeiner was a Visiting Scholar at Kansai University in Osaka, Japan. He would like to thank the University for its generous support. Professor Maxeiner, J.D. (Cornell), LL.M. (Georgetown), Dr. Jur. (Munich), is Visiting Associate Professor of Law at the University of Missouri Kansas City School of Law and from July 2004, Associate Professor of Law, University of Baltimore School of Law. Professor Yamanaka, Dr. jur. (Kyoto) is a Professor of Law at Kansai University and Dean of the newly established Kansai University Law School. The authors would also like to thank their colleagues in the Kansai region who generously contributed their ideas to this report: Masahisa Deguchi, Kenji Kameda, Hirokazu Kawaguchi, Satoshi Kinoshita, Hiroyuki Kubo, Mitsumasa Matsuo, Yoshiaki Sakurada, Ken Takeshita, and Toshiaki Takigawa.

¹ Seventy-two applications to open new law schools were filed with the Ministry of Education and Science. In November 2003, the Ministry approved sixty-six applications, rejected four and deferred final consideration of two others until January 2004. 66 Law Schools Approved to Open Next Spring, JAPAN Econ. NewsWire, Nov. 21, 2003, available on Lexis/Nexis. The Ministry subsequently approved the two deferred applications.
Law schools are being introduced to Japan to meet an urgent need for lawyers in a legal system that historically has been underserved by legal professionals.\(^2\) With only a few exceptions, the new law schools are offspring of existing university law faculties that will continue to exist independently of the law schools.

Developments in Japan should be of wide interest; legal education is "a window on [a country's] legal system."\(^3\) A nation's system of legal education tells us much about "what law is, what lawyers do, how the system operates or how it should operate."\(^4\) It is not coincidental that the reform in Japanese legal education is part of a larger reform of the Japanese legal system.

For legal educators, a compelling reason to watch the Japanese educational reforms is to see how the new Japanese law schools insert what we call "the professional" into legal education. Heretofore in Japan, education in the law has largely been separate from practical training of would-be lawyers. The new law schools, however, are to be university graduate schools specialized in the training of legal professionals. The world's legal educators have long sought to find the proper balance between academic education and practical training in law. This Article reports on this ongoing development in Japan as of early 2004. Part II describes briefly the relationship between legal education and professional training generally and seeks to define the concept of the "professional" within legal education. Part III sketches the current system of legal education and lawyer training in Japan. Part IV summarizes the general framework of the pending law reform. Part V reports on how Japanese legal educators are meeting the challenges in forming a new system of professional legal education.

The authors are an American jurist and a Japanese jurist who have exchanged thoughts on legal systems and legal education ever since they met more than two decades ago at the University of Munich when both were fellows of Germany's Alexander von Humboldt Foundation. The former is a neophyte in Japanese law, while the latter is the Dean of one of the new

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\(^2\) The small number of attorneys in Japan has long been an issue. See, e.g., Kohei Nakabo, Judicial Reform and the State of Japan's Attorney System Part II, translated in 11 PAC. RIM L. & POL'Y J. 147, 150-57 (2002). The Internet site of Waseda University puts it succinctly: "the present system has kept the number of lawyers too small for the world's second largest economy." Waseda Law School, Transformation of the Japanese System, at http://www.waseda.jp/law-school/eng/system.html (last visited March 8, 2004). In Japan, legal professionals customarily include lawyers, judges and prosecutors; this Article follows American usage and refers to all three types of professionals as "lawyers."


\(^4\) Id.
Japanese law schools. Much of the information provided in this Article comes from the authors' firsthand knowledge, shared with each other in conversations beginning last summer while the former was a visiting scholar at Kansai University. The goal of the Article is the modest one of reporting contemporary developments in Japanese legal education.

II. LEGAL EDUCATION AND LAWYER TRAINING

Knowledge of the law is essential to becoming a lawyer. Yet knowledge of the law alone is not enough; becoming a lawyer also requires acquiring professional skills in determining facts and relating the law to these facts. Learning substantive knowledge of the law is usually denominated "education," while acquiring professional skills is ordinarily called "training."

Americans are accustomed to thinking that the formal education and training of would-be lawyers are both imparted almost exclusively in law schools. They believe that law schools turn law students into lawyers. In the United States, after law school there is no formal period of practical training through which new graduates as apprentices must pass before they are allowed to practice law. This absence of practical training was not, however, always the case. Law office study was once the predominant factor in preparation for American law practice; formal studies were limited or non-existent. In the early twentieth century, just as this transition to formal education was nearly complete, Alfred Read, in his influential study of American legal education, called the absence of practical training "a remarkable educational anomaly" in comparison to other countries. In most

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5 Observers of America's legal educational system overlook, however, the fact that years of actual practice await law graduates before they are accepted as full-fledged lawyers. This practice is, of course, neither directed nor rounded, but haphazard.

6 See, e.g., THE PROFESSIONAL SCHOOL AND WORLD AFFAIRS, A REPORT FROM THE COMMITTEE ON THE PROFESSIONAL SCHOOL AND WORLD AFFAIRS 369 (1967) ("In the last century and well into this one, most-would-be lawyers 'read' law with a practicing lawyer and never went to a formally organized law school. There was thus a long hiatus between the medieval university with its law faculty and the relatively recently organized law schools in the United States."); Amy M. Colton, Eyes to the Future, Yet Remembering the Past: Reconciling Tradition with the Future of Legal Education, 27 U. MICH. J.L. REF. 963, 964 (1994) (discussing "From Apprentice to Student").

7 ALFRED ZANTZINGER REED, TRAINING FOR THE PUBLIC PROFESSION OF THE LAW: HISTORICAL DEVELOPMENT AND PRINCIPAL CONTEMPORARY PROBLEMS OF LEGAL EDUCATION IN THE UNITED STATES WITH SOME ACCOUNT OF CONDITIONS IN ENGLAND AND CANADA 281 (1921) (comparing the training of lawyers to the training of physicians). Karl Llewellyn noted that "[o]ur schools face the absence of any apprenticeship at all. Why do they have to? What have we done to plug the gap? Where do you find signs that the problem has even been examined? We might, for example, look at the German system for its faults." Karl Llewellyn, On What is Wrong with So-Called Legal Education, 35 COLUM. L. REV. 651, 657 (1935).
countries, would-be lawyers participate in academic education provided by universities and additionally in separate practical training provided by other institutions. This dual-educational system is found both in civil law and in common law countries. The university’s near exclusive responsibility for the preparation of practitioners, not only in law but also in other professions, is primarily a twentieth century American development.

