

# The Post-‘Law School’ Future of Japanese Undergraduate Legal Education A Personal Perspective Comparison with Australia

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## I. INTRODUCTION

On 27 March 2004, I graduated from the Faculty of Law (*hōgakubu*) at the University of Tokyo (referred to in the vernacular as *Tōdai*). Five days later the University’s new post-graduate ‘law school’ (*hōka daigakuin*) opened. Naturally, this change raised for me the personal question of how it might impact on the value of my degree, but it also raises the larger question of how present reforms will impact undergraduate law programs. The extensive scope and scale of these reforms suggest that at least some changes at the undergraduate level are inevitable and yet there has been very little discussion as to what those changes might be.

This paper examines Japanese undergraduate legal education in light of the reforms to post-graduate legal education. It identifies desirable characteristics in the post-law school *hōgakubu* and speculates as to how these characteristics might be maintained or implemented. In the process I analyse elements of the broader judicial reform process from an asymmetrical comparative perspective with legal education in Australia and other countries.<sup>1</sup> I will also include personal views,<sup>2</sup> as a graduate of the *hōgakubu* at the University of Tokyo and a student in the Law Faculty at the Australian National University, to elucidate and/or give further support to points in my argument.<sup>3</sup>

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1 See K. ANDERSON, Japanese Law in a Nutshell (book review), in: Australian Journal of Asian Law 5 (2003) 312 (explaining asymmetrical comparison).

2 The personal narrative has become a technique of legal analysis in the critical studies movement. See generally D. FARBER / S. SHERRY, Telling Stories out of School: An Essay on Legal Narratives, in: Stanford Law Review 45 (1993) 807.

3 Unless otherwise indicated, all information about *hōgakubu* in this paper is based on the *hōgakubu* at Tokyo University.

In Part II of this paper I provide a basic background to the judicial reform currently underway in Japan, followed by more extensive explanation of the elements of Japanese legal education and qualification, both pre-reform and post-reform. In Part III, I identify two types of *hōgakubu* graduates in the post-law school era – ‘law-versed generalists’ and ‘lawyer-generalists’. I then criticize possible reform to the course structure and curriculum – specifically, foreign languages, technological literacy and basic research skills, seminars, and ethical education – of *hōgakubu* to facilitate the production of these two graduate types. Finally, I conclude that this reform to course structure and curriculum could help *hōgakubu* to strike an appropriate balance in the training and education of these two graduate types and to fulfil its role in the post-reform ‘process’ of legal qualification.<sup>4</sup>

## II. BACKGROUND

### A. *Basic Background to Judicial Reform*

In July 1999, the Justice System Reform Council was established to clarify ‘the role to be played by justice in Japanese society in the twenty-first century’.<sup>5</sup> The Council was mandated to examine and deliberate, among other issues, simpler access to justice, participation by the public in the justice process, and the attainment of an adequate legal profession.<sup>6</sup> In June 2001, the Council published a set of Recommendations for reform to the justice system based on its research and deliberation of the previous two years.<sup>7</sup> One of the central elements in these Recommendations was the transformation of legal qualification from the single ‘point’ of the bar examination to a ‘process’ that ‘organically connect[s] legal education, the national bar examination and legal training’.<sup>8</sup> Specifically, this entailed the establishment of post-graduate ‘law schools’ by April 2004 and the reform of the National Bar Examination to allow for 3,000 passers annually by 2010.<sup>9</sup>

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4 See *infra* note 8.

5 *Shihō seido kaikaku shingi-kai setchi-hō* [Law Establishing the Justice System Reform Council], 1999, article 2. This law is no longer in effect but can be viewed online at <<http://www.kantei.go.jp/jp/sihouseido/990803setiho.html>>.

6 *Ibid.*

7 JUSTICE SYSTEM REFORM COUNCIL, Recommendations of the Justice System Reform Council: For a Justice System to Support Japan in the 21<sup>st</sup> Century (2001) (available at <<http://www.kantei.go.jp/foreign/judiciary/2001/0612report.html>>).

8 *Ibid.*, pt 2.1.

