



2003

# The Professional in Legal Education: Foreign Perspectives

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## Recommended Citation

The Professional in Legal Education: Foreign Perspectives, 38 *Himeji Law Review* [Himeji Hogaku—姫路法学] 246 (2003)

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# *The Professional in Legal Education: Foreign Perspectives*

*An Address to the Faculty of Law  
of the Himeji Dokkyo-University  
Himeji, Japan  
June 26, 2003*

by  
James R. Maxeiner\*

Published in

38 HIMEJI LAW REVIEW [HIMEJI HOGAKU—姫路法学] 246 (2003)

## **Abstract**

Japan is about to change its system of legal education. In April 2004 Japan will introduce law schools. Law schools are to occupy an intermediary place between the present undergraduate faculties of law and the national Legal Training and Research Institute. The law faculties are to continue to offer general undergraduate education in law, while the law schools—in combination with the national Institute—are to provide professional legal education. A principal goal of the change is to produce more lawyers. Law schools are charged with providing “practical education especially for fostering legal professionals.”

But just what is professional legal education? And how and where is it to be accomplished? There are recurring issues of legal education around the world.

This article focuses on what professional education is and how it is conveyed in Germany and the United States. It puts in comparative perspective some of the choices that Japan is facing in deciding what to include in professional education and where to provide it. The article sets out the issue in general terms and then *seriatim* the German and American approaches.

## **Introductory Remarks**

1. I would like to thank Professors Kawaguchi and Matsuo for inviting me here today. They have introduced me to many things Japanese.

2. I would also like to thank Professor Keiichi Yamanaka, Professor of Criminal Law at Kansai University, and Kansai Uni-

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versity itself. Their generous support has made possible my presence in Japan. Professor Yamanaka and I met in Munich over twenty years ago when we were fellows of the Alexander von Humboldt Foundation. Thus the spirit of the Humboldt Foundation is behind this talk today.

3. I would like to preface my remarks with a disclaimer. I have no first hand knowledge of Japanese legal education, little knowledge of Japanese law faculties, and am generally ignorant of Japan and its history. I hope nonetheless to provide some insights into foreign legal systems that may be useful to you in deciding what is appropriate for Japan.

4. I would be pleased to take comments and questions in English or German.

### **1. Introduction: The Legal Education Discussion in Japan**

Japan is about to change its system of legal education. In April 2004 Japan will introduce law schools.<sup>1</sup> Law schools are to occupy an intermediary place between the present undergraduate faculties of law and the national Legal Training and Research Institute. The law faculties are to continue to offer general undergraduate education in law, while the law schools—in combination with the national Institute—are to provide professional legal education. A principal goal of the change is to produce more lawyers. Law schools are charged with providing “practical education especially for fostering legal professionals.”<sup>2</sup>

But just what is professional legal education? And how and where is it to be accomplished? There are recurring issues of legal education around the world.

During the preparatory work for the introduction of law schools many Japanese jurists have sought to learn from foreign experiences. They have invited foreign legal educators to come to Japan to speak about their own systems. Many Americans have responded, including some of the leaders of

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<sup>1</sup> See Justice System Reform Council, Recommendations of the Justice System Reform Council For a Justice System to Support Japan in the 21st Century, June 12, 2001; Akhiro Onagi, *Juristenausbildung in Japan*, Juristische Schulung 2002, 721, 723; Masato Ichikawa, *Ritsumeikan University Proposal from Kyoto Private School of Law and Politics to Ritsumeikan Kyoto Law School*, 18 Ritsumeikan Law Review 23-45 (2001).

<sup>2</sup> Justice System Reform Council, *op. cit.* at Chap. III, Part 2, 2(2).

the American law school establishment.<sup>3</sup> When Professors

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<sup>3</sup> Jurists from around the world have contributed. From the United States alone there are over 20 contributions. For contributions with full texts, see William Burnham, *A Peek into the Future of US Legal Education: Any Lessons for Japan?*, 15 *Kwansei Gakun Law Review* 37-53 (2001); David F. Chavkin, *Curriculum Reform in American Legal Education: Potential Lessons for Reform of Legal Education in Japan*, 18 *Ritsumeikan Law Review* 61-76 (2001); M. Fine, *US Legal Education: A Model for Japanese Education Reform*, 3 *Waseda Proceedings of Comparative Law* 51-93 (2000); Mary Kay Kane, *The Ideal American Law School and the Role of the AALS*, 19 *Nihon University Comparative Law* 124-29 (2002); Mary Kay Kane, *U.S. Legal Education—A Brief Sketch*, 18 *Nihon University Comparative Law* 155-61 (2001); David W. Leebron, *The Philosophy of Legal Education*, 19 *Nihon University Comparative Law* 115—24 (2002); Elliott S. Milstein, *The Association of American Law Schools and the American Bar Association: Overlapping Roles and Differing Agendas*, 18 *Ritsumeikan Law Review* 49-59 (2001); Carl C. Monk, *Role of Legal Education in Improving the Quality of Justice*, 19 *Ritsumeikan Law Review* 47-59 (2002); Myron Moskowitz, *The Problem Method of Teaching Law*, 4 *Waseda Proceedings of Comparative Law* 75-81 (2001); Paul D. Reingold, *Essay: Recent Trends in American Legal Education*, 15 *Kwansei Gakun Law Review* 17-35 (2001); Robert Vaughn, *Admissions Policies and Practices: WCL Admissions as an Example*, 19 *Ritsumeikan Law Review* 99-108 (2002); Charles D. Weisselberg, *Building a Law School Clinic: The Experience of the University of California at Berkeley*, 5 *Waseda Proceedings of Comparative Law* 121-32 (2002). For contributions marked only by titles or outlines, see: Lawrence M. Friedman, "The Role of Non-Doctrinal Courses in Law Schools: The Case of Legal History and Socio-Legal Studies, July 15, 2002," 5 *Waseda Proceedings of Comparative Law* 117 (2001); Ilhyung Lee, "Legal Education at the University of Missouri, July 25, 2002," 5 *Waseda Proceedings of Comparative Law* 133 (2002); John K. McNulty, "The Significance of Tax Law Courses for Law School Legal Education and the Practice of Law in the United States, October 18, 2001," 4 *Waseda Proceedings of Comparative Law* 227-31 (2001); Carl C. Monk, "The Structure and Method of Legal Education in U.S.A. and the Role of the AALS, December 10, 2001," 4 *Waseda Proceedings of Comparative Law* 259 (2001); Mark J. Ramseyer, "Current Japanese Scheme of Law School from American Perspective, November 29, 2000," 3 *Waseda Proceedings of Comparative Law* 195 (2000); Harry N. Schreiber, "Integrating History and the Social Sciences into Legal Education: the American Experience, June 7, 2001," 4 *Waseda Proceedings of Comparative Law* 105 (2001). For contributions that include other countries' legal education systems, see