The extent and the orientation of practical legal training vary from country to country. Practical training programs take into account the differing roles of judges and lawyers, which themselves vary substantially from country to country. Moreover, practical training programs focus on different types of legal professionals: some focus on training private lawyers while others focus on training judges. For example, in common law jurisdictions such as the English-speaking provinces of Canada, practical training takes the form of apprenticeship with legal practitioners (“articles of clerkship”). In some civil law jurisdictions, such as in Germany, practical training first takes the form of clerking with judges and concurrent class room instruction by judges in taking testimony and writing judgments; apprenticing with lawyers comes later in the training period and has less importance.

Legal educators continually debate the proper proportions and proper places for legal education and for practical training in the preparation of professionals. We suggest that the most important aspect of professional legal education should be seen to be learning legal methods. In the United States one calls learning the technique of legal analysis learning “to think like a lawyer.” In Japan one calls this learning “the legal mind.” While legal methods vary from legal system to legal system, a principal legal

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9 THE PROFESSIONAL SCHOOL AND WORLD AFFAIRS, supra note 6, at 368.
11 To be admitted as an attorney in Germany, ordinarily one must be eligible to be a judge (“Befähigung zum Richteramt”) BRAO § 4 (Bundesrechtsanwaltsordnung of Aug. 1, 1959 as last amended Mar. 9, 2000), available at http://www.anwaltverein.de/01/BRAO.pdf (last visited Feb. 15, 2004).
12 See, e.g., Nature and Method of Legal Studies, 3 U.S. MONTHLY LAW MAG. 379, 381-82 (1851) (noting essentially two views of legal education: as a science or as practice. In the case of the latter view, “so closely are law and practice united, that it is supposed the former may be most easily and expeditiously learned by the latter.”); COMMITTEE ON LEGAL EDUCATION [OF THE AMERICAN BAR ASSOCIATION], LEGAL EDUCATION IN THE UNITED STATES, REPORT ON LEGAL EDUCATION IN THE UNITED STATES AND FOREIGN COUNTRIES (1892), cited as reprinted in 1 REPORT OF THE COMMISSIONER OF HIGHER EDUCATION FOR THE YEAR 1890-91 at 376 (1894) (noting at 383 that in American law schools “the view of law presented to the student is technical rather than scientific or philosophical,” while noting at 497 that in European universities, where “law is considered a science,” university work in law is “chiefly theoretical,” and there is no need for “object lessons . . . in legal practice,” since there is a later period of “practical work”).
method in modern legal systems is how one relates an abstract legal idea to a factual situation in order to decide a concrete case.14

Training in legal methods is neither exclusively education in the law nor exclusively practical training in the practice of law. Training in legal methods is central to becoming a professional; it is properly a part of both academic education and practical training.15 The triumph of the case method of instruction in American law schools over competing academic lectures in universities and purely practical training with practitioners is thought to have occurred because the case method better taught the skills of legal argument and of relating law to facts.16 Under its new reforms, Japan is about to begin shifting part of the responsibility for teaching legal methods from practical training programs run by judges to law school courses given by academics.

III. THE PRESENT JAPANESE SYSTEM OF LEGAL EDUCATION AND LAWYER TRAINING

The present Japanese system of legal education and lawyer training defers instruction in legal method largely to the training phase. The Japanese system has its origin in adaptation of the corresponding German system of the late nineteenth century.17 Similarities to the German system remain substantial.18 In both systems, aspiring lawyers typically study law at a university for four years after completing secondary (high) school. They then take an examination and, if successful, are admitted to a practical training program to become qualified as judges. Practical training begins

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15 Cf. Llewellyn, supra note 7, at 654, 658 (noting "the emptiness of rules without the facts" and emphasizing the problem of "turning legal or human knowledge into action").
16 See generally WILLIAM P. LAPIANA, LOGIC AND EXPERIENCE: THE ORIGIN OF MODERN AMERICAN LEGAL EDUCATION 101 (1994) (paraphrasing James Carter, one-time president of the American Bar Association and leading legal philosopher, who, in praising the Harvard case method, observed that "it is hard work that is needed to sift complex facts, identify the most important, and interpret them in light of the applicable rules and principles"). Cf. Eric Mills Holmes, Education for Competent Lawyering—Case Method in a Functional Context, 76 COLUM. L. REV. 535, 539 (1976) ("The conventional case method is the best tool that law schools have for developing a basic intellectual capacity for legal reasoning").
with classroom-type instruction in the skills of a judge and continues with several-month apprenticeships at the courts and other legal institutions. Following completion of this practical training period, students take a second bar examination. Those who pass with few exceptions become judges, prosecutors or private attorneys.¹⁹

There is, however, one crucial difference between the systems of lawyer training in Japan and Germany: in Japan the number of candidates admitted to practical training is severely limited. According to Japan’s Ministry of Justice, in 2002, only 1183 out of a total of 41,459 applicants tested were admitted to training.²⁰ In Germany, on the other hand, most students who take the examinations that govern admission to the training programs pass and are admitted to training.²¹ The effects of this difference are so great that German observers of Japanese legal education hesitate to apply German experiences to Japan.²² Japan’s selective legal educational system means that there are far fewer lawyers in Japan per capita than there are in Germany. Japan’s restrictions complicate teaching legal methods in Japanese university legal education. Because few students studying at Japan’s university law faculties are admitted to practical training, few students can reasonably expect to become lawyers. Because most students do not become lawyers and do not expect to become lawyers, they do not pursue practical training in lawyering, legal research and reasoning and clinical legal education.²³ Training in legal methods and skills within Japan

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¹⁹ Haley, supra note 13, at 50.
²¹ In Bavaria, which is known for having one of the more difficult exams among those of the German states, in 2002 more than two-thirds of applicants tested passed, i.e., 1959 out of 2903, or 67.48%. BERICHT DES BAYERISCHEN LANDESJUSTIZPRÜFUNGSAMTES FÜR DAS JAHR 2002, 5, available at http://www.justiz.bayern.de/ljpa/ber02.pdf, available at the Internet site of the Landesjustizprüfungsamt of the Bayerischen Staatsministerium der Justiz, http://www.justiz.bayern.de/ljpa/ (last visited Feb. 15, 2004).
²³ Setsuo Miyazawa, Education and Training of Lawyers in Japan—A Critical Analysis, 43 S. TEX. L. REV. 491, 492 (2002); Setsuo Miyazawa & Hiroshi Otsuka, Legal Education and the Reproduction of the Elite in Japan, 1 ASIAN-PACIFIC L. & POL’Y J. 2, n.62 (2000); YOSHIYUKI NODA, INTRODUCTION TO JAPANESE LAW 141 (1976); Yasuhei Taniguchi, Legal Education in Japan, in LAW AND TECHNOLOGY IN THE PACIFIC COMMUNITY 295, 298-301 (Philip S.C. Lewis ed., 1994). See Nottage, supra note 18, at 42 n. 61 (noting the observation of a Japanese student regarding the lack of “practical orientation” and students’ doubts whether they will be able to use the knowledge that they have learned).
is mostly the province of the practical training period. The focus of undergraduate legal education is on teaching an abstract body of legal principles that are not closely tied to the actual cases in which those principles are applied.