9 Y. KAWABATA, The Reform of Legal Education and Training in Japan: Problems and Prospects, in: *South Texas Law Review* 43 (2002) 419, 420.

## B. Japanese Legal Education and Qualification

### 1. Qualification / Exam Requirements

As of February 2005, to become a qualified lawyer<sup>10</sup> in Japan, applicants must pass a three-part bar examination and then complete an 18-month course at the Legal Training and Research Institute (LTRI).<sup>11</sup> The examination consists of multiple-choice tests in Constitutional Law, Civil Law and Criminal Law; essay examinations in Constitutional Law, Civil Law, Criminal Law, Commercial Law, Civil Procedure and Criminal Procedure; and finally an interview, which the majority of applicants pass.<sup>12</sup> Applicants are not required to have a law degree before taking the examination.<sup>13</sup> The bar examination, in this form, will be offered concurrently with the new bar examination until 2010.<sup>14</sup>

From 2006 a new bar examination will be introduced to cater for the first graduates of the new post-graduate law-schools.<sup>15</sup> The new examination will include short-answer tests (including some multiple-choice) in Public Law (Constitutional Law and Administrative Law), Private Law (Civil Law, Commercial Law and Civil Procedure) and Criminal Law (Criminal Law and Criminal Procedure); as well as essay examinations in the above three subjects plus an elective subject of the applicant's choice. There will be no interview examination.<sup>16</sup> To take the new bar examination applicants must have graduated from a post-graduate law school or, for a handful of people, passed a preliminary examination (*yobi-shiken*).<sup>17</sup> The preliminary examination will be introduced in 2011 to replace the old bar examination and is designed to ensure that applicants for the bar examination who have not graduated from law school have an adequate knowledge of the law.<sup>18</sup> Importantly, applicants may attempt the bar examination a maximum of three times within the five years after they graduate from law school.<sup>19</sup>

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10 The definition of 'qualified lawyer' here is a person who has passed the bar examination and completed the LTRI course. A 'qualified lawyer' may become a judge (or assistant judge), a public prosecutor or a practicing attorney (*bengoshi*), see *infra* note 55.

11 H. AIZAWA, *Judicial Reform and New Law Schools in Japan* (Paper presented at Association of American Law Schools, Hawaii, 26-29 May 2004) 1-2.

12 *Ibid.*

13 *Ibid.*

14 MINISTRY OF JUSTICE (JAPAN), *Atarashii hōsei yōsei seido no dōnyū sukejūru* [Schedule for the Introduction of a New Legal Profession Training System] (2005) <<http://www.moj.go.jp/SHIKEN/shinqa01-01.html>> at 13 February 2005.

15 *Shihō shiken-hō oyobi saibansho-hō no ichibu wo kaisei suru hōritsu* [Law Partially Amending the Bar Examination Law and the Courts Law], Law No. 138/2002. For details see MINISTRY OF JUSTICE (JAPAN), *Shikaku shiken* [Qualification Examination] (2005) <<http://www.moj.go.jp/SHIKEN/>> at 17 February 2005.

16 *Ibid.*

17 *Ibid.*

18 *Ibid.*

19 *Ibid.*

## 2. Undergraduate Program

An undergraduate law degree at a Japanese university generally requires four years of full-time study. This will ordinarily include one to two years of liberal arts (*kyôyô kyôiku*) undertaken at the beginning of the degree, which all students (not just law students) are required to complete. Additionally, *hōgakubu* students undertake approximately three years of legal studies.<sup>20</sup> The fundamental core units in the law element are usually undertaken concurrently with liberal arts subjects in the second year of the degree.<sup>21</sup>

As part of the liberal arts component, all students are required to study English, as well as a second foreign language of their choice (referred to as *daini-gaikokugo*), for two years.<sup>22</sup> Usually students will also be required to take a certain number of elective courses in both the sciences and humanities.<sup>23</sup> At *Tōdai*, for example, sciences and humanities are each divided into three sub-categories and students are required to take a certain number of credits from each. Students from humanities faculties are generally required to take fewer courses from the sciences categories and vice versa. Finally, there are usually a few compulsory elementary courses that must be taken in the first semester of the first year. At *Tōdai*, these include physical education and basic courses in information technology and research skills.<sup>24</sup>