*Multinational*: James R. Maxeiner, *American Law Schools as a Model for Japanese Legal Education?* in English in 24 *Kansai University Review of Law & Politics* 37 (2003), and in Japanese in 52 *Hogaku Ronshu* 250 (2002);

*Canada*: Marilyn L. Pilkington, *Legal Education in the Province of Ontario: The roles of Universities and the Legal Profession*, 33 *Kobe University Law Review* 29-53 (1999); Frederik H. Zemans, *The Role of Law School Clinics in Canada: With a Comparison with the Bar Admission Course*, 5 *Waseda Proceedings of Comparative Law* 283-301 (2002);

*China (texts in Chinese)*: Li Hua-de, *Legal Education in the P.R.C.*, 4 *Waseda Proceedings of Comparative Law* 117 *et seq.* (2001); Zeng Xianyi, *Legal Education in the P.R.C.*, 5 *Waseda Proceedings of Comparative Law* 27 *et seq.* (2002);

*Germany*: Peter Gilles & Nikolaj Fischer, *Juristenausbildung*

Kawaguchi and Matsuo invited me here, I wondered what could I tell you that other, more distinguished American legal educators have not already told you?

In reviewing the American addresses in Japan I realized that I can bring you perspectives that other Americans have not already brought. Unlike most American law professors, I have an extensive background in legal practice.<sup>4</sup> Unlike most American law professors, I have had substantial training in a second legal education and practice system, namely that of Germany.

By focusing on what professional education is and how it is conveyed in Germany and the United States, I hope to put in better perspective some of the choices that you are facing in deciding what to include in professional education and where to provide it. The plan of my address is first to set out the issue in general terms and then to discuss *seriatim* the German and American approaches. Finally I would like to make some comments about Japan and give some of my views generally about how best to structure legal education.

## 2. The Professional in Legal Education

In both Germany and America legal education is *professional education*: most students who enter law studies do so intending to become legal professionals. The course of studies offered to them anticipates that. The majority of students do

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2003—*Zur neüsten Ausbildungsreformdebatte in Deutschland*, 20 Ritsumeikan Law Review 181-218 (2003); Peter Hanau, *Juristenausbildung in Deutschland*, 18 Ritsumeikan Law Review 77-85 (2001); Hans Peter Marutschke, *Juristenausbildung un Japan—aus deutscher Sicht*, 18 Ritsumeikan Law Review, 87-91 (2001); Thomas Wüttenberger, *Zehn Thesen zur Reform von Ausbildung, Bildung und Forschung*, 15 Ritsumeikan Law Review 79-87 (1999);

*Korea*: Dai-Kwon Choi, *Proposed Legal Education Reform in Korea: Toward Professional Model*, 18 Ritsumeikan Law Review 93 (2001); Kun Yang, *Developments in the Proposal for Korean Professional Law Schools*, 33 Kobe University Law Review 85-96 (1999);

*United Kingdom*: David Miers, *The Role of Universities in the Training of Lawyers in the United Kingdom*, 33 Kobe University Law Review 55-83 (1999).

<sup>4</sup> I have practice experience in three major areas: three years as a government lawyer for the Antitrust Division of the United States Department of Justice, nine years as a litigating lawyer with large New York City law firms engaged in international practice, and nine years as Vice President and Associate General Counsel of a nearly \$1 billion dollar a year multi-national corporation, the information business Dun & Bradstreet.

eventually become legal professionals.<sup>5</sup> In Japan legal education is not presently professional education. Most students who now begin law studies do not intend to become legal professionals. Next April, that will change for those students that enter law schools.<sup>6</sup>

Just what is professional education? It is important to remember that *professional* education does not necessarily mean that the focus of the education is either on *practice* or on the *practical*. The similarities of these three words—both in concept and sound—make it easy—even for native English-speakers—to slip from one concept to the other. By *practice*, I mean the profession of the private lawyer; by *practical*, I mean the day-to-day tasks that a legal professional must do.

The issue that training for practice should play in professional education has long-bedeveled both the German and American legal education systems. Perhaps no single issue has had a more central role than this in the numerous and continuing revisions in legal education in both countries. Literally for decades the existing systems have been criticized for paying too little attention to practice.<sup>7</sup>

In today's discussion of professional legal education, it is useful to understand in general terms what the end product of professional education is to be and what the components

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<sup>5</sup> For comparative treatments of German and American legal education systems, see Jürgen R. Ostertag, *Legal Education in Germany and the United States—A Structural Comparison*, 26 *Vanderbilt Journal of Transnational Law* 301, 315-20 (1993); Joachim Hruschka, *Gedanken zur amerikanischen Juristenausbildung*, *Juristenzeitung* 1999, 455.

<sup>6</sup> Whether most of them will actually be able to become legal professionals will depend upon how many of them there are and how restrictive government policies are. In both the United States and Germany there are no limitations on the numbers of students who may become lawyers. Anyone who meets minimum standards may join the profession.

<sup>7</sup> In Germany, in particular, the last forty years have seen many reform proposals. See generally Peter Gilles & Nijolaj Fischer, *op. cit.*; *Bericht des Ausschusses der Justizministerkonferenz zur Koordinierung der Juristenausbildung für die Konferenz der Justizministerinnen und Justizminister vom 11. bis 13.6.2001* in Trier, *Juristisches Schulung* 2001, 933, also available at <http://www.justiz.nrw.de/jm/landesjustizprüfungsamt/aktuelles/pdf/bericht.pdf>; Filippo Ranieri, *Reform der Juristenausbildung ohne Ende?*, *Juristenzeitung* 1998, 831. For an extensive review of one reform that was tested, see *Juristenausbildung—erneut überdacht: Erfahrungen aus der einstufigen Juristenausbildung als Grundlage für eine weiterhin anstehende Reform* (Heinz Giehring et al., eds., 1990). For the United States, see, e.g. *Legal Education and Professional Development—An Educational Continuum*, (Report of the Task Force on Law Schools and the Profession: Narrowing the Gap, 1992, the “McCrack” Report); David F. Chavkin, *op. cit.* at 64-66.

of the education of a legal professional are.