As a consequence, university education in law in Japan is not professional. The law faculties provide undergraduate instruction in law to students, the vast majority of whom do not become lawyers. They also provide graduate legal education to a small number of students who hope to become law professors. University law faculties do not, however, provide rigorous training in applying law to facts, the skills required by professional lawyers.

In any given year there are approximately 45,000 undergraduates studying at nearly one hundred university law faculties within Japan. The first year of education is given over to general liberal arts courses. While classes in later years address law, they generally do so from a theoretical perspective and do not focus on case analysis. Law faculties typically provide large lecture classes and student participation is minimal.

Japan’s national Legal Training and Research Institute (Shiho kenshujo, hereinafter, “the Institute”) is responsible for practical legal training. Would-be lawyers must all gain admittance to the Institute, an agency of the Supreme Court. While perhaps unintended, the Institute’s admissions procedures serve to distance lawyer training from university education in law.

24 Miyazawa & Otsuka, supra note 23. While the German system of legal education places principal responsibility for professional training in the internship period, university legal education also contributes significantly to instruction in legal method. See Marutschke, supra note 22, at 90; Wolfgang Fikentscher, “What Are Law Schools For?,” A paper presented at the IBA 26th Biennial Conference, Berlin, Oct. 20-25, 1996,” (transcript available at the Garret W. McEnemer Law Library, Boalt Hall, University of California, Berkeley), quoted in James R. Maxeiner, American Law Schools as a Model for Japanese Legal Education?, 24 KANSU U. REV. L. & POL. 37, 40 n.16 (2003) (noting that at the university, students learn the “non-litigious opinion style” and in the training period the “litigious opinion style”)

25 Accord, Miyazawa, supra note 23, at 492 (“professional legal education designed to train future lawyers does not exist in Japan”); Waseda Law School, supra note 2.


legal education. Admission requires neither an undergraduate degree nor prior legal studies. While most applicants have degrees in the law, the Institute's exam is so difficult that it discourages attendance at university law faculties. On average, successful applicants have taken the exam five times. Because the exam is given only once a year, few successful applicants have recently studied law at a university. It is more likely that the successful applicant has recently spent time at one of Japan's infamous "cram" schools, which focus on the Institute's exam.

The Institute uses both classes and apprenticeships to train participants in the techniques of drafting judgments, indictments and pleadings. This training encompasses the skill of applying law to facts to decide individual cases. At the end of the Institute's training period, the participants take a practice-oriented examination which requires them to draft a court judgment, a prosecutor's final argument, or a summary brief for a plaintiff or defendant. Most participants pass the first time they take this examination. Those who pass are eligible to be judges, prosecutors or lawyers.

IV. THE NEW JAPANESE SYSTEM OF LEGAL EDUCATION AND LAWYER TRAINING

The new Japanese law schools are a key element of a larger reform of the Japanese legal system that is designed not only to increase the number of lawyers, but also to increase the importance of law in Japan. The reform proposal was written by an independent commission, the Justice System Reform Council (hereafter "the Council"). The Council's final report, released on June 12, 2001 (hereafter, "the Reform Report"), recommends major changes in the civil justice, criminal justice, legal education and lawyer training systems of Japan. The Council consisted of a diverse group of thirteen representatives from various parts of society. While the Reform

29 Miyazawa, supra note 23, at 491.
30 See Eriko Arita, U.S.-style Law Schools to Offer Practical Approach, JAPAN TIMES, July 2, 2003 (noting that "[m]ore than five years of study—at cram schools, not universities—has become the norm to pass Japan's extremely competitive bar exam"). For a detailed discussion of the Institute's examination, see Edward I. Chen, The National Law Examination of Japan, 39 J. LEGAL EDUC. 1 (1989).
31 The Institute's apprentices are not only not charged tuition, but they also receive a substantial stipend comparable to the salary that a recent college graduate might earn. The cost of stipends for interns seems a consideration in legal training reform just about wherever an apprentice program is employed.
32 See Kondo, supra note 27.
33 The members are listed at http://www.kantei.go.jp/foreign/policy/sihou/singikai/members_e.html (last visited Feb. 15, 2004). The Chairman and Vice Chairman are a law professor and university president respectively. The eleven other members include three academics, two businessmen, a trade unionist, a consumer group spokesman, an independent author, a private attorney, a former judge, and a former
Report itself is an impressive achievement, what makes it extraordinary is that its recommendations were quickly and uniformly adopted as national policy and are being implemented as such without the political infighting that might be expected in other countries.\(^\text{34}\)

The Reform Report is a mandate for increasing the role of law—and above all, the Rule of Law—in Japanese society. Chapter I of the Reform Report states:

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[T]his\ Council\ has\ determined\ that\ the\ fundamental\ task\ for\ reform\ of\ the\ justice\ system\ is\ to\ define\ clearly\ "what\ we\ must\ do\ to\ transform\ both\ the\ spirit\ of\ the\ law\ and\ the\ rule\ of\ law\ into\ the\ flesh\ and\ blood\ of\ this\ country,\ so\ that\ they\ become\ 'the\ shape\ of\ our\ country.'\]

The theme of the Rule of Law runs like a leitmotif through the entire Report. The Rule of Law is to be an “essential base” for deregulation so that citizens may act independently and without prior administrative approval.\(^\text{35}\)

The Reform Report concludes that if law is to have an increased role in Japanese society, it is “indispensable to widely expand the quality and quantity of . . . legal professionals . . .” In order to achieve these goals, the Reform Report calls for an entirely new system of legal education. It anticipates that “[a]s the core of the system, graduate schools specialized in

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\(^{34}\) On November 16, 2001 the Japanese Diet adopted Law No. 119 of 2001, The Justice System Reform Promotion Law (Shihoseido Kaikaku Suishinho). The law states that its purpose is to implement the Reform Report intensively and totally and to assure that the legal system has a decisive role in deregulation and societal transformation. The law established a new office within the Cabinet known as the Office for Justice System Reform, with the Prime Minister as chief and including all Cabinet ministers. On March 19, 1992 the Cabinet adopted a program for promoting justice system reform. http://www.kantei.go.jp/foreign/policy/sihou/index_e.html (Internet site of the Prime Minister of Japan and His Cabinet) (last visited March 7, 2004). There is irony in this single-minded implementation, for it would seem to be an example of the “top down” governing that the Reform Report opposes.