Law faculties in Japan are usually separated into three departments – private law (*shihō*), public law (*kōhō*) and politics (*seiji*).<sup>25</sup> Students generally decide which of these departments they wish to enter before they begin their first year, although there is some (albeit limited) allowance for transfer at a later date.<sup>26</sup> Within each department, students are required to make up approximately half of their credit requirements in compulsory courses. These compulsory courses differ depending on the department but even political science majors are usually required to take the most fundamental law courses such as Civil Law (*minpō*) and Constitutional Law (*kenpō*). The remaining credits are made up with elective courses, which include courses in a variety of different areas of law and politics.<sup>27</sup> Depending on the university, international relations, economics and

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20 COLLEGE OF ARTS AND SCIENCES, UNIVERSITY OF TOKYO, *Zenki katei kyôiku* [Junior Curriculum] (2005) <[http://www.c.u-tokyo.ac.jp/jpn/campus/curri\\_first.html](http://www.c.u-tokyo.ac.jp/jpn/campus/curri_first.html)> at 14 February 2005.

21 FACULTY OF LAW, UNIVERSITY OF TOKYO, University of Tokyo Law Faculty Regulations (2005) <<http://www.j.u-tokyo.ac.jp/kyomu/regulation.html>> at 17 February 2005.

22 *Ibid.*

23 *Ibid.*

24 *Ibid.*

25 FACULTY OF LAW, *supra* note 21. At some universities there is no separate law faculty and law is offered within another faculty, usually the Faculty of Economics or the Faculty of Commerce. For example, see FACULTY OF ECONOMICS, YOKOHAMA NATIONAL UNIVERSITY, *Gakubu no gaiyô* [Faculty Overview] (2005) <<http://www.econ.ynu.ac.jp/gaiyou.html>> at 14 February 2005.

26 FACULTY OF LAW, *supra* note 21.

27 *Ibid.*

commerce courses are also often offered as electives within the law faculty.<sup>28</sup> Students may also take small-group seminar classes in which they learn practical skills and/or analyse specific areas of law or political science.<sup>29</sup> Furthermore, students may be allowed to obtain a limited number of their law faculty credits from other faculties.<sup>30</sup>

An undergraduate law degree in Japan, compared to the same in Australia or graduate law schools in the United States, is therefore aimed more at producing 'generalists' rather than specifically lawyers. Indeed, the vast majority of *hōgakubu* graduates in Japan go on to work for private companies and may never do any law-specific work in their entire careers.<sup>31</sup>

### 3. *Post-graduate Programs*

Upon completing an undergraduate law degree many graduates find employment with private companies. A smaller proportion of graduates, particularly those from elite *hōgakubu*, will either pass the civil service examination and join the bureaucracy, or pass the bar examination and enter the Legal Training and Research Institute.<sup>32</sup> For students wishing to become legal academics there are two routes: post-graduate research schools and the so-called *joshu* program. Subsequently, I review the new post-graduate law schools and the Legal Training and Research Institute.

#### (a) Academic Legal Training

Post-graduate research schools for academic legal training generally offer a two-year masters course (*shūshi-katei*) that may be combined with a further three years of study for a PhD in law (*hakushi-katei*).<sup>33</sup> Additionally, Tokyo University and Kyoto University have *joshu* ('research assistant'<sup>34</sup>) programs as an alternative route to legal academia.<sup>35</sup> *Joshu* posts are usually a three-year appointment, during which time the *joshu* is expected to produce a lengthy thesis, and at the end of which the supervising professor will generally organise a position for the *joshu* as an associate professor (*jokyōju*)<sup>36</sup> at a university.<sup>37</sup>

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28 *Ibid.*

29 FACULTY OF LAW, UNIVERSITY OF TOKYO, *Hōgakubu gakumu kankei nenkan gyōji yotei (2005 nendo)* [Faculty of Law 2005 Schedule of Events] (2004) <<http://www.j.u-tokyo.ac.jp/kyomu/calendar.html>> at 18 February 2005.