By end product, I mean simply what type of legal professional the legal education system is designed to produce. In Germany and United States the product is a single type of jurist suitable for all applications. This jurist is called in German the *Einheitsjurist*, that is the unitary jurist. Neither the German nor the American system of professional legal education produces different classes of jurists, say judges, lawyers, government administrators and so on. Some legal systems do do that and, indeed, the old East German legal system did just that. Nor does either the German or the American legal education system generally produce jurists qualified specially in particular areas such as in criminal law, civil law, intellectual property law, etc. Although the German and the American legal education systems produce only one class of jurist, the basic orientation of each system is different. The unitary jurist in the German system is qualified to be a judge; the American jurist is qualified to be a lawyer. From this point forward, for the sake of convenience I will refer to the product of the legal education as a lawyer. This makes sense even in the German system, because there – even though all jurists are qualified to be judges – most actually become lawyers.

Further for purposes of today's discussion, it is helpful to identify what lawyers need to have learned. There are two principal types of components to the education of a lawyer: (1) *substantive knowledge* and (2) *skills*. Lawyers need to have much substantive knowledge and to have learned many skills. Most knowledge and most skills are not specifically legal and usually are learned before, during or after law school wholly apart from professional legal education.

It is convenient here to categorize substantive knowledge in four categories: (1) general; (2) perspective; (3) core; and (4) specialist. By (1) *general knowledge* I mean substantive knowledge that is not specifically legal, such as history, sociology, natural sciences and the like. This is knowledge that typically is learned outside a legal education. This is knowledge that legislatures use to legislate, judges and administrators use to reach legal and policy decisions, and lawyers use to argue the wisdom of decisions. By (2) *perspective knowledge* I have in mind specifically legal knowledge that enriches the lawyer's understanding of his or her legal system and help place individual legal decisions within it. Typically perspective knowledge is knowledge of areas such as legal history, legal

philosophy and comparative law. By (3) *core knowledge* I mean basic knowledge of core areas of the law essential to each lawyer's legal education and work. Typically this is basic knowledge of areas such as criminal law, civil law, and constitutional law. Finally, (4) I consider *specialist knowledge* to be information essential for a lawyer working in a particular area of the law, but that is not necessary for a lawyer working in a different area. Intellectual property law or international trade law are examples of this kind of knowledge. I have chosen these categories for convenience and do not offer them as any absolute division.

Likewise it is convenient to categorize skills. Here I would like to speak in terms of three kinds of skills: (1) general; (2) core legal; and (3) technical. (1) Lawyers need many *general skills* at a high level and typically learn these outside of their legal education. Most obvious is a high level of fluency in the language of the legal system itself. Most language skills are learned outside the system of legal education and thus fall in my category of general. But there are specific rhetorical skills to being a lawyer, such as particular ways of writing legal briefs, contracts and judgments that are learned within systems of legal education. Depending upon the range of application, they might be regarded as core or as technical. (2) *Core legal skills* range from the complex to the mundane. The most important surely is the skill of "thinking like a lawyer." The idea of the "legal mind" is common to many legal systems, although what the legal mind is surely varies among them. Whether the legal mind is unique to law is a question that is debated, but that need not be addressed here. More mundane core legal skills include bibliographic skills of finding the necessary legal sources and basic document preparation. (3) By *technical skills* I have in mind skills directly related to particular fields, such as preparation of particular specialist documents.

The reason it is useful to keep these distinctions in mind is that assumptions about what is to be taught, where it is to be taught, and its suitability for being taught, underlie just about every decision one makes in structuring legal education.

### **3. Education of Lawyers in Germany**

Reform of legal education has been on the agenda in Germany for nearly forty years. On July 1 yet another reform is

to go into effect.<sup>8</sup> Of particular interest for foreign jurists is that starting next Tuesday, aspiring German lawyers may be required to attend foreign language legal training. While the latest reform in Germany is important, it does not fundamentally change the present-day system that – notwithstanding all criticism – has pervaded German legal life for decades.

In Germany, the system of legal education was established to train civil servants for the State.<sup>9</sup> All persons who wish to become legal professionals, whether as lawyers or as judges or otherwise, are trained as judges. The image of the judge colors the ideal of the legal professional.

In Germany a person who wishes to become a lawyer must successfully graduate from an academic high school with the *Abitur* degree. This requires 13 years of study and usually occurs at age 19. Then follows a minimum of seven to nine, but frequently more, semesters of study in a German law faculty. With a single exception, law faculties are all faculties in a public university. There is a single private law school independent of the universities. There is no tuition at public universities, so students may and do spend more than the usually anticipated eight semesters of study. When the student feels ready, the student takes the first state examination. Most, but not all students are successful in passing this examination. The examination is rather challenging – considerably more so than its American counterpart – and many students take additional private examination preparation courses in their last year of university study. Students who fail the examination may take it one more time. Those students that take it successfully are then admitted to a two-year period of practical training sponsored by the courts of the various German states (*Laender*) during which time they are called in German, *Referendare*, or in English, legal interns. *Referendare* are paid a small stipend that helps cover basic living costs. Upon successful completion of this period, the *Referendare* take the second state exam. If successful they are qualified as what is called *Assoren* and can then become lawyers or judges. Once they begin professional

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<sup>8</sup> Gesetz zur Reform der Juristenausbildung vom 11. Juli 2002, BGBl. 2002 I, 2592. For a description of its principal contents, see Peter Gilles & Nikolay Fisher, *op. cit.* at 191-95 (2003).

<sup>9</sup> See Reinhard Zimmermann, *An Introduction to German Legal Culture*, in *Introduction to German Law* 28 (W. Ebke & Matthew Finkin eds. 1996); Ranieri, *op. cit.* at 832 (“Das preußische Referendariatsmodell ... prägt heute noch das deutsche Justiz- und Rechtssystem.”)

life, German lawyers often participate in additional continuing legal education programs to improve their knowledge.

In Germany law students learn the substance of the law at the university.<sup>10</sup> In their university studies students take courses in perspective, core and specialist knowledge. Perspective courses include fundamentals of legal history, legal philosophy and legal sociology. Core knowledge courses include fundamentals of civil law, commercial and corporation law, labor law, criminal law, constitutional and administrative law, EU law and procedural law (civil, criminal and administrative). Students elect a field for specialist knowledge (*Wahl-fach*) from among fields ranging from legal history to business regulation.