\(^{35}\) Reform Report, supra note 20, ch. I (“This reform of the justice system aims to tie these various reforms together organically under “the rule of law” that is one of the fundamental concepts on which the Constitution is based. Justice system reform should be positioned as the ‘final linchpin’ of a series of various reforms concerning restructuring of “the shape of our country”.

\(^{36}\) The Reform Report calls for converting from an advance control system to an “after-the-fact review/remedy type society”, so that each and every person may “break out of the consciousness of being a governed object and [may] become a governing subject, with autonomy and bearing social responsibility . . . .” Id. ch. I, pt. 3, §3. For a sharply critical view of the Rule of Law in Japan today from an American perspective, see CARL F. GOODMAN, THE RULE OF LAW IN JAPAN: A COMPARATIVE ANALYSIS (2003). Goodman’s refrain is that in present-day Japanese law, “what you see is not what you get.”
training of legal professionals (hereinafter referred to as ‘law schools’) shall be established.\textsuperscript{37}

The new law schools are placed between undergraduate education and the Institute.\textsuperscript{38} In the system being established, undergraduates are to apply for admission to law schools. They are to spend three years in law school, although individual law schools may permit students who have undergraduate degrees in law to complete the program in two years. Existing institutions are not to be eliminated. Existing law faculties are to continue to exist and to provide undergraduate and graduate education in law. The Institute and its period of practical training are similarly to continue. Law school graduates are to take an examination for admission to the Institute. Some of the practical training presently provided by the Institute, however, is to be shifted to the newly-formed law schools.\textsuperscript{39}

The introduction of law schools will permit Japan to reduce the training period for aspiring lawyers—already recently reduced from two years to one-and-one-half years—further to a one-year period. Once that reduction is implemented, classroom instruction at the Institute is to be eliminated and only apprenticeships retained. These reductions, combined with some expansion of resources, are anticipated to permit Japan to substantially increase the total number of trainees admitted to the Institute. The Reform Report when published anticipated that about 70-80\% of all applicants to the Institute with law school educations would be admitted.\textsuperscript{40} It now appears, however, that because the number of new law schools is greater than expected, the actual percentage of successful applicants will be significantly lower—perhaps as low as 25-35\%. While the number of applicants admitted is to be increased, the principle of restricted admission is not to be abandoned. The Ministry will determine how many applicants will


\textsuperscript{38} The Reform Report does not discuss why it did not adopt what would seem the most obvious solution to the shortage of lawyers in Japan: a large increase in the size of the Institute or the creation of additional institutes elsewhere in the country. Such an approach would be considerably less costly and difficult than creating so many new law schools. This alternative plan was raised but not widely considered. Apparently it was felt that this approach would make excessive demands on the limited resources of the judicial system, would be too expensive, and might compromise the ability of the Supreme Court to control the education of lawyers. For a critical view of the reform from a New Zealander who has taught in Japan, see Nottaga, supra note 18.

\textsuperscript{39} Cf., Reform Report, supra note 20, ch. III, pt. 2, §4(1).

\textsuperscript{40} Reform Report, supra note 20, ch. III, pt. 2, §2(2)d.
be admitted to the Institute and thus, eventually, to legal practice. Japan will not follow the practice in other countries such as the United States and Germany, where all applicants who meet certain minimum standards are admitted to the profession.

The Reform Report is widely understood to follow an American model of legal education and lawyer training. The Report calls for creation of new institutions that it pointedly calls "law schools" in contrast to the existing "faculties of law." The new Japanese law schools are to share many of the characteristics of American law schools. For example, the new schools are to be "professional schools providing education especially for training for the legal profession." They are to provide for a three-year period of study following a four-year undergraduate education. The Japanese law schools are also to provide instruction that is interactive.

Japanese legal educators are looking to the United States as the principal model in implementing the reform of legal education. Delegations of Japanese legal educators have visited the United States. Japanese legal educators have also invited many foreign legal educators to address them on legal education. The overwhelming majority of these visitors have been Americans.

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42 The Report anticipates instruction that is "bi-directional (with give-and-take between teacher and students)". Id. ch. III, pt. 2, §2(2)d. See infra notes 59-69 and accompanying text.

43 One school, Waseda Law School, sees this return to American teaching methods as a reaffirmation of the school's original mission. According to its Internet site, "Waseda University was originally established in 1882 as a school to train lawyers. The university even employed the case method that had been introduced just a few years earlier by Dean Langdell of Harvard Law School. Unfortunately, that professional character was lost as legal education in Japan evolved. The present reform movement gives us an opportunity to reestablish our original mission . . . ." Waseda Law School, Waseda Addresses the Situation, at http://www.waseda.jp/law-school/eng/situation.html (last visited Feb. 15, 2004). Cf., Nottage, supra note 18, at 34 (noting that proposals for reform seem to be influenced primarily by U.S. or German models). Not every Japanese legal educator applauds this development. See, e.g., Koichiro Fujikura, Reform of Legal Education in Japan: The Creation of Law Schools Without a Professional Sense of Mission, 75 TUL. L. REV. 941, 942 (2001) (pointedly observing that "[a] major issue of the proposed reform is whether Japan should adopt an American model law school, i.e., professional education at the graduate level, while essentially doing away with the traditional Japanese method of teaching law at university.")

45 Japanese universities' English language legal periodicals report these visits and sometimes reprint the texts of the visitors' addresses. They report over twenty visitors from the United States, i.e., in full text: William Burnham, A Peek into the Future of US Legal Education: Any Lessons for Japan?, 15 KWANSEI GAKUIN L. REV. 37-53 (2001); David F. Chavkin, Curriculum Reform in American Legal Education:
V. THE KEY CHALLENGE FACING THE NEW JAPANESE LAW SCHOOLS: PUTTING THE PROFESSIONAL INTO LEGAL EDUCATION


The same journals report a much smaller number of visitors from other countries. These are (identified by home country):


China (texts in Chinese): Li Hua-de, Legal Education in the P.R.C., 4 WASEDA PROCEEDINGS OF COMP. L. 117 (2001); Zeng Xianyi, Legal Education in the P.R.C., 5 WASEDA PROCEEDINGS OF COMP. L. 27 (2002).


