

LEGAL EDUCATION REFORMS IN JAPAN: BACKGROUND, RATIONALE, AND THE GOALS TO BE ACHIEVED

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I. JAPANESE POSTWAR LEGAL EDUCATION SYSTEM: OBJECT OF THE REFORMS

A. FEATURES OF THE JAPANESE POSTWAR LEGAL EDUCATION SYSTEM

Japan is experiencing its greatest upheaval in legal education since the postwar occupation. To understand the significance of the changes, it is necessary to grasp the main characteristics of the Japanese postwar legal education system that policymakers sought to reform. These characteristics can be grouped under three key concepts: popularization of legal education, legal education's dissociation with a specific legal career path, and lack of professional education within the legal education curriculum.

The number of undergraduate law departments has increased remarkably since World War II. Today, there are ninety-three law departments in Japan, whereas only nine existed before the war.¹ The number of incoming law students has also increased, reaching approximately forty-five thousand annually.² As the number of law students increased, the quality of law students as a group also changed. In contrast with the prewar legal student body, legal studies expanded to encompass not only elites but also students diverse in class and intellectual interests.³ This phenomenon is the “popularization” of studying law.⁴

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¹ THE JUSTICE SYSTEM REFORM COUNCIL, RECOMMENDATIONS OF THE JUSTICE SYSTEM REFORM COUNCIL – FOR A JUSTICE SYSTEM TO SUPPORT JAPAN IN THE 21ST CENTURY ch. III, pt. 2, 2 (5) (2001), *reprinted in* 2001 ST. LOUIS-WARSAW TRANSATLANTIC L.J. 119, *available at* <http://www.kantei.go.jp/foreign/judiciary/2001/0612report.html> [hereinafter THE COUNCIL'S RECOMMENDATIONS].

² THE COUNCIL'S RECOMMENDATIONS, *supra* note 1.

³ Koichi Sakurai, *Gakusei no Taishuka to Hogaku Kyoiku* [Popularization of Students and Legal Education], 64 GAKUJUTSU NO DOKO [THE TREND OF ACADEMY] 15, 16 (2001). Furthermore, the “childishness” of students has been discussed. See *Zadankai: Kawaritsutsu aru Hogakukei Daigakuin to Hogakubu* [Round-table Talk: Graduate School of Law and Faculty of Law in Transition], 1125 JURISUTO 36, 46, 50, 52 (1997) [hereinafter *Round-table Talk*].

⁴ See, e.g., Sakurai, *supra* not 3.

While popularization is a postwar characteristic of higher education in general, legal education demonstrates this phenomenon more clearly than any other field.

While the number of law students increased dramatically in the postwar period, it is simply impossible for all of these students to become lawyers.⁵ Law professors often hear that some students do not even consider taking the bar examination, while others give up after taking it several times. Following graduation, the majority of law students become government officials or white-collar office workers.⁶ As a result of these patterns, no specific career path is generally associated with the law degree.

This lack of a specific career path for law graduates has, in turn, influenced legal education programs.⁷ Programs in law are not designed to provide students with professional legal education and practical skills since most of these undergraduate students will never practice law. Instead, the programs aim to provide generalist training and some legal knowledge.⁸ The aim of legal education is often said to be the training of the “legal mind,” instead of legal professional training.⁹ Thus, legal education lacks professional or specialized education geared specifically toward producing lawyers.

B. THE NATIONAL BAR EXAMINATION AND LEGAL EDUCATION IN THE UNIVERSITY SYSTEM

Those who desire to be lawyers must pass the National Bar Examination.¹⁰ The number of people admitted to the bar is very

⁵ See THE COUNCIL'S RECOMMENDATIONS, *supra* note 1, ch. III, pt. 2, 1.

⁶ Masaru Nishio, *Hogaku Kyoiku no Mokuteki to Hoho* [The Purpose and Method of Legal Education], 348 IDE GENDAI NO KOTO KYOIKU [IDE MODERN HIGHER EDUC.] 30, 30 (1997).