To take as an example the University of Munich, where I studied, university study is divided into three phases: basic, middle and final exam preparation. The basic phase consists of one-year courses in civil law, public law (constitutional and administrative law) and criminal law along with a number of single semester courses in legal history and legal philosophy held during the first two years of study. The basic phase concludes with an interim exam. The middle phase overlaps the basic phase and lasts from the third to sixth semesters. It includes important fields of law not generally covered in the first year such as family law, inheritance law and labor law. The final phase lasts from the sixth through the eighth semesters, when students are to review the material already studied with a view to the state examination. Meanwhile, beginning already in the middle phase, students are to select a field for specialty study and attend classes in these fields for about 10 hours over the fifth through seventh semesters. The latest reform in German legal education increases the importance given to this specialty knowledge for the state examination.<sup>11</sup> Finally, between the terms of study, one time students are to spend three months as interns (prior to the *Referendar* period) as interns with a court, administrative agency or attorney.

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<sup>10</sup> Exemplary for this and the following two paragraph is the current situation at the Ludwig- Maximilians-Universität (University of Munich) See Studienordnung der Ludwig-MaximiliansUniversität München für das Studium der Rechtswissenschaften mit Abschlussprüfung Erste Juristische Staatsprüfung Vom 16. Nov. 1993 in der Fassung der Änderungssatzung vom 10. Okt. 2001, available at [http://recht.verwaltung.uni-muenchen.de//satzung/fak\\_03/03se-sxx.htm](http://recht.verwaltung.uni-muenchen.de//satzung/fak_03/03se-sxx.htm).

<sup>11</sup> It will now count 30% of the final grade. See Peter Gilles & Nikolaj Fischer, *op cit.* at 216.

The courses themselves consist of lectures, *Grundkurse*, exercises for advanced students, examination classes, homework classes, seminars, colloquys and tutorials. Lectures and *Grundkurse* usually include many students—usually at least thirty and often many more. Their focus is on learning the substantive law itself. Seminars are smaller meetings of less than thirty students.

In the subsequent practice training period after the first state examination prospective lawyers learn practical skills. During the internship period, they learn the *Relationstechnik* of relating facts to law and of crafting judgments. Judges as classroom teachers didactically teach classes that lay out the fundamentals of this technique, while individual judges, at least in theory, tutor the aspiring legal professionals, the *Referendare* or interns, as apprentice judges. The interns learn how to take the substance of the law they learned at the university, how to conduct legal proceedings to determine facts, and how to justify in legal judgments their correct determinations of how law applies to particular cases.<sup>12</sup> In short, they learn to do what a judge has to do. And it is the mastery of the techniques of applying law to facts (*Relationstechnik*) that defines the judge.<sup>13</sup> The role of the German judge is to determine facts, to apply the law to those facts, and to state those conclusions in a formal judgment. “A German judgment is supposed to appear as an act of an impartial as well as impersonal public authority furnishing the official and objective interpretation rather than being based on the personal opinions of the deciding justices.”<sup>14</sup> It is to deliver a legally correct an-

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<sup>12</sup> Professor Fikentscher has explained it this way: in the university students learn the “non-litigious opinion style” and in the internship period the “litigious opinion style”. (*Stil des unstreitigen Gutachtens* and *Stil des streitigen Gutachtens* respectively). Interns learn to handle cases with varying sets of facts and subject to different claims, objections, replications, etc. They put the many different relevant non-litigious opinions into one litigious opinion from which they then extract a judgment: “the judge renders a decision,’ a judgment, and this decision is the litigious opinion turned upside down, namely, beginning with the outcome, continuing with the legal rules that support the claims, objections, rejoinders,, and duplicas, and ending with the subsumption. This is presented claim by claim, objection by objection, rejoinder by rejoinder, duplica by duplica, the whole judgment being arranged by claims. By contrast, as has been said, the non-litigious opinion starts with an open question: Could the plaintiff have this claim?, continues with the subsumption, and ends with a ‘therefore.’”

<sup>13</sup> *Accord*, Alfred Rinke, Einführung in das juristische Studium 135 (1977).

<sup>14</sup> Zimmermann, *op. cit.* at 21. The importance of this difference in legal thinking for legal education was noted nearly a century ago by the Austrian jurist,

swer. It is the judge's duty to implement—and not to make—political decisions that have been made by others.<sup>15</sup>

In Germany it is frequently urged that since 80% of law graduates become lawyers, it is foolish that they are all trained to be judges.<sup>16</sup> Better, it is said, that they should all be trained to be lawyers. The problem that this presents, however, is that while training to be a judge in Germany has a very specific purpose and imparts very specific skills, the same cannot be said of training to be an attorney. The range of expertises and of skills required to be a lawyer are not standardized, because lawyers do so many different things. Moreover, the resources available to law office training are quite variable. On the other hand, training as judges is focused on a standard set of skills and is relatively consistent across the country. The German Lawyers' Association is concerned that the new focus on practice apprenticeship could lead only to a façade of practice education (*Scheinausbildung*).<sup>17</sup>

I myself have informally taken part in the classroom portion of the *Referendars'* training. I believe that the skills im-

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Josef Redlich, in a study he was commissioned to make of American legal education: "To the German and Frenchman of our time, therefore, the law appears always in popular thought as the abstract rule, as the general principle, to which all individual relationships of the citizens are a *priori* and for its own sake subordinated. To the Englishman and the American, on the other hand, the law appears rather as the single case of law, as the single subjective suit, conducted by the regular judge, and depending only upon his 'finding of the law.'" *The Common Law and the Case Method in American University Law Schools*, A Report to the Carnegie Foundation, Bulletin No. 8, at 36 (1914).

<sup>15</sup> See Walther Richter, *In welcher Weise empfiehlt es sich, die Ausbildung der Juristen zu reformieren?*, Gutachten F zum 48. Deutschen Juristentag 23 (1970). See also James R. Maxeiner, *U.S. "methods awareness" (Methodenbewußtsein) for German jurists*, in *Festschrift für Wolfgang Fikentscher* (Bernhard Großfeld *et al.*, eds. 1998), at 114; James R. Maxeiner, *Policy and Methods in German and American Antitrust Law: A Comparative Study* (1986); James Maxeiner, *Rechtspolitik und Methoden im deutschen und amerikanischen Kartellrecht: eine vergleichende Betrachtung* (1986).