The Justice Council Reform Report assigns the new Japanese law schools the mission of providing "practical education for fostering legal professionals." These new institutions are to be "professional schools providing education especially for training legal professionals ..." The many challenges faced by the new law schools—both pedagogical and practical—are largely subsumed by the overarching task of discerning and fulfilling this mission of providing professional education. Collectively, the new law schools must develop the details of what it means to be professional schools training lawyers. Individually, each new law school must find its own way—and resources—to help fulfill this mission. The new law schools need imagination and inspiration; it is up to them to reorient both the substance and methods of legal education previously offered in Japanese universities.

A. The Pedagogical Issues the New Law Schools Face Collectively

1. The Kind of Legal Professionals the New Law Schools are to Train

In order for the new Japanese law schools to meet fully the challenge of providing education and training for professionals, some consensus is needed as to the kind or kinds of legal professionals to be produced. There is nothing in the Reform Report that suggests that the new law schools should depart from the unitary system of legal education—in which all legal professionals receive the same education and training—that Japan has used for the last half century. Neither does the Reform Report provide clear direction whether the new schools should adopt the judge, prosecutor, advocate or counselor role as the model for that unitary legal professional.

47 Id. ch. III, pt. 2, §1.
Japan may choose between different international models of legal education. While the American model trains students to be advocates and counselors, even though they may not intend to become lawyers, the German model, on which the Japanese system was originally based, trains students to be judges, even though they may intend to become lawyers. Even if the Reform Report were clear regarding what type of legal professional provided the basis for Japan’s professional education, the new law schools would still face the challenge of determining the future role of the Japanese judge, prosecutor or lawyer. These roles are markedly different in different countries.49

Contemplating the type of legal professionals to be trained reveals the limits of Japanese reliance on the American educational model. The American system of lawyer education and training assumes social and legal systems different from those that prevail in Japan.50 Above all, the American system presupposes a common law adversary system. While many changes that have occurred in the last sixty years have moved the Japanese legal system in the direction of the American common law adversary system, its legal system and legal methods still more closely follow the German civil law system.51 Accordingly, education and training that is appropriate in the United States may not be appropriate in Japan, while education and training not offered in the United States may be essential in Japan. For example, American style advocacy, which is highly valued in American law schools,52 may be inappropriate in Japan, while judgment drafting, which is not taught in American law schools, may be essential.

Japanese legal reformers have recognized that the American model is helpful only to a point. Reformers did not, for example, eliminate the Institute’s role in legal training, as they would have done had they been true to the American model. In the end, the new Japanese law schools will be decidedly Japanese institutions.


50 Cf., THE PROFESSIONAL SCHOOL AND WORLD AFFAIRS, supra note 6, at 370-71 ("[American professional schools are] so closely intertwined with the U.S. social environment that their transferability without change to other societies is an impossibility").


52 Richard Stith, Can Practice Do Without Theory? Differing Answers in Western Legal Education, 80 ARCHIV FÜR RECHTS- UND SOZIALPHILOSOPHIE (ARSP) 426, 433 (1994) ("An excellent student is one who can argue either side of a case with equal facility, who is trained to be a "hired gun").
2. **The Substance of Legal Education and Training Provided by the New Law Schools**

A critical issue in implementing the Reform Report is the substance of instruction that the new law schools will provide. The Reform Report recommends that the new law schools “provide highly advanced legal education especially for training legal professionals in order to build a bridge between theoretical education and practical education . . .”\(^\text{53}\) But what makes education practical, and is that the same as what makes it professional?\(^\text{54}\) Moreover, how should the new law schools share responsibility for providing this kind of education with the existing faculties of law and with the national Institute?

Historically, “practice” in Japan has meant the activities of judges, prosecutors and litigators. “Practice” has not generally referred to providing counseling and drafting services.\(^\text{55}\) Many of the individuals behind the present reform are believed to adopt this narrow view of practice. However, other reformers—particularly those from industry—are more likely to find the benefits of practical legal education in advanced business law subjects, such as antitrust, intellectual property, and international business transactions.\(^\text{56}\) The new law schools may be more likely to succeed if they adopt this broader view of practical education and broaden it still further to include an emphasis on training in the legal method.\(^\text{57}\)

The extent to which Japanese law schools will teach the legal method of relating law to facts remains to be seen and is one of the future developments most worth watching. What transpires will be affected principally by how work is shared between the Institute and law schools and by curricular decisions made at the individual law schools and by each individual law school professor.

With respect to sharing responsibilities with the university faculties of law, the general outline is fairly clear: the law faculties in educating undergraduates—even more than before—will emphasize general education and the basics of the legal system. The law faculties will continue to provide

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\(^\text{53}\) Reform Report, supra note 20, ch. III, pt. 2, §2(2)e.

\(^\text{54}\) Compare Reed, supra note 7, at 281 n.1 (cautioning readers “not to be mislead by the many ambiguities latent in the terms ‘practice’ and ‘practical’”).

\(^\text{55}\) Cf Nottage, supra note 18, at 30-34 (prophesying that Japanese legal practice in 2020 will be more “proactive”).

\(^\text{56}\) Kashiwagi, supra note 37, at 61.

\(^\text{57}\) Accord, Nakabo, supra note 33, at 650 (Council member notes that “law schools must train their students to start with the actual facts and solve problems by finding ‘what law should be’ or ‘where justice lies’ through analysis of the facts”).
graduate legal education for students intending to become law professors. The law schools, on the other hand, will provide compulsory instruction in core legal subjects of private and public law. The new schools will, above all, focus on students' ability to think in legal terms.\footnote{Masato Ichikawa, *Ritsumeikan University Proposal from Kyoto Private School of Law and Politics to Ritsumeikan Kyoto Law School*, 18 *RITSUMEIKAN L. REV.* 23, 37, 40 (2001).}

There is less understanding among educators about how the law schools will share responsibilities with the national Institute. The shortening of the time at the Institute from what was originally a two-year period to what will be one-year program is accompanied by the expectation that the law schools will provide some of the instruction presently provided at the Institute. In particular, the law schools are expected to cover what is now covered in classroom-type instruction in judgment drafting.\footnote{Cf. Reform Report, *supra* note 20, ch. III, pt. 2, §2(2)d ("Law schools should provide educational programs that, while centered on legal theory that takes into account reasonable solutions to problems arising in the world of practice, introduce practical education (e.g., basic skills concerning factual requirements or fact finding) with a strong awareness of the necessity of building a bridge between legal education and legal theory on the basis of systematic legal theory."); id. ch. III, pt. 2(4)(1); Ichikawa, *supra* note 58, at 42.} However, at least until the law schools are firmly established, they may not supplant completely the classroom instruction that the national Institute provides in legal method and practical skills.\footnote{See Ichikawa, *supra* note 58, at 42.}

Only now are the new Japanese law schools beginning to develop the curricula that eventually will contribute to determining the substance of the legal education and training provided. The law schools are planning practical courses familiar in American legal education such as moot court, legal clinics, and externships. But they are also looking to practical courses more similar to German-style education, such as seminars that unite civil law and civil procedure in one course, and criminal law and criminal procedure in another.