⁷ See *id.* at 29, 30.

⁸ Cf. Tsunemaro Nakamura, *Daigaku no Taishuka to Hogaku Kyoiku* [Popularization of University and Legal Education], 72 WASEDA HOGAKU [WASEDA L. REV.] 396-97 (1997); see also Round-table Talk, *supra* note 3, at 45.

⁹ See, e.g., Round-table Talk, *supra* note 3, at 36.

¹⁰ For a general description of the Bar Examination and legal profession, see Hisashi Aizawa, *Japanese Legal Education in Transition*, 24 WIS. INT'L L.J. 131 (2006).

small, traditionally totaling no more than five hundred per year.¹¹ The success rate for the National Bar Examination fluctuates between 2 and 3 percent.¹² In the early 1990s, Japan began to increase the number of successful applicants from five hundred a year to the current level of fifteen hundred.¹³ Nevertheless, the success rate of the examination did not change significantly;¹⁴ as the number of successful candidates increased, so did the number of applicants seeking to take the exam.¹⁵ The exam is perceived to be the most difficult examination in Japan.¹⁶

Because the university law programs do not provide preparation courses for the bar exam,¹⁷ most of the applicants prefer to prepare in the cram schools.¹⁸ The education offered by the cram schools focuses exclusively on successful test-taking techniques for a specific examination, and, as such, is not useful for the training of good lawyers.¹⁹

II. THE IMPETUS OF LEGAL EDUCATION REFORMS

In the late 1990s, Japan began to reform the legal education system. The reform was focused on the university, administration, and judicial systems. These reforms are described below.

¹¹ *Id.* at 144-45. Until 1990, around 500 passed the Bar Examination each year. In 1991, the number reached 600 (605) for the first time. MINISTRY OF JUSTICE, SHIHOSHIKEN DAI-2-JI SHIKEN SHUTSUGANSHASU, GOKAKUSHASU TO NO SUII [TRANSITION OF NUMBER OF APPLICANTS FOR THE BAR EXAMINATION], available at <http://www.moj.go.jp/PRESS/991029/1920-s2.html> (Oct. 29, 1999).

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ The Examination of Certified Public Accountants is another tough national examination, but its passage rate is seven to eight percent (8.5% in 2005), which is double the passage rate of the national bar exam (figures on file with author).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Tatsuo Inoue, legal philosopher, ingeniously describes the phenomena as “the problem of escape of students from university legal education ‘useless for the exam’ and bar exam cram school education ‘useful only for the exam.’” Tatsuo Inoue, *Joron: Shiho Kaikaku Rongi wo Kaikaku suru: “Sengo no Kokutai” no Kaizo ni Mukete* [Introduction: Reforming the Judicial Reform Discussion: Toward Reorganization of “Postwar National Polity”], in TAISEI KAIKAKU TO SHITE NO SHIHO KAIKAKU [JUDICIAL REFORM AS POLITY REFORM] (Tatsuo Inoue & Mikio Kawai eds., 2001).

A. UNIVERSITY REFORMS

On October 26, 1998, the University Reform Council presented a report entitled “An Image of the University in the 21st Century and Reform Programs – Unique Universities in a Competitive Environment” (“URC 1998 Report”).²⁰

Because the industrial structure behind the accelerated economic growth of the postwar period had changed, strengthening international economic competitiveness had become an urgent national priority.²¹ To that end, the URC 1998 Report recommended that Japanese universities be restructured.²² It set out a program to diversify universities through competition, to improve the quality of education by emphasizing education over research, and to fortify education at the postgraduate level.²³

Previously, Japanese postgraduate education had focused exclusively on training for scholars.²⁴ This report suggested another orientation: high-level training for professionals.²⁵ While the field of natural sciences has already worked to implement this shift, the traditional method, focusing on training researchers, was still prevalent in the fields of humanities and social sciences.²⁶ To break this tradition and make the shift to the new orientation, the new institution of professional graduate school was established; the main objective of this new institution was to

²⁰ UNIVERSITY REFORM COUNCIL, AN IMAGE OF THE UNIVERSITY IN THE 21ST CENTURY AND REFORM PROGRAMS – UNIQUE UNIVERSITIES IN A COMPETITIVE ENVIRONMENT (1998), available at http://www.mext.go.jp/b_menu/shingi/12/dai-gaku/toushin/981002.htm [hereinafter URC 1998 REPORT].