<sup>16</sup> German law requires that to become lawyers, candidates must establish their suitability to be judges (*Befähigung zum Richteramt*). The German Lawyers' Association challenges this requirement as an anachronism. See Bericht, *op. cit.* at 29-30. The significance of dispensing with this requirement should not be understated. As Thomas Raiser recently observed, the German judge is seen to stand above the parties, to be neutral, to not work for money, but selflessly for truth and justice. The attorney, on the other hand, has a more complicated: to work in the client's interests and for justice. Thomas Raiser, *Reform der Juristenausbildung—Förderung von Beratungs- und Gestaltungsaufgaben als Ziel der Juristenausbildung*, *Zeitschrift für Rechtspolitik* 2001, 418, 422.

<sup>17</sup> Peter Gilles & Nikolaj Fischer, *op. cit.* at 196, 201.

parted in the *Relationstechnik* and the training to be a judge are valuable for all future jurists.

#### 4. Education of Lawyers in the United States

In the United States the system of legal education was established to train lawyers for practice. All persons who wish to become legal professionals, whether as lawyers or as judges or otherwise, are trained as lawyers. The image of the lawyer-advocate colors the ideal of the legal professional

In the United States someone who wishes to become a lawyer must successfully graduate from an undergraduate college with a degree in any subject. That presupposes twelve years of primary and secondary education and four years of undergraduate college education. Students apply to one or more of 185 accredited law schools. Most are colleges of law within universities, either public or private. A significant number, however, are private law schools independent of any university. The law schools independently select their students from among applicants relying on an individually determined mix of average grade in undergraduate college, score on the Law School Admissions Test, and on other factors determined by the law school. Monday of this week the United States Supreme Court held that a law school may make race a factor in the admission decision.<sup>18</sup>

Law school study consists of three years of academic work. Since tuitions are high, students rarely take more than time or more courses than the required minimum. Upon graduation from law school, a student receives the Juris Doctor degree. This is not a true doctorate, in that no dissertation is required. Upon graduation from law school, a student may take the bar examination. Most students take after conclusion of their law school studies a short (one month) state-specific bar examination preparation courses. These courses are designed largely to refresh the knowledge the students have learned, to focus their attention on issues important to the examination, and to fill in gaps in students knowledge that may occur because they did not cover a topic in law school or because particular issues are peculiar to the state in which the student is taking the examination. Many students take the bar

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<sup>18</sup> Grutter v. Bollinger, June 23, 2003, [www.supremecourtus.gov/opinions/02pdf/02-241.pdf](http://www.supremecourtus.gov/opinions/02pdf/02-241.pdf).

examination in a different state from where they studied. Law schools where the bar rate falls much below the average become very concerned about their students' fates. Typically such schools will adopt strategies designed to focus student work in the third year of study on passing the bar examination; some even support bar-review type work.

In most states the bar examination consists of a one-day multiple-choice test and a one-day essay test. The multiple-choice test is created by the makers of the Law School Admissions Test and is the same across the country. The essay test poses legal problems that required students to spot legal issues. Each state creates its own essay test. Most students (65% to 90% on the first try, depending upon the state) pass the bar examination. Without further training they legally are qualified to practice law. Some bar associations provide programs for individuals to transition to practice. Most states require that all lawyers keep current by taking continuing legal education ("CLE") courses throughout their professional career.

In the United States the system of university legal education began as a private substitute for an existing informal private system of apprenticeship training conducted by practicing lawyers. That system was generally one of easy admission. The apprenticeship system continued to exist alongside the university system for the entire nineteenth century and remained at least a theoretical possibility for much of the twentieth.<sup>19</sup> Although today no law office training is required, relatively few students begin work independently as lawyers. More commonly they begin their careers as junior lawyers in law firms (associates) or otherwise as junior lawyers in larger organizations. The result is that most American law students graduate from law school with little practical training as lawyers and without certification as specialists. Most get their practical training in on the job work. In earlier days it was said that aspiring lawyers received training as lawyers in large law firms from more senior attorneys. While many law firms have or had such formal programs, I suspect that that such training has always been more ideal than actuality. Most

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<sup>19</sup> See generally Robert Stevens, *Law School: Legal Education in America from the 1850s to the 1980s* (1983); Alfred Zantlinger Reed, *Training for the Public Profession of the Law: Historical Development and Principal Contemporary Problems of Legal Education in the United States*, *Carnegie Foundation Bulletin* No. 15 (1921).

young lawyers, I suspect, have learned such additional skills through a process of doing the tasks that need to be done with or without the assistance of more experienced colleagues.

In the United States the German view that the role of the judge is to apply law to facts is rejected.<sup>20</sup> Americans legal professionals see the legal system instrumentally, that is, as a system for resolving concrete disputes. It is the role of the judge in the American system to preside over a clash of competing interests and to clarify what is the law that governs the dispute's resolution. The role of the advocate to find a way to the client's desired resolution through shaping of the law, the facts, and the judgment of the dispute.<sup>21</sup> In recent years, the lawyer has come to be seen as "social engineer" and "problem solver";<sup>22</sup> that view is said to predominate among law professors.<sup>23</sup> Judges revel in the role of making political decisions.<sup>24</sup>

American law school education is largely the same throughout the country. In most law schools, the first year of instruction is entirely mandatory. The second and third years of instruction, on the other hand, are almost entirely elective. The first year curriculum usually consists of introductory courses in core legal areas, most typically in civil law (*i.e.*, contracts, torts, property), criminal law and procedure, civil procedure and constitutional law. Most law schools do not have required first year courses in general perspective areas of law such as legal history, legal philosophy and comparative law.

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<sup>20</sup> See, *e.g.*, Edward Levi, *Introduction to Legal Reasoning* 1 (1949) ("It is important that the mechanism of legal reasoning should not be concealed by its pretense. The pretense is that the law is a system of known rules applied by a judge; the pretense has long been under attack."); Lawrence M. Friedman, *American Law: An Introduction* 85 (1984) (American legal realists "sneered at the idea that the way to decide cases was by logical deduction from preexisting cases and rules").

<sup>21</sup> See Maxeiner, U.S. "methods awareness," *op cit.*

<sup>22</sup> See, *e.g.*, David W. Leebron, *op. cit.* at 120.