The specifics of the law school curricula are beginning to become clear. Students without an undergraduate degree in law will enroll in a three-year program. Those with undergraduate degrees in law will participate in either a two or a three-year program, depending upon the requirements of the particular law school.\footnote{Waseda University has announced that students who wish to take a two-year program will be allowed to take a qualifying examination only after their initial admission. *Waseda Law School, supra* note 44.} The first year of the three-year program will consist of required courses on the fundamentals of Japanese law. The second and third years of the three-year program, as well as both years of the two-year program, will consist of three principal types of
courses, many of which will be compulsory: (1) seminars and other in-depth courses in the basic areas of law studied in undergraduate school (e.g., civil law, criminal law, constitutional law, commercial law, criminal procedure, and civil procedure); (2) practical instruction by experienced practitioners in civil, criminal, and administrative procedure that combines the procedural law with the respective substantive law; and (3) electives (e.g., international law, intellectual property law, and tax law). In the first of these two years, the curricular emphasis will be placed upon the in-depth courses described under the first category above. In the second of these two years, the emphasis will shift to the practical and elective courses described in the second and third categories above. Individual law schools are likely to offer different electives. One possible point of distinction among schools may turn out to be the extent to which individual schools create opportunities for specialization in particular practice fields, such as civil litigation, commercial counseling, or criminal law.  

3. The Teaching Methods Used for Professional Education and Training

Along with deciding what the new law schools will teach, Japanese legal educators are deciding how to best teach that substance. Again, the Reform Report points the way but provides relatively few details. The Reform Report calls for a shift in the method of legal education from the unilateral mass lecture typical of present-day law faculties to a “small group education system” that provides “bi-directional (with give-and-take between teacher and students) and multidirectional (with interaction among) students.”

Bringing this change about will be a marked departure from historic practices. Japanese law students are not accustomed to participating in class. To get them to do so will require substantial effort on the part of faculty members, many of whom themselves are accustomed largely to lecturing. In seeking to re-orient their students, Japanese law school professors will be at a disadvantage compared to their American colleagues, whose first year law school classes are the model for the Reform. In first year American law school classes, most students have had little or no prior experience with the law. In first year Japanese law school classes, on the

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63 Reform Report, supra note 20, ch. III, pt. 2, §2(2)d.
64 See Takashi Uchida, Legal Education in Japan, 12 CORNELL L. FORUM No. 1, 7, 9-10 (1985).
other hand, most students will have had prior exposure to the law, thus foreclosing the introduction of this new teaching method as just a part of the new substantive material.

Despite these challenges, the new law schools are determined to increase the use of interactive methods. To facilitate interaction, the Ministry of Education is requiring that law schools keep the student-faculty ratio to a low 15:1.65 Most law schools are to have entering classes of 100 or fewer students.66 Class size is also to be much smaller than the mass lectures presently common in most law faculties.67 Plans for the Nagoya University Law School, for example, anticipate that “[i]n small scale, challenging yet vigorous classes, students will interact with friends and teachers in a mutually reciprocating ambiance of rarified learning, all the time refining their sense of reason and justice.”68 Plans for the Kyoto Sangyo University Law School anticipate that one of its three lecture rooms will be “a graduated lecture auditorium that facilitates use of the Socratic Method . . . .”69

4. The Professional School and Legal Scholarship

If one puts the professional into legal education, must one take legal scholarship out? This remains an unanswered question as Japan introduces law schools. Japanese law faculties have a rich tradition of legal scholarship.70 Some critics say, however, that this tradition has led to a disdain for practice.71 The Reform Report echoes this criticism, finding traditional legal education lacking both as a basic liberal arts education and as a specialized legal education. The Reform Report notes that at the postgraduate stage “the major purpose has been to train academic researchers.” This has led, it concludes, to a “gap between education and actual legal practice.”72 The Reform Report calls on law schools “to change themselves by shifting their principle from the traditional one focusing on

65 Waseda Law School, supra note 2.
70 See Marutschke, supra note 22, at 88.
71 Kashiwagi, supra note 37, at 62.
research and study to a new one truly focusing on education of students. The Report's emphasis on teaching practical skills has led some Japanese law professors to be concerned that creation of the new law schools will lead to a depreciation of traditional legal scholarship and teaching within Japan.

The American experience does not parallel that of Japan and consequently offers relatively few insights on how the new law schools are likely to balance scholarship and professional education. American law schools did not begin—as did the Japanese law schools—with a highly developed tradition of legal scholarship. For a very long time, scholarship was not central to the mission of American law schools, which sprang up as competition to the apprentice system. Until about 1970, much of American legal scholarship focused on specific legal questions, considered in the style of a judicial opinion. All that has since changed, as American legal scholarship has moved away from doctrinal work to becoming increasingly interdisciplinary. This interdisciplinary approach looks at law "from the outside." As doctrinal scholarship has fallen into disrepute, American legal scholarship is said to have lost its connection to practice.

Legal scholarship has increasingly become social science scholarship. Practitioners find it unhelpful and claim that there is a growing disjunction between this research and American legal practice.

Comparable developments—whether limiting legal scholarship to narrow doctrinal work or to pure social science—seem unlikely in Japan. In Japan, legal scholarship is generally of the "dogmatic" kind. While Americans might be tempted to equate "dogmatic" with "doctrinal"—especially since dogmatic is a pejorative in the American lexicon—this

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73 Id. ch. III, pt. 2, §2(2)a.
74 Kashiwagi, supra note 37, at 63. Others lament that in the future, law school scholarship may remain of equal importance with practical legal education, and thus hinder the effort to provide professional training. Id.
75 Cf. Read, supra note 7, at 281 ("Our American universities are much more ‘practical’ than those of England and Continental Europe, in the sense that they devote themselves primarily to training practitioners, and only incidentally to developing legal scholarship").
77 Id. at 1316.
81 See generally, Teruo Minemura, Dogmatic Legal Science and the Sociology of Law, 56 ARCHIV FÜR RECHTS- UND SOZIALPHILOSOPHIE (ARSP) 351 (1970).
relation would be inaccurate. Dogmatic research entails having professors place legal rules within a legal system. To a substantial extent law professors write and interpret the law. In Japan, as in other civil law countries, dogmatic research has a secure place. The connection of dogmatic research to practice serves to enhance scholarship by linking law to the reality of practice. Looked at this way, the creation of law schools in Japan could strengthen traditional legal scholarship—at least in practical fields—by bringing scholarship more in line with "real world" issues. Moreover, there is no reason for Japanese law professors to move away from this form of scholarship. Alternative forms of research are already available, and have not undermined Japan's dogmatic research. Many of the existing law faculties already offer opportunities for viewing the law from the outside, in that they have separate departments in social science fields, such as political science.