²¹ *Id.* ch. 1, 1, (1).

²² *Id.* ch. 1, 2.

²³ *See id.* ch. 2, 1, (2) (“Advancement and Diversification of Postgraduate Education”). National universities in Japan were transformed into “independent administrative institutions” in April 2003 as part of the Administration Reform. However, this change can also be placed in the context of the University Reform, as it designed was to bring competition among the national universities. For the legal scheme of independent administrative institutions and its problem, *see* DOKURITSU GYOSEI HOJIN: SONO GAIYO TO MONDAITEN [INDEPENDENT ADMINISTRATIVE INSTITUTION: OVERVIEW AND ISSUES] (Toshiro Fuke et al. eds., 1999).

²⁴ *See* URC 1998 REPORT, *supra* note 20, ch. 2, 1, (2).

²⁵ *Id.*

²⁶ *Id.*

train professionals who needed highly specialized knowledge.²⁷ The new scheme for creating more law schools was conceived within this framework.²⁸

B. ADMINISTRATION REFORMS

In the 1980s, Japan was thought by some to have developed an alternative model of capitalism, based on an activist state rather than the free market. However, this Japanese model faltered due to the breakdown of the so-called “bubble economy” in the early 1990s, and Japan was unable to maintain the model. As a result, Japan began to transform itself into a more market-oriented society.²⁹ Government policies are now directed toward deregulation and smaller government.³⁰ *Ex post* remedies based on the rule of law are taking the place of *ex ante* regulation.³¹

This new emphasis on deregulation and smaller government received support from the idea of reform of Japanese political consciousness.³² This reform held that, while the Japanese people perceived themselves as the object of governance, they now needed to engage and become active participants in their own governance.³³ The judicial system is considered to be one of the institutional bases of this transformation.³⁴ One of the prime

²⁷ *Id.*

²⁸ *Id.*

²⁹ See TAKAMITSU SAWA, SHIJO SHUGI NO SHUEN [THE END OF MARKETISM] (2000).

³⁰ Many governmental documents refer to this policy. For example, ADMINISTRATIVE REFORM COUNCIL, FINAL REPORT OF THE ADMINISTRATIVE REFORM COUNCIL (1997), available at <http://www.kantei.go.jp/jp/gyokaku/report-final/> (English summary available at <http://www.kantei.go.jp/foreign/971228finalreport.html>), says, “[t]he primary purpose of the administrative reform is to reform the post-war administrative system, which has grown excessively large and rigid, to form a society that is free and fair and to realize a streamlined and efficient government that permits effective execution of important state functions.”

³¹ Cf. THE COUNCIL’S RECOMMENDATIONS, *supra* note 1, ch. I., pt. 1 (“The Shape of Japanese Society in the 21st Century”).

³² See *id.* ch. I (“Fundamental Philosophy and Directions for Reform of the Justice System”).

³³ *Id.*

³⁴ See THE COUNCIL’S RECOMMENDATIONS, *supra* note 1, ch. I., pt. 2 (“Expected Role of the Justice System in Japanese Society in the 21st Century”).

conditions for achieving an effective judicial system is to increase of the number of lawyers.³⁵

C. JUDICIAL SYSTEM REFORMS

In Japan, judicial reform was first debated in the early 1990s.³⁶ However, the outcome of this debate was only a partial reform: the subjects of the bar exam were slightly modified and the number of successful candidates was increased from five hundred to one thousand.³⁷ The main reason this reform was so limited in scope was that actual reform discussions were held only within the “legal three,” that is, among attorneys, prosecutors, and judges.