<sup>23</sup> Henry Paul Monaghan, *Stare Decisis and Constitutional Adjudication*, 88 *Columbia Law Review* 723, 773 (1988) (American law school professors have a "deep-rooted belief that lawyers are social engineers"); Michal P. Schutt, *Oliver Wendell Holmes and the Decline of the American Lawyer: Social Engineering, Religion, and the Search for Professional Identity*, 30 *Rutgers Law Journal* 143, 176-77 (1998) ("A century after Holmes, however, in the midst of the celebrated "crisis" in the legal profession, the position of the American lawyer as social engineer extraordinaire was taken for granted to a greater extent than ever by the legal elite—the bench and the academy.")

<sup>24</sup> See, *e.g.*, Charles E. Wyzanski, *Whereas—A Judge's Premises* 6 (1965). See generally Mary Ann Glendon, *The Ways and Tastes of Magistrates in A Nation Under Lawyers* 111-73 (1994).

Many, however, do have a required first year course in “legal methods.” This tends to be a course on basic legal source work and on legal writing.

The first year of law school is the pride-and-joy of American law schools. While the courses are almost the same, it is not their substance that matters, but that students are taught to “think like lawyers.”<sup>25</sup> The American case method of legal instruction trains students to identify a precise point in controversy and to argue for resolving that controversy favorably. It teaches them first to find the legal rule relevant to the instant controversy by distilling it out of a mass of precedents, and then second, to argue for a favorable resolution of that point.<sup>26</sup> There is no need for the student to make a legal decision let alone to place such a decision in any kind of system outside of the context of the particular case. Legal argument is the end in itself.<sup>27</sup> A German student exposed to examinations in both systems picks up on the obvious differences: in America, students are taught to identify and make arguments (“issue spotting”); in Germany, they learn to decide cases.<sup>28</sup>

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<sup>25</sup> See Josef Redlich, *The Common Law and the Case Method in American University Law Schools*, A Report to the Carnegie Foundation, Bulletin No. 8, at 24-25 (1914). Not all law students believe that they are being taught to think like lawyers. See Alan Watson, *Legal Education Reform: Modest Suggestions*, 51 *Journal of Legal Education* 91 (2001).

<sup>26</sup> Redlich perceptively captured the essence of this method: “Under the old method law is taught to the hearer dogmatically as a compendium of logically connected principles and norms, imparted ready made as a unified body of established rules. Under [the case method] these rules are derived, step-by-step, by the students themselves by a purely analytic process which forbids *a priori* acceptance of any doctrine or system either by the teacher or by the hearer. In the former method all law seems firmly established and is only to be grasped, understood and memorized by the pupils as it is systematically laid before them. In the latter, on the other hand, everything is regarded as in a state of flux; on principle, so to speak, everything is again to be brought into question. Redlich, *op. cit.* at 13.

<sup>27</sup> Richard Stith, *Can Practice Do Without Theory? Differing Answers in Western Legal Education*, 80 *Archiv für Rechts- und Sozialphilosophie* 426, 433 (1994). (“An excellent student is one who can argü either side of a case with equal facility, who is trained to be a ‘hired gun.’”) This (as well as other aspects of the litigation system) helps explain two other features of American legal life. (1) The party with the better lawyer should win. (2) Counseling clients is not so much about whether particular action is within or outside law, but about who might argü that the proposed action is improper and whether they would have a colorable claim.

<sup>28</sup> See, e.g., Nihls Behling, “St. Louis Diary: A German Student’s Tale about Academic Life in the United States,” <http://www.jura.uni-sb.de/gast/slu-diary/>.

The case law system of instruction was first introduced in 1870. It replaced the lecture method previously in use in law schools. The case method has been subject to much criticism and now is hardly used everywhere in the same manner as originally used.<sup>29</sup> In part this is because American law is increasingly statutory law.<sup>30</sup> Case law analysis alone is not sufficient. In any case, American law schools have not returned to the lecture format. Instruction in all classes is largely expected to be interactive. A law professor standing up in front of a class and reading a lecture to it is unacceptable.

The second and third years are largely elective. Some law schools require students to take a “perspective course”, typically allowing a choice from among courses such as legal history, legal philosophy or comparative law. Some law schools, particularly those whose students are less likely to pass the bar examination, require students to take basic courses that are typically on the bar examination but are not covered in the first year of law school, *e.g.*, commercial law, evidence law (a part of civil and criminal procedure), corporations. Many law schools have a writing requirement that students must complete a scholarly work of some kind in the law in a seminar class or as part of work on a law review. A number of law schools permit students to specialize in a particular area of the law similar to the German *Wahlfach*, except that these specializations usually are not part of the bar examination.<sup>31</sup> Otherwise, students are largely free to choose which-

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who writes: “The style of the questions in the essay section was pretty much comparable to the style of German essay exam questions, with one big difference though. While in Germany students are required to put themselves into the position of judges and consequently solve the problems of the case, here students have to put themselves in the position of attorneys. Therefore, a typical question would be: Imagine you are A’s counsel. How will you advise your client in this situation? What defenses will the other side possibly raise? Accordingly, the answer does not call for a lengthy development of the legal questions, but rather requires to precisely spot the issues of a case, and to state the applicable rule together with a short reasoning.”

<sup>29</sup> For representative views of how the case method is currently used, see David W. Leebron, *op. cit.* at 121-22; Paul D. Reingold, *op. cit.* at 19-20.

<sup>30</sup> Nearly a century ago an Austrian observer Josef Redlich, attributed the victory of the case law method of instruction in America over older competing apprenticeship and lecture methods to the dominance of the common law system of finding the law in the application of each particular case. Redlich found the principles underlying the case method to be “practically demanded by the very nature of the common law.” Redlich, *op. cit.* at 37.

<sup>31</sup> See Mary Kay Kane, *op. cit.* at 158-59. More and more students who wish to specialize in a particular field can do a master’s degree (“LL.M.”). This requires

ever courses they wish from an offering that is much richer than when I went to law school. Typically the better the reputation of the school, the greater is the variety of courses and the smaller is the number of required courses.

Courses in the second and third years do not always use the case method of instruction. There are a number of different types of courses: (1) courses in basic areas of the law selected by most students either because they are on the bar examination or because of their importance for legal practice (e.g., corporations law, commercial law, evidence, tax); (2) specialty substantive law courses (e.g., intellectual property law, immigration law, international law); (3) clinics and simulations; (4) perspective courses (e.g., legal philosophy, legal history, comparative law, foreign law); (5) seminars in any of the above or in law and social science disciplines.