30 *Ibid.*

31 C. MILHAUPT / M. WEST, Is the Japanese Bureaucracy Hollowing Out? Evidence from the Market for Legal Talent, in: ZJapanR 15 (2003) 5.

32 *Ibid.*, 21-28.

33 E. FELDMAN, Mirroring Minds: Recruitment and Promotion in Japan's Law Faculties, in: American Journal of Comparative Law 41 (1993) 465, 473.

34 Feldman asserts that 'right-hand man' better captures 'the nuance of the professional and personal closeness to the professor'. See FELDMAN, *supra* note 33, 470.

35 S. MIYAZAWA, Legal Education and the Reproduction of the Elite in Japan, in: Asian-Pacific Law & Policy Journal 1 (2000) 2, 25.

36 Japanese universities use different academic titles to Australia. An associate professor in

Eric Feldman has asserted that the *joshu* program, compared to the post-graduate research school, was traditionally considered the more elite path to academia, and from my experience at *Tôdai* I suggest that this is still the case. Feldman does also recognise, however, that ‘there is an increasing number of people who become academics after pursuing graduate studies’.<sup>38</sup>

(b) Post-graduate Law Schools

Based on the JSRC’s 2001 Recommendations, Japan’s new post-graduate law schools began operation on 1 April 2004.<sup>39</sup> The introduction of the law schools was partially the result of concerns that the ultra-competitiveness of the bar examination and the inadequacy of an undergraduate legal education for producing legal professionals were propagating a growing reliance by law students on preparatory schools (*yobikô*) to learn bar examination techniques.<sup>40</sup> The new law schools were envisioned as a central element in the new legal education system that focused on legal qualification through a ‘process’ of legal education (comprising undergraduate studies, law school and the Legal Training and Research Institute), rather than at the ‘point’ of the bar examination.<sup>41</sup>

The standard training term at the law schools is three years (*mishû* course). However, students who can demonstrate that they already possess sufficient knowledge in the law are permitted to skip the first year of law school and graduate in two years (*kishû* course).<sup>42</sup> In the first year of the *mishû* course, students are required to take ‘core’ units such as Constitutional Law, Civil Law, Criminal Law, Civil and Criminal Procedure, Commercial Law and Administrative Law. In the second and third years of the *mishû* course, students are required to take advanced units in many of the subjects they studied in first year as well as professional skills units such as Professional Responsibility, and Legal Writing and Drafting.<sup>43</sup> A wide range of elective units, not necessarily limited to law, are also offered in the final two years.<sup>44</sup>

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Japan is roughly the equivalent of lecturer/senior lecturer in Australia.

37 FELDMAN, *supra* note 33, 471.

38 *Ibid.*, 472. It should also be noted that outside of Tokyo and Kyoto Universities the *joshu* program is often used as an intermediary position for those students who have completed their LL.M. or PhD but have not yet found a full-time position. See FELDMAN, *supra* note 33, 473.

39 MINISTRY OF EDUCATION, CULTURE, SPORTS, SCIENCE AND TECHNOLOGY (JAPAN), *Hôka daigakuin* [Law Schools] (2005) <[http://www.mext.go.jp/a\\_menu/koutou/houka/houka.htm](http://www.mext.go.jp/a_menu/koutou/houka/houka.htm)> at 14 February 2005.

40 *Ibid.*

41 *Ibid.*

42 FACULTY OF LAW, UNIVERSITY OF TOKYO, *Nyûgaku kibôsha* [Persons Interested in Entrance] (2005) <<http://www.j.u-tokyo.ac.jp/sl-1/news/20040628.html>> at 17 February 2005.

43 FACULTY OF LAW, UNIVERSITY OF TOKYO, *Zai-gakusei* [Enrolled Students] (2005) <<http://www.j.u-tokyo.ac.jp/sl-2/class2004-2006.html>> at 16 February 2005.