At the beginning of 2000, however, the debate over judicial reform was renewed.³⁸ This time, the discussions for reform were extended beyond the circle of the legal three.³⁹ Following these discussions, on June 12, 2001, the Justice System Reform Council published a report titled “Recommendations of the Justice System Reform Council: A Judicial System Supporting Japanese Society in the 21st Century.”⁴⁰ The ideal reform, as expressed in the report, was the realization of the rule of law, meaning that law with core values of liberty and fairness should permeate the state and society in Japan, taking root in the lives of ordinary Japanese people.⁴¹

According to the report, the main reform task of the twenty-first century judicial system is to make the judiciary and legal

³⁵ See *id.* ch. I, pt. 3 (“The Shape of the Justice System in the 21st Century”).

³⁶ In February 1990, the “legal-three” agreed to strive for number of successful candidates under the traditional recruiting scheme. See Special Issue “Justice System Reform and Citizens’ Participation”, in *Shiho Shiken Seido To Kaikaku no Keii* [History of Modifications of the Bar Examination System], 1198 JURISUTO 213, 213-14 (2001).

³⁷ The “legal-three” agreed in 1997 that the number of successful candidates should be increased to 1000 in 1999. See *id.* at 215.

³⁸ A Justice System Reform Council was established under the Cabinet in July 2000.

³⁹ See Aizawa, *supra* note 14, at 134.

⁴⁰ THE COUNCIL’S RECOMMENDATIONS, *supra* note 1.

⁴¹ According to Koji Sato, who chaired the Justice System Reform Council, the principle guiding throughout the final Recommendation was that the rule of law would enrich the body and soul of Japan. See Koji Sato & Yoshimitsu Aoyama, *Taidan: Shiho Seido Kaikaku Shingikai wo Furikaeru* [Talk Reviewing the Justice System Reform Council], 1208 JURIST 10, 17 (2001).

services more accessible to the public.⁴² One of the underlying tenets for reform is to examine the number of people directly involved in the Japanese legal system.⁴³ In order to broaden the legal system's "human basis," the report recommended increasing the number of people who pass the bar exam to three thousand a year by 2010.⁴⁴ This involved a re-examination of the legal education and training system, and new postgraduate law schools stand at the center of legal education reforms.⁴⁵

There are three main types of legal training systems in the world.⁴⁶ The first type, used in Germany, is the closest to the Japanese system.⁴⁷ The Korean system also falls under this category.⁴⁸ In this system, the basic goal of legal education is to train people to become judges, while qualifying them for other careers, in a unified manner.⁴⁹ Also, since the bar exam is state-based and the special training for the successful candidates is arranged by national budgets, the training of lawyers tends to be state-oriented and public.⁵⁰

The second type, used in Anglo-Saxon legal systems, contrasts sharply with the first type.⁵¹ In this system, training lawyers focuses on training attorneys. Because the system is not state-based,⁵² bar associations carry out that training in England, and law schools attached to universities perform that role in the

⁴² See THE COUNCIL'S RECOMMENDATIONS, *supra* note 1, ch. I., pt. 3, 2 ("The Shape of the Justice System in the 21st Century").

⁴³ See *id.* ch. III ("How the Legal Profession Supporting the Justice System Should Be").

⁴⁴ See *id.* ch. III., pt. 1, 1 ("Substantial Increase of the Legal Population").

⁴⁵ See *id.* ch. III., pt. 2, 2 ("Law Schools").

⁴⁶ Seigo Hirowatari, *Soron: Nerai, Taisho to Ronten, Hoho, Meiji, Ruikeironteki Seiri* [Outline: Purpose, Objects and Issues, Methodology, Titles and Typological Overview], in HOSO NO HIKAKU HO SHAKAIGAKU [THE LEGAL PROFESSION IN TRANSITION : A COMPARATIVE SOCIO-LEGAL STUDY] 1 (Seigo Hirowatari ed., 2003).