As mentioned already in the nineteenth century professional law school instruction completely displaced both law office study and an earlier lecture method of legal instruction. My thesis is that it did this, not because it taught law office skills better or, for that matter, the substantive law more systematically, but because it provided a better preparation for bringing the law and facts together. In other words, I think that it focused better on the kind of thinking that a lawyer must do in daily practice without regard to the specific type of practice that lawyer has.

My thesis is supported by the subsequent development of instruction in legal practice in American law schools. Although the success of the American law school contributed to the abolition of a requirement of professional practical experience for admission to the bar, American law schools generally have not taken over the practical instruction given in apprentice training. To be sure, most law schools have clinical courses where students, under supervision of experienced attorneys, actually practice law. But very few law schools require students to take such courses. I think a reason for their reluctance to impose such requirements is the realization that in most practice areas—particularly those at a high level of complexity or economic importance—practice skills are too focused on the particular practice involved to permit their being taught in a

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an extra year of study and is usually taken after the bar examination. There is no state testing.

general way.<sup>32</sup>

In the second and third years of law schools most students choose courses that are about subjects that are covered on the bar exam that they intend to take and that they feel may be useful to them in later practice. Even at law schools that do not offer opportunities to specialize, many students will give a focus to their study programs to create personal specializations. Most courses offered are subject-specific. There are many seminars that focus of particular problems in the law.

American law schools historically focused on concerns of interest for legal practice rather than on more general concerns of law. The education they provide is said to be “professional” rather than academic education.<sup>33</sup> Already in 1914 Josef Redlich, an Austrian law professor, identified as a weakness of the case law method of instruction that the “students never obtain a general picture of the law as a whole, not even a picture which includes only its main features.”<sup>34</sup> Alan Watson, a Scottish comparativist who has taught in America many years, much more recently, came to the same conclusion. He believes that case law teaching means that students “are not given the framework of the law.”<sup>35</sup> “The absence of theoretical underpinnings is a fatal flaw in the casebook approach.”<sup>36</sup> According to Professor Watson, “Legal education in the United States is geared to making legal plumbers, not legal scholars, not reflective, philosophically and socially attuned practitioners.”<sup>37</sup> Redlich in 1914 warned of a “certain disadvantage which the case system possesses for the scientific activity of law”.<sup>38</sup> Since the judges in the Common Law world are the last word on the law, systematizing efforts comparable to the Ger-

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<sup>32</sup> Expense, too, is a likely factor. For clinical education generally, see David E. Chavkin, *op. cit.* at 70-75; Paul D. Reingold, *op. cit.* at 24-27; Charles D. Weisselberg, *op. cit.* at *passim*.

<sup>33</sup> Stith, *op. cit.* at 427.

<sup>34</sup> Redlich, *op. cit.* at 41.

<sup>35</sup> Watson, *Legal Education Reform*, *op. cit.* at 93.

<sup>36</sup> Alan Watson, *The Aspiring Lawyer in the United States*, in Alan Watson, *Law Out of Context* 140, 143 (2000) 140, 143.

<sup>37</sup> *Id.* at 148-49. See also Alan Watson, Joseph Story and the Comity of Errors, *A Case Study in Conflict of Laws* 96, 118 note 29 (1992) (“To an extent unparalleled elsewhere, 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.”)

<sup>38</sup> Redlich, *op. cit.* at 50.

man Civil Law tradition of codes and commentaries are much more difficult.

The last thirty years have seen law schools move away from a professional practice focus toward a social science, general knowledge focus. When I went to law most classes conveyed either core or specialist knowledge and were what has been called *practical-doctrinal*. That is, while they did not have a specific practice focus, they were concerned with the substance of what the law is, the dogma as one might say in Civil Law jurisdictions. Today, interdisciplinary courses that combine legal knowledge with general knowledge have mushroomed. This new form of scholarship calls for examining legal rules from social science perspectives. Not only is a course in law & economics essential in just about every law school today, commonplace too are courses on law & literature, law & psychology, law & philosophy, etc.<sup>39</sup> This proliferation has continued to such an extent that many formerly doctrinal core courses are taught from a social science perspective and never get down to the practical application of the law in day-to-day life. Many practitioners have criticized this development.<sup>40</sup> They note that one result of this development has been to drive treatise writing from the law schools as something inappropriate to true scholarship.<sup>41</sup> Judge Posner observed that “[d]octrinal scholarship has been in relative decline for many years, having been abandoned by many law professors, especially young ones and especially at elite law schools.”<sup>42</sup> But even some legal academics find this new scholarship unsatisfactory and see at least some of it as “amateur social science.”<sup>43</sup>

Other common law jurisdictions have continued to maintain practice instruction alongside university studies. Such training is the norm in other common law jurisdictions such as Great Britain and Canada.<sup>44</sup>

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<sup>39</sup> See David W. Leebron, *op. cit.* at 117-18; Paul D. Reingold, *op. cit.* at 22-24.

<sup>40</sup> For a review of this criticism, see William Burnham, *op. cit.* at 38-41.

<sup>41</sup> Stith, *op. cit.* at 434.

<sup>42</sup> Richard A. Posner, *Overcoming Law* 84 (1995).

<sup>43</sup> Stith, *op. cit.* at 434. For a book length treatment of competing views of legal scholarship in the United States, see Arthur Austin, *The Empire Strikes Back: Outsiders and the Struggle over Legal Education* (1998). For an explanation for foreign law students in the United States of the great variety of what counts as scholarship there, see Matthew A. Edwards, *Teaching Foreign LL.M. Students about U.S. Legal Scholarship*, 51 *Journal of Legal Education* 520 (2001).

<sup>44</sup> See the articles cited in note 3 above.

## 5. Education of Lawyers in Japan – Today and Tomorrow

To a foreigner observer such as myself with little first hand knowledge, the outward form of legal education in Japan today seems very similar to that in Germany – with one important difference, the restrictive examination for admission to the Legal Training and Research Institute. Here, as in Germany, aspiring lawyers study law at the university for about four years. They then take an examination and are admitted to what, until recently, was a two-year period of practical training to become qualified as judges. As in Germany, that training period begins with classroom type instruction in the skills of a judge and then continues with several month “stations” at the civil courts, criminal courts, administrative agencies, and law firms. But while all qualified Germans are admitted to the practical training program, in Japan, only a miniscule percent are. That difference has had a major impact on legal education.