44 *Ibid.*

The law schools employ a small-group method of education allowing for greater communication both between the students and the teacher, and among the students themselves.<sup>45</sup> Furthermore, to ‘bridge theoretical and practical aspects of legal education’,<sup>46</sup> the law schools are encouraged to employ practising lawyers as faculty members. For similar reasons, the hiring of other types of professionals – such as accountants, public servants and foreign lawyers – to the faculty is also considered desirable.<sup>47</sup>

Finally, applicants to the law schools are judged and selected on the basis of ‘fairness, openness and diversity’,<sup>48</sup> and with consideration for their undergraduate academic record, their admission examination results, as well as other criteria such as letters of recommendation and personal statements.<sup>49</sup> Applications by students from faculties other than law and by people in the workforce, so as to increase diversity among the student population, are strongly encouraged.<sup>50</sup>

#### 4. *Legal Training and Research Institute*

Applicants who pass the bar examination become legal apprentices at the Legal Training and Research Institute (LTRI; *Shihô Kenshû-jo*).<sup>51</sup> The 18-month LTRI course is divided into three parts. The first three months are spent in the classroom learning practical legal skills such as writing judgments and indictments. The next twelve months are spent in apprenticeships at courts, public prosecutors’ offices and private law firms throughout the country. In the final three months the legal apprentices return to the classroom to learn practical legal skills, although because the apprentices have completed twelve months of apprenticeships the standard of these classes is considerably higher than those of the first three months.<sup>52</sup>

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45 FACULTY OF LAW, UNIVERSITY OF TOKYO, *Nyūgaku kibōsha* [Persons Interested in Entrance] (2005) <<http://www.j.u-tokyo.ac.jp/sl-1/news/200409061.html>> at 14 February 2005.

46 KAWABATA, *supra* note 9, 424.

47 *Ibid.*

48 JUSTICE SYSTEM REFORM COUNCIL, *supra* note 7, pt 2 2(2)c. See also FACULTY OF LAW, *supra* note 42.

49 FACULTY OF LAW, *supra* note 42. See also LAW SCHOOL, WASEDA UNIVERSITY, *Nyūgakusha sentaku no kangaekata* [Way of Thinking on Selection of Entrants] (2005) <<http://www.waseda.jp/law-school/jp/admission/pov.html>> at 14 February 2005.

50 SCHOOL OF LAW, UNIVERSITY OF TOKYO, *Tōkyō daigaku hōka daigakuin no gaiyō* [Overview of the University of Tokyo School of Law] (2005) <<http://www.j.u-tokyo.ac.jp/about/pdf/lbrochure2004-1.pdf>> at 14 February 2005 (brochure). See also LAW SCHOOL, *supra* note 49.

51 Although the vast majority of bar examination passers enter the LTRI, in most years there are a handful of passers who decide to pursue other goals. See TOKYO BAR ASSOCIATION, *Welcome to Toben* (2005) <[http://www.toben.or.jp/english/english\\_welcome.html](http://www.toben.or.jp/english/english_welcome.html)> at 15 February 2005.

52 LEGAL TRAINING AND RESEARCH INSTITUTE, *Shihô kenshû no naiyō* [Content of Legal Training] (2005) <<http://courtdomino2.courts.go.jp/home.nsf/>> at 17 February 2005.

At the end of the 18-month course, apprentices are examined on the practical legal skills they have been taught throughout the LTRI course.<sup>53</sup> The majority of apprentices pass this examination on their first attempt.<sup>54</sup> Upon passing this examination the legal apprentices become qualified legal practitioners. A small number of the successful candidates elect to become assistant judges or public prosecutors but the vast majority become *bengoshi*.<sup>55</sup>

The LTRI is a branch of the Supreme Court and, as such, the legal apprentices are public servants paid a monthly wage by the government.<sup>56</sup> This 'stipend system' has become a bottleneck on the number of candidates who pass the bar examination each year because the government can only afford to fund the LTRI course for a limited number of apprentices. There have been suggestions that the stipend system should be replaced by a scholarship loan system or abolished entirely.<sup>57</sup>