⁴⁷ *Id.* at 15.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.* at 15-16.

⁵² *Id.* at 15.

United States.⁵³ There is no special training system like the one in Germany or Japan.⁵⁴

The third system, used in France, includes elements of the first two systems.⁵⁵ The training of judges and prosecutors is state-based, while that of attorneys is carried out by the bar association as a professional group.⁵⁶ This system of training is particularly prevalent in continental Europe, outside of those countries using the German system. Taiwan also uses this system.⁵⁷

After evaluating these three training systems, the report of the Justice System Reform Council suggested that the judicial system in Japan should be transformed from the German model to an Anglo-Saxon, particularly an American, system.⁵⁸

III. THE FRAMEWORK OF REFORMS

In April 2004, sixty-eight law schools were opened,⁵⁹ shifting legal education from undergraduate law faculties to postgraduate law schools. Undergraduate law programs continue to operate, but they have changed, or will be obliged to change and adjust under the new system.

A. THE LAW SCHOOL SYSTEM AND IMPORTANT ISSUES

Two opposing views were incorporated in the design of the new system. One side⁶⁰ argued that legal education should be

⁵³ *Id.*

⁵⁴ *Id.* at 16.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.* at 15-16.

⁵⁸ *Id.*

⁵⁹ See Aizawa, *supra* note 14, at 135-36 nn.25-29 and accompanying text.

⁶⁰ Private practicing lawyer Yukio Yanagida's argument made in the early stages of the law school debate represented this side. See Yukio Yanagida, *Nihon no Atarashii Hoso Yosei System: Harvard Law School no Hogaku Kyoiku wo Nento ni Oite* [New Japanese System of Training Lawyers: With Legal Education at Harvard Law School in Mind], 1127 JURISUTO 111 & 1128 JURISUTO 65 (1998) [hereinafter Yanagida, *New Japanese System*]; Yukio Yanagida, *Law School Hoshiki no Koso ni Tsuite: Hoso Yosei no tamenno Hogakubu, Daigakin Hogaku Kenkyuka no Kaiso* [Concept of Law School System: Reorganizing Undergraduate and Graduate Programs in Law for Training Lawyers], 1160 JURISUTO 72 (1999) [hereinafter Yanagida, *Concept of Law School System*].

provided only at postgraduate law schools,⁶¹ requiring three years of training.⁶² This implied the abolition of undergraduate law programs.⁶³ The new organizational form was modeled on the American law school system.

The other side⁶⁴ argued that the abolition of undergraduate law faculties was out of the question,⁶⁵ recommending that legal education be provided both at the undergraduate level and in law school. According to this perspective, only two years of training at law school would be necessary.⁶⁶

The system that emerged was a compromise. Currently, standard programs require three years of training, although this can be shortened by one year for those who already have

⁶¹ Yanagida, *New Japanese System*, *supra* note 60, 1128 JURIST at 67; Yanagida, *Concept of Law School System*, *supra* note 60, at 75.

⁶² Yanagida, *Concept of Law School System*, *supra* note 60, at 78.

⁶³ Yanagida proposed to reorganize traditional undergraduate programs in law and to create undergraduate programs of “liberal arts for lawyers.” Yanagida, *New Japanese System*, *supra* note 60, 1128 JURIST at 67; Yanagida, *Concept of Law School System*, *supra* note 60, at 75-77.