B. The Practical Issues Each New Law School Faces Individually

Japan's new law schools are not just a new phenomenon; each is also a new institution that faces its own challenges. For each individual law school, it is not enough that the concept of law schools takes hold and is successful in Japan. Rather, it is important that that law school flourishes. Thus, institutional imperatives can make practical issues of more immediate concern than long-term pedagogical issues of professional education. Each individual law school needs adequate financing, quality faculty and qualified students. In seeking to secure these essentials, the new law schools often find themselves competing against each other.

It is unclear whether all the approved Japanese law schools will be able to survive as viable institutions. Japanese universities and their law faculties are intensely competitive. Notwithstanding the fact that existing legal education in Japan is not directed toward producing lawyers, success on the examination for admission to the Institute serves as a measure—

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82 James R. Maxeiner, 1992: High Time For American Lawyers to Learn From Europe, or Roscoe Pound's 1906 Address Revisited, 15 FORDHAM INT'L L.J. 1, 12-13 (1991). Compare the critiques of Alan Watson, the civilian Scottish jurist turned American law professor: "To an extent unparalleled elsewhere, [American] students are not exposed to systematic treatment of law, with clear-cut concepts, institutions, and rules, but are presented with individual cases, outside of a historical, doctrinal, legal context but against a background of social interests." ALAN WATSON, JOSEPH STORY AND THE COMITY OF ERRORS, A CASE STUDY IN CONFLICT OF LAWS 118 n.29 (1992); ALAN WATSON, LAW OUT OF CONTEXT 143 (2000) ("Concepts and principles are badly downplayed. So are rules and their authority and stability.").

83 For example, the Faculty of Law of Kansai University consists of two departments: the Department of Jurisprudence and the Department of Politics. See http://www.kansai-u.ac.jp/Fe_law/EGO/htm/index-e.html (last visited Feb. 15, 2004).
perhaps the principal measure—of the quality of a law faculty. Historically just five law faculties—two public (Tokyo and Kyoto) and three private (Waseda, Chuo and Keio)—have accounted for about two-thirds of successful applicants to the Institute. In 2002, each of these had more than one hundred successful applicants; no other law faculty had as many as fifty and most had fewer than ten. When the Reform Report was issued, there was a general expectation that only about twenty new law schools would be created. This number would have corresponded approximately to the number of law faculties that typically have at least ten successful applicants to the Institute.

The number of applications to open law schools was much higher than originally anticipated. Seventy-two applications were filed—all but a handful came from the ninety-three universities that have law faculties. Apparently even universities with few successful candidates for the Institute concluded that in order to be competitive at the undergraduate level, they need to have law schools. Sixty-eight of seventy-two applications were approved. Can all these new law schools survive when only about twenty of their parent law faculties have an established track record of placing graduates in the national Institute, and thus in practice?

1. **Controlling and Financing the New Law Schools**

While some of the new law schools will be independent institutions, most will be affiliated with universities. That so many universities have chosen to establish new law schools shows substantial societal backing for the new system of legal education and lawyer training. That support is demonstrated in bricks and mortar at a number of schools, including Kansai

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84 See Haley, *supra* note 12, at 44 (“not only are those who are admitted [to the Institute] treated with notable deference, the schools from which they graduate share their glory”). Aichi University’s Internet site proudly notes that since the founding of the university law department in 1953, forty-four graduates have passed the national examination for admission to the Institute. See [http://www.aichi-u.ac.jp/foreign/english/graduate.html](http://www.aichi-u.ac.jp/foreign/english/graduate.html).


86 *Cf.* Fujikura, *supra* note 37, at 943.

87 The number of universities with law faculties comes from the Reform Report, *supra* note 20, ch. III, pt. 2, §2(5).

88 One Japanese newspaper editorialized about this “overproduction” of law schools and noted that “[m]any universities were probably driven to create law schools for fear they would otherwise be regarded as substandard and lose students.” *Spread of Law Schools*, Editorial, ASAHI SHIMBUN, Nov. 24, 2003, available at [http://www.asahi.com/english/opinion/TKY200311250126.html](http://www.asahi.com/english/opinion/TKY200311250126.html) (last visited Feb. 15, 2004). Another noted that “universities are fighting to survive in a competitive climate in which they must restructure and merge to cope with a drastic decline in student numbers.” *Caution Needed on Law Schools*, Editorial, YOMIURI SHINBUN, Dec. 3, 2002, at 8.

89 See *supra* note 1.
University Law School, where there are or will be new buildings built just for the new law schools.

Although most of the law schools are graduate schools of their respective universities, they are expected to have substantial independence. They will be administratively separate from the law faculties, they will control their own admissions,\textsuperscript{90} and they will grant their own degree, a Juris Doctor (\textit{Homu Hakase}). The new law schools will not, however, control their own budgets. This may be just as well, since they are not expected to produce surpluses for their universities the way many American law schools do. This lack of financial surplus is, in part, because the anticipated interactive education and the lower student-faculty ratios have led to higher tuition for law schools than is generally the case for other university programs.

Financing of the new law schools is thus a potentially divisive issue.\textsuperscript{91} Law schools will be dependent on tuition from their students and on other resources that their universities may make available. The new law schools at public universities have announced low tuitions of about ¥ 780,000 a year (roughly US$ 8000 at current exchange rates). Private law schools initially considered tuitions in a range of ¥ 1,750,000 to ¥ 2,350,000. Because this is considerably more than the tuition of public law schools, to remain competitive, the private universities called for government support. It appears that this support will be forthcoming. The Ministry of Education and Science has announced it will provide a subvention so that the tuition at private law schools is no more than ¥ 300,000 above that of public schools. The Ministry will also increase the level of scholarship support available to most students from ¥ 130,000 a month to ¥ 200,000. Pressure to remain competitive with public law schools has led private Japanese law schools to reduce their tuition. In late 2003, most private law schools announced reductions in their tuition of about ¥ 300,000.

2. \textit{Obtaining \textbf{Qualified Faculty for the New Law Schools: the Practitioner Requirement}}

A strong law school requires a strong faculty. While most faculty members of the new law schools come from the existing law faculties, there has been keen competition for new faculty members. Although decisions on staffing were made locally by committees at the respective universities, the

\textsuperscript{90} Reform Report, \textit{supra} note 20, ch. III, pt. 2, §2(2)c ("judging applicants shall be left up to the independent judgment of each law school according to its own educational philosophy").