The LTRI course was originally two years but was in 1999 reduced to 18-months because elements of the course were introduced into the curricula of the new law schools. It is expected that once the law school curricula is developed even further to include greater instruction in practical legal skills the length of the course will be reduced again to one year.<sup>58</sup>

### III. LAW FACULTIES IN THE NEW LAW SCHOOL WORLD

#### A. *Two Kinds of Law Faculty Graduates in the Post-Law School Era*

The new post-graduate law schools have been given primary responsibility for training legal professionals in Japan. Although undergraduate law faculties were originally not designed to train legal professionals in the same manner that the law schools have been, the elite *hōgakubu* in particular have come to fulfil this secondary role.<sup>59</sup> *Hōgakubu* have therefore been responsible for producing both lawyers and generalists.<sup>60</sup> However, the advent of law schools and the new role of *hōgakubu* in the 'process' of legal training and qualification mean that *hōgakubu* will inevitably need to reassess the nature of these two types of graduates and how they produce them. I argue that, post-reform, *hōgakubu* might alter their focus slightly to produce 'lawyer-generalists' and 'law-versed generalists'.

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53 For more specific details on the content of this examination, see J. MAXEINER / K. YAMANAKA, *The New Japanese Law-Schools: Putting the Professional into Legal Education*, in: *Pacific Rim Law & Policy Journal* 13 (2004) 303, 310.

54 *Ibid.*

55 In 2000, 87 of the LTRI graduates become assistant judges, 69 become public prosecutors and 575 become *bengoshi*. See TOKYO BAR ASSOCIATION, *supra* note 51.

56 *Ibid.*

57 JUSTICE SYSTEM REFORM COUNCIL, *supra* note 7, pt 2.4(2).

58 MAXEINER / YAMANAKA, *supra* note 53.

59 MILHAUPT / WEST, *supra* note 31, 21-28.

60 *Ibid.*



### 1. *Lawyer-generalists*

I use the term ‘lawyer-generalist’ to refer to a qualified lawyer<sup>61</sup> with a sound understanding of a broad range of subjects other than law. Given the post-reform process for becoming a qualified lawyer, the training and education of lawyer-generalists would not be complete until at least the completion of law school. However, *hōgakubu* can play a key role in that process by providing students with an education that both prepares them for law school and instils in them a firm foundation in the liberal arts.

The role of a lawyer is deeper than simply applying the law to a factual scenario – it is to resolve the conflicts that arise among individuals, groups and society as a whole.<sup>62</sup> Fulfilling this role requires knowledge of a variety of fields other than law that may be relevant in the context of a legal problem as well as ‘deep insight into human relations and society’.<sup>63</sup> The practice of seeking greater student diversity and hiring faculty from outside the legal field and from overseas, suggests that law schools have adopted a similar philosophy.<sup>64</sup> A thorough education in the liberal arts at *hōgakubu* would help to provide students with both the broad knowledge of other fields and the insight into human activity that they require to avoid becoming ‘cold-blooded legal technicians’.<sup>65</sup>

The new law school system was designed with the existing undergraduate law faculties in mind. The system may have been designed with the objective of superseding the law faculties with regards to training legal professionals, but the existence of the two-year *kishū* course at law school is evidence that there was, and still is, the expectation that a large number of law school students will be *hōgakubu* graduates. It is therefore logical to presume that *hōgakubu* are expected to provide their students with a level of legal education at least the equivalent of that provided in the first year of the *mishū* course at law school.

Given the infrastructure for legal education already in place, *hōgakubu* are ideally placed to provide a preparatory education in law that would help students derive greater benefit from a law school education. Mark Levin identifies the ‘disorientation and loss’ experienced by most students in American law schools as a key factor in an ineffective legal education.<sup>66</sup> Introducing students to both theoretical and practical elements of the law at the undergraduate level may help to alleviate, or in some cases even eliminate entirely, similar experiences for students in Japanese law schools.

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61 See *supra* note 10.

62 Y. YANAGIDA, A New Paradigm of Legal Training and Education in Japan, in: *Asian-Pacific Law & Policy Journal* 1 (2000) 1, 23.