⁶⁴ Early arguments of this side include one by Shigeaki Tanaka, then Professor of Law at Kyoto University; he later became a member of the Justice System Reform Council and played a major role in designing the new law school system. See Shigeaki Tanaka, *Hoso Yosei Seido Kaikaku to Daigaku no Hogaku Kyoiku* [*Reform of Lawyer Training System and Legal Education at Universities*], in 1 KYOTO DAIGAKU HOGAKUBU 100-SHU-NEN KINEN RONBUNSHU [KYOTO UNIVERSITY FACULTY OF LAW CENTENNIAL ANNIVERSARY RESEARCH COLLECTION] (Kyoto Daigaku Hogakubu 100-shu-nen Kinen Ronbunshu Kanko Iinkai [Kyoto University Faculty of Law Centennial Anniversary Research Collection Publishing Committee] ed., 1999) [hereinafter Tanaka, *Reform of Lawyer Training System*]; Shigeaki Tanaka, *Nihon-gata Hokodaigakuin Koso nit suite: Hoso Yosei Kaikaku to Daigaku no Hogaku Kyoiku* [*On Japanese-style Law School: Reform of Lawyer Training System and Legal Education at Universities*], 50(9) JIYU TO SEIGI 14 (1999) [hereinafter Tanaka, *On Japanese-style Law School*].

⁶⁵ This does not mean that no reorganization of undergraduate program was necessary. See Tanaka, *Reform of Lawyer Training System*, *supra* note 64, at 76; Tanaka, *On Japanese-style Law School*, *supra* note 64, at 20.

⁶⁶ Tanaka, *On Japanese-style Law School*, *supra* note 64, at 20. Tanaka, *Reform of Lawyer Training System*, *supra* note 64, at 77-79, however, proposes three year programs.

acquired a certain level of legal knowledge.⁶⁷ On the other hand, undergraduate law programs remain intact.⁶⁸

The new law schools provide professional and specialized legal training, but this is not all they do. One of the key objectives of the legal education reform is to produce lawyers equipped with a broad view of modern society, as well as knowledge of the classics, awareness, and a character fit for the profession of “doctor for the people’s social life.”⁶⁹ Problems arise in the debate over how to realize this objective.

The purpose of the law school is to train lawyers. To obtain a license, students have to pass the new bar exam.⁷⁰ If the new bar exam is too difficult, students may focus on nothing beyond passing the examination. Thus, the Justice System Reform Council recommended that the success rate of the bar exam be raised to around 70 to 80 percent.

There are now 74 law schools and 5,825 students enrolled at these schools, while the number of students that are anticipated to pass the bar exam is around 3,000.⁷¹ The apparent gap between the likely percentage of successful applicants and the goals for the percentage may destroy the objectives of legal education reform.

⁶⁷ See THE COUNCIL’S RECOMMENDATIONS, *supra* note 1, ch. III., pt. 2, 2 (“Law Schools”).

⁶⁸ It was taken for granted that educational contents of undergraduate programs should be reformed. Most of the existing undergraduate faculties of law were planning to maintain their undergraduate programs while reforming their curriculums. See the results of the questionnaire survey to undergraduate faculties of law in Tokushu: Hoka Daigakuin Koso to Hogaku Kyoiku [Special Issue: Law School Plan and Legal Education], 894 HORITSU JIHO 4 (2000). As the abolition of undergraduate programs means to negate themselves, the distribution of replies was a natural one.

⁶⁹ THE COUNCIL’S RECOMMENDATIONS, *supra* note 1, ch. I., pt. 2, 2.

⁷⁰ The content of the New Bar Examination is determined by SHIHO SHIKEN HO TO SAIBANSHO HO NO ICHIBU O KAISEISURU HORITSU [THE ACT THAT AMENDS PARTS OF THE BAR EXAM ACT AND THE COURTS ACT], Law No. 138 of 2002 (revising SHIHO SHIKEN HO [BAR EXAMINATION ACT], Law No. 140 of 1949).

⁷¹ THE COUNCIL’S RECOMMENDATIONS, *supra* note 1, ch. I., pt. 3, 2 (2); *see also* Aizawa, *supra* note 14, at 136, 148.

B. CHANGE OF LEGAL EDUCATION AT UNDERGRADUATE LAW FACULTIES

The establishment of law schools forced undergraduate law faculties to change their legal education systems. For example, many universities reduced the number of undergraduate students.⁷² The legal education program has also been modified. Undergraduate law faculties have cut some credits of principal substantial law courses such as constitutional law, civil law, and criminal law,⁷³ which suggests that they will emphasize basic law programs such as sociology of law, philosophy of law, history of law, and comparative law.