One consequence of that difference is obvious and requires no observation: if only a miniscule percentage of those studying law at the university are admitted to the Legal Research and Training Institute, most students cannot reasonably expect to become lawyers. Less obvious is the effect that this examination policy has on the study of law of those who do become lawyers. Typically students who do aspire to become lawyers abandon or greatly reduce the time they devote to university studies and substitute private examination preparation schools (*juko*). This leaves little time for focused study of the law.<sup>45</sup> These preparation schools are more important for students than are their counterparts in Germany and the United States. Indeed, in Japan one might be admitted to the Legal Training and Research based only on the knowledge learned at the examination preparation courses without ever studying at the university. As a result of these differences, one German observer who has taught law in Japan, Hans Peter Marutschke, finds a direct comparison between German and Japanese legal education as it presently exists difficult.<sup>46</sup>

Beginning next year the system will change. Potential lawyers who have an undergraduate education in legal studies

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<sup>45</sup> See Justice System Reform Council, *op. cit.* at Chap. III, Part 2, 1; Hans Peter Marutschke, *op. cit.*

<sup>46</sup> *Op. cit.*

will spend two years, while those with an undergraduate education in another subject will spend three years in professional studies at a law school. They will then take an examination that will accept—as originally planned—some 70% to 80%, but in actuality possibly far fewer of them into the Legal Training and Research Institute in Tokyo. The lucky ones who are admitted will spend one year in practical studies mostly detailed as apprentices to civil courts, criminal courts, administrative agencies and private law firms.

Plans at Himeji I understand call for those students who have not had an undergraduate education in law to spend their first year in courses on the fundamentals of Japanese law. The second year, which for graduates of law faculties will be the first year, will consist of three principal types of courses: (1) seminars and other deepening courses in the basic areas of law studied in undergraduate school (e.g., civil law, criminal law, constitutional law, commercial law, criminal procedure, civil procedure) (60%), (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, tax law). In the third year the types of course will remain the same, but students are expected to spend more of their time on practical and elective courses. The elective course, at least at Himeji, will include legal philosophy and foreign and comparative law, but not legal history. It does not appear, however, that elective courses will be so numerous or the time available sufficient to create a specialization along the lines of the German *Wahlfach* or the *de facto* American specialization.

The shortening of the time at the national Legal Training and Research Institute from what was originally two years to what will be one year is accompanied by the expectation that the law schools may pick up some of the instruction presently provided at the Institute. In particular, they may cover what is now covered in class room type instruction in judgment drafting.<sup>47</sup> One potential problem with this program

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<sup>47</sup> *Cf.*, Justice System Reform Council, *op. cit.* at Chap. III, Part 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

may be the difficulty in obtaining lawyers and judges trained in these skills.

Applications to establish law schools are now being filed. Professors are beginning to contemplate just what courses they will teach and how they will teach them. Faculties are sorting out how to allocate responsibilities as they seek to implement the mandate of the Justice System Reform Council to “[c]learly define the relationship between education provided at law schools and education provided at law faculties of universities.”<sup>48</sup> Even if everyone agreed completely on the pedagogic goals to be achieved, this massive change in instruction would assure political turmoil and an attendant reduction in harmony.

## 6. Comparative Comments

The future Japanese law schools may come under pressure to focus on the practical. I hope that they will realize that what seems most practical, may not be the best instruction for the future professional practice of law. The best professional education, I think, need not short-change the academic-scientific-theoretical. The purely practical, however, might.

One of my teachers in law school later in my law school’s alumni magazine called for more teaching of perspective courses in law school with the justification that law schools should teach that which they are well-suited to teach and should leave to other teachers or even other approaches that which they are better-suited to teach.

I believe that good professional education in law should also be good scientific education. I think that legal education is at its best, whether in Germany, or the United States, or perhaps Japan, when its focus is on that which is enduring and general rather than on that which is temporal and overly specific. What endures are fundamentals of the substantive law, whether perspective, core or specialist knowledge, and above all, the key legal skill of thinking like a lawyer. Of course, to think like lawyers, just as to practice any skill, requires a modicum of substantive knowledge before one

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building a bridge between legal education and legal theory on the basis of systematic legal theory.”); Chap. III, Part 2(4)(1); Masato Ichikawa, *op. cit.* at 42.

<sup>48</sup> Justice System Reform Council, *op. cit.* at Chap. III, Part 3, 2(1)c.

can practice the skill. Thus one cannot think like a lawyer if one does not know the basics of the legal system.<sup>49</sup> The basics should be taught with attention to their historical and comparative law contexts. Armed with a basic knowledge of substantive law—including perspective knowledge—and educated to “think like lawyers,” our graduates will be able to go out and learn new substantive law themselves.<sup>50</sup> Since they will practice for forty or more years after they leave our care, we owe them nothing less.

Allow me finally to offer some gratuitous speculation based on my very imperfect knowledge of Japanese conditions. If I were starting a law school in Japan, I would welcome taking on the responsibility of the Legal Training and Research Institute for teaching how to apply the law to the facts of a particular case. I would seek to let that training pervade the instruction that I offered throughout my two-year program. I would take care, however, to make sure that that training consider the application of the law both from the perspective of the judge, but also from the perspective of the lawyer who is advocating a decision favorable to his or her client. I would try to avoid requiring more than the fundamentals of the substantive law or basic skills, but to leave free to students the opportunities to shape their future legal careers. Those that find themselves in practice will discover that their experiences will necessary push them in particular specialist directions. Law school cannot possibly give them all the knowledge that they will need to know. At best law school can only prepare them for a lifetime of learning.

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<sup>49</sup> *Cf.*, Hans Peter Marutschke, *op. cit.*, at 89 („Die in Japan jetzt vorrangig geführte Diskussion um die Praxisorientierung der Juristenausbildung verkennt meines Erachtens, dass für eine gute praktische Anwendung des Rechts—und das soll ja in erster Linie das Ziel der Juristenausbildung sein—ein sicheres Verständnis der Grundlagen ... vorhanden ist.“)

<sup>50</sup> *Accord*, Peter Gilles & Nikolaj Fischer, *op. cit.* at 200 (“dass das Leitbild für eine solche Juristenausbildung ... zugrundeliegt, das gebildete und flexible einarbeitungsfähige Jurist sein soll, der weniger auf Wissen in möglichst vielen Rechtsgebieten, sondern auf grundsätzliches methodisches Verständnis hin ausgebildet worden ist.”).