\textsuperscript{91} Financing has been a major point of concern. \textit{See} Fujikura, \textit{supra} note 37, at 945-46.
Ministry of Education and Science had to approve these choices. The Ministry imposed a rigorous review of academic credentials. For example, it refused to authorize a criminal procedure professor to teach criminal law because it considers credentials in the one academic area not sufficient for the other. It has also demanded that professors show recent publications in the field they intend to teach. One of the reasons that the Ministry reportedly did not approve the initial application of Osaka University was because one professor of criminal law had only four instead of the requisite five years of teaching experience.

The division of existing faculties into new law school faculty and old legal department faculty has not produced as much dissension as one might have feared. In part, that may be because conditions of employment are to be similar at the law faculties and the law schools, and it is not yet clear which, if either, will be preferable. Faculty members who teach more philosophical subjects, such as legal history and jurisprudence have tended to opt for the law faculties, while faculty members who teach subjects closer to practice seem to have gravitated to the law schools. Because most law school faculty members are to be coming from the existing law schools, the creation of employment and tenure standards apart from the university generally has yet to receive top priority. Most law schools are expected to begin developing separate standards, if at all, only after they begin operation. Here much remains open.

The most substantial challenge in faculty recruiting has been meeting the requirement that at least one-fifth of each new law school's faculty must come from practice.92 The Reform Report—noting the role of legal education as a bridge between theoretical and practical education—considers the participation of practitioner-teachers to be “indispensable.” It calls for setting qualifications for professors that consider “to a large degree” the professor’s “capacity and experience as a practitioner.”93

Some law schools had difficulty locating suitable professors from practice; some may have difficulty retaining sufficient numbers of such faculty. In Japan, public servants such as judges and prosecutors can earn more than ¥ 25 million a year, that is, in excess of US$ 200,000. To facilitate placing professionals in the new law schools, the Ministry of Justice in cooperation with the Supreme Court established a system to send prosecutors and judges to the law schools for three-year terms. The law schools will provide the usual funds for professors and the state will make

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93 Reform Report, supra note 20, ch. III, pt. 2, §2(2)e.
up the difference. Because there is no comparable system to send private lawyers to the law schools, it may be more difficult to engage competent private practitioners. One practitioner acerbically described how he sees the problem: "good practitioners are usually too busy to teach at law schools, while bad ones are not capable of teaching."94

There is concern whether all of the new Japanese law schools will be able to provide adequate practical instruction even with the requirement that twenty percent of the faculty come from practice. Some legal educators fear that requirement may be insufficient, and that present faculty members will be unable to provide the needed instruction.95 Very few legal academics have experience in legal practice.96 Despite faculty members' lack of experience, however, pessimism that existing law faculty members are not themselves able to teach professional legal skills seems unwarranted. After all, in the United States, law school education completely supplanted law office education by using law professors who had no practical experience.97 Difficulties in staffing the new Japanese law schools may ultimately depend upon whether the law schools focus on the professional aspect of "thinking like lawyers" or on more technical practice skills.

3. Obtaining Qualified Students for the New Law Schools

A concern of many Japanese legal educators about the law schools is whether they will be able to obtain a sufficient number of high quality students. Because a school's prestige—and therefore its ability to attract students—is likely to depend on its success in placing graduates in the national Institute, it is imperative that a new law school enroll students likely to pass this exam. This is all the more important now that it appears that fewer than half of law school graduates will be admitted to the Institute. Of the 5000 to 6000 students who are to begin studies on April 1, 2004, no more than 1500 are to be selected for the Institute in 2006.

Japanese law schools will likely focus on admission requirements to ensure the selection of competitive students. Two different bodies have created and are administering standardized law school admissions tests. In addition, the law schools are supplementing the standardized tests with their own examinations.

94 Kondo, supra note 27.
95 See, e.g., Kashiwagi, supra note 37, at 65.
96 See, e.g., Kondo, supra note 27.
97 The most famous of whom was James Barr Ames. See Robert Stevens, Law School: Legal Education in America from the 1850s to the 1980s 38 (1983).
If the experience of the Kansai University Law School is typical, admission to better schools will be highly competitive. Kansai had 1638 applications for its inaugural class. Of all the new law schools in the Kansai region, that was the highest number of applications. From the 1638 applications, it selected about 890 persons for its own supplementary examination. From that number it chose 130 persons for the entering class.

The new Japanese law schools are already discovering some of the techniques employed by American law schools to maximize their success rate on the bar exam: granting scholarships to the very best students and providing loans to good students. They may also eschew the shortened two-year plan lawfully allowed to students with undergraduate degrees in law and require all or most students to take a three-year program.98

VI. CONCLUSION

We began this Article noting that April 1, 2004 was a remarkable day for legal education. Will that day be remembered as the Japanese springtime counterpart to the fall day in 1870 when the United States began its "revolution in legal education"?99 It is too early to tell. That American revolution, in any case, took a generation to triumph. We expect that it will be many years before the results of this Japanese revolution are clear. It is, however, already apparent that within less than a generation, law school-trained lawyers in Japan will account for the majority of Japanese lawyers.

The new Japanese law schools individually face many difficult challenges, but collectively they have an enormous opportunity to shape not only the new form of legal education, but also the spirit of Japanese law.100 We hope that they are able to adopt the best features of American legal education, such as strong teaching of analytical skills and a high level of personal interaction, without giving up the best features of Japanese legal education, such as the explication and teaching of law as a systematic body of legal rules. There is reason to believe that the new law schools can achieve this ideal. When the United States adopted the case method of legal instruction, existing university legal education was weak and was without a strong tradition of academic law. However, there was a strong practicing

98 This seems to be the plan of the Waseda Law School. See http://www.waseda.jp/law-school/eng/system.html (last visited Feb. 15, 2004).
100 Regarding the "spirit" of Japanese law, see Haley, supra note 13; Tsuyoshi Kinoshita, Legal System and Legal Culture in Japan, 11 ZEITSCHRIFT FÜR JAPANISCHES RECHT 7 (2002).
bar. In Japan, on the other hand, the professors of the new law schools are coming mostly from an academic tradition; the practicing bar is small. We can count on these professors to retain the academic strengths of Japanese law. We hope that they will perceive the essence of professional education, that they will develop that education in new ways that unite law and practice, and that they will find the median between legal education and practical training. One day, just as Japanese legal educators now seek to learn from foreign and especially American experiences, foreign legal educators may seek to learn from Japanese experiences.