However, this shift at the undergraduate level is not a result of an independently made choice. Rather, law schools appear to have absorbed many law professors from undergraduate law faculties, making them unavailable to teach substantive law at the undergraduate level. How should we conceive of the aims and contents of legal education at the level of the undergraduate vis à vis the law school? This question remains to be discussed.

IV. TASKS FOR THE ACHIEVEMENT OF LEGAL EDUCATION REFORM

A. LEGAL EDUCATION AT LAW SCHOOL

The goal for legal training in the new law schools is to produce a large stock of legal professionals of sufficient quality and

⁷² Hokkaido University Faculty of Law decreased the class size of undergraduate law program by 20, from 220 to 200. This reduction was relatively small. The University of Tokyo reduced by 190, from 590 to 400; Kyoto University, by 30, from 360 to 330; Nagoya University, by 25, to 150; Osaka University, by 10, to 170; Kyushu University, by 60, to 200; Hitotsubashi University, by 55, to 170; Kobe University, by 40, to 180. Among national universities with faculties of law, Tohoku University was the only one that did not reduce the size of its undergraduate program. However, it had already reduced it before establishing the law school; thus, practically speaking, all national universities that introduced law schools decreased the class size of their undergraduate program.

⁷³ For example, Hokkaido University Faculty of Law offered 8 credits for Constitutional Law, 20 credits for Civil Law and 8 credits for substantive Criminal Law before the introduction of the new program. The new undergraduate curriculum after we started the law school offers 6 credits for Constitutional Law, 16 credits for Civil Law, and 8 credits for Criminal Law. We decreased credit hours for subjects other than Criminal Law.

quantity to whom management of legal institutions could be entrusted.⁷⁴ Although it is too early to evaluate fully the level of success achieved, it is possible to emphasize some results that may signify success in the long run.

Improving the quality of legal professionals requires improving the quality of legal training in law school. This, in turn, depends on the efforts of law school professors. Eighteen months of reform show that law school professors have invested a great deal of effort in improving the quality of legal education. Meanwhile, the law students have remained motivated and have managed various tough assignments.⁷⁵ The quality of legal training at law school has markedly improved in comparison with the former legal education model.⁷⁶

This improvement, however, demands compensation. Law professors struggle to balance a commitment to scholarship with a commitment to training, and many law school professors have overloaded schedules. It becomes difficult for them to continue scholarly activities.⁷⁷ This situation may spoil the quality of legal training at law school in the long run.

As for the quantity of legal professionals, it is absolutely necessary to increase the number of applicants accepted by the bar to three thousand as soon as possible.⁷⁸ However, three thousand need not be an absolute limit; the system would benefit from an even greater increase.⁷⁹ This increase in quantity will

⁷⁴ See THE COUNCIL'S RECOMMENDATIONS, *supra* note 1, ch. III, pt. 2, 2 ("Law Schools").

⁷⁵ Cf. Takafumi Hayano et al., *Zadankai: Kaikakushin Iken wa Doko made Gutaika-shitaka* [Roundtable Talk: To What Extent Did the Council's Recommendation Realize?], 959 HORITSU JIHO 6, 13 (2005) (comment by Hiroyuki Kabashima). Students of the new program keep working until late at night in their study rooms on our campus.

⁷⁶ Cf. *Zadankai: Ro Sukuru Kyoiku no Toutatsuten* [Round-table Talk: The Achievements of Law School Education], 1 RO SUKURU KENKYU [STUDY OF L. SCH.] 11 (2006).

⁷⁷ Few published opinions mention it, but law school instructors unanimously say so.

⁷⁸ THE COUNCIL'S RECOMMENDATIONS, says that the aim should be to have 3,000 successful candidates for the Bar Examination. See THE COUNCIL'S RECOMMENDATION, *supra* note 1, ch. III, pt. 1, 1 ("Substantial Increase of the Legal Population"). At least that number has to be attained.

⁷⁹ THE COUNCIL'S RECOMMENDATIONS also emphasizes this point. See *id.*

lead to an increase in quality:⁸⁰ for the production of highly qualified lawyers equipped with a broad view of modern society as well as knowledge of the classics, it is important to eliminate the need for law students to focus on passing the examination. Raising the examination success rate to around 70 to 80 percent, as the Justice System Reform Council recommended, will accomplish this goal.⁸¹

B. LEGAL EDUCATION AT THE UNDERGRADUATE LEVEL

How should legal education at the undergraduate level compare or co-exist with law school system? Some opine that undergraduate law faculties should be abolished.⁸² If we were to implement this course of action, Japanese legal education would exist exclusively at the law schools. And, since law schools aim to train professional lawyers, that action would limit legal education to the training of lawyers. Rather than going to this extreme, legal education in Japan should be multifaceted. We need legal education for law professionals in the wider sense, educated to serve as business people, public officials, or judicial scribes. Furthermore, there should be institutions that provide legal education to ordinary citizens, and provide a forum for foreign students who want to learn Japanese law.⁸³

⁸⁰ Without the substantial increase of passers of the new Bar Examination, law school students would concern themselves primarily about the success of the new bar exam; they would not be able to concentrate on studying law school curriculum. Hiroyuki Kabashima, *Hoso Yosei Seido Kaikaku no Kadai* [*Problems of Reform of Lawyer Training System*], 959 HORITSU JIHO 62 (2005).

⁸¹ In the U.S., the pass rate for candidates of first trial in 2004 was 77 percent; 69 percent for all candidates. See Daniel H. Foote, *Data de Miru America no Law School Kyoiku* [*Law School Education in America Seen from Data*], 1297 JURIST 98 (2005). Such a pass rate will be necessary if we want students to be released from narrow study of test taking skills. In Japan, pass rate will be around 50 percent in 2006, when the first students complete the programs, and 30 percent after that, according to recent prospects. If we want to ensure pass rates of 70 percent through 80 percent, we need not only to increase the number of successful candidates of the new Bar Examination, but also to limit the number of law schools.

⁸² See, e.g., Yanagida, *Concept of Law School System*, *supra* note 60, at 75.

⁸³ For a recent discussion emphasizing this point, see Tamesaburo Yamamoto, *Hoka Daigakuin Jidai ni okeru Hogaku Kyoiku Kikan no Yakuwari Buntan, Sogo Kankei to Hogaku Kenkyusha no Yosei* [*Functions and Interrelationship of Legal*

Legal education at the undergraduate level should continue to train citizens who will support a society based on the rule of law. The law faculty at Hokkaido University has this goal for its legal education at the undergraduate level, pledging to train “citizens who comprehend the law and sympathize with the law.”⁸⁴

To achieve this goal, substantive and advanced law programs should be a “slim” portion of legal training, while basic and broad law programs should be reinforced. Liberal arts programs should also be reinforced as a part of the legal education system at the undergraduate level.⁸⁵ In short, legal education at the undergraduate level under the law school system requires programs that provide real generalist training based on legal knowledge.

Education Institutions and Training of Researchers on Law in the Law School Era] 959 HORITSU JIHO 86 (2005).

⁸⁴ Hokkaido Daigaku Hogaku Kenkyuka [Hokkaido University School of Law], 21 SEIKI NO ARATANA HOSO YOSEI SEIDO TO HOGAKU KYOIKU NO KOCHIKU WO MEZASHITE [TOWARD THE CONSTRUCTION OF A NEW LAWYER TRAINING SYSTEM AND LEGAL EDUCATION IN THE 21ST CENTURY] 15, 16 (2000).

⁸⁵ I do not mean undergraduate legal education should be absorbed in liberal arts programs. I propose that both liberal arts and legal education be offered at undergraduate level.