63 *Ibid.*

64 See KAWABATA, *supra* note 9, 424.

65 YANAGIDA, *supra* note 62.

66 M. LEVIN, The American Kaizen of Law Teaching, in: *Asian-Pacific Law & Policy Journal* 2 (2001) 6, 11.

## 2. *Law-versed Generalists*

I use the term ‘law-versed generalist’ to refer to a person who has a solid basic understanding of a broad range of fields and issues, and a more thorough and specific understanding of the law. It is similar to a lawyer-generalist in that they both combine knowledge of the law and the liberal arts, but whereas lawyer-generalists would make use of their liberal arts education in their role as lawyers, law-versed generalists could, conversely, make use of their legal education in a variety of fields of employment.

The majority of *hōgakubu* graduates do not go on to become qualified lawyers, and, indeed, ‘most students who enrol in a university’s department of law do not do so with the intention of becoming practicing lawyers’.<sup>67</sup> A small number of this majority, primarily those who have graduated from one of the more elite *hōgakubu*, will enter the bureaucracy; a significant proportion of the remainder will gain employment with private companies.<sup>68</sup> This sort of *hōgakubu* graduate has little need for the extent of legal education required to become a qualified lawyer. More suited to the kind of work at private companies that most *hōgakubu* graduates enter into is a basic understanding of both the law and a wide variety of other fields. This is the type of education that *hōgakubu* have provided for many years, and corporations consider their graduates to be ‘valuable material’.<sup>69</sup>

### B. *Realising Lawyer-generalists and Law-versed Generalists*

In the post law school era, therefore, *hōgakubu* might continue but more explicitly serve the dual goal of preparing students for both the workforce and law school by providing a balanced education designed for lawyer-generalists and law-versed generalists.

#### 1. *Course Structure*

Yukio Yanagida is a highly experienced and highly esteemed lawyer and legal academic.<sup>70</sup> In 1998 he published two extremely influential papers comparing the Japanese legal training and education system with that of the United States, particularly Harvard Law School, identifying basic problems in the Japanese system, and suggesting a model for reform of that system.<sup>71</sup> In those articles, Yanagida identifies two reasons why he

67 YANAGIDA, *supra* note 62, 14.

68 MILHAUPT / WEST, *supra* note 31.

69 YANAGIDA, *supra* note 62, 20 (note 35 – quoting Jūichi Yoneda).

70 Yukio Yanagida is a founding and senior partner of the law offices of Yanagida and Nomura in Tokyo, Japan. He received an LL.M. degree from Harvard Law School in 1966 and served as a Visiting Professor at the Law School in 1991. Mr Yanagida has practiced in the field of international and domestic law for almost forty years. See YANAGIDA, *supra* note 62, 2 (note 2).

71 Y. YANAGIDA, *Nihon no atarashii hōsō yōsei shisutemu* [A New Paradigm of Legal Training and Education in Japan], in: *Jurisuto* 1127 (1998) 111 and *Jurisuto* 1128 (1998) 65. Later translated, combined and published as YANAGIDA, *supra* note 62.

believes *hōgakubu* are not the most appropriate institutions for professional legal education. The first is that '[h]igh school students are neither mature nor experienced enough to make a responsible decision to pursue a career in the practice of law'.<sup>72</sup> The second is that students embarking on professional legal study at the undergraduate level would have an inadequate background in the liberal arts.<sup>73</sup> It is important to note that Yanagida raises these reasons in an argument for professional legal education at the post-graduate level. Nevertheless, it is relevant to consider them (1) with respect to the prescribed number of years for completion of *hōgakubu* and (2) with respect to finding the appropriate balance between law and liberal arts necessary to accommodate training of both 'lawyer-generalists' and 'law-versed generalists'.

(a) Required Time for Completion of Law Faculty

Yanagida makes his assertion regarding the maturity and experience of students with respect to their selection of a university degree without reliance on psychological or child development research. In short, he bases his argument on his subjective perspective based on past experience. From the same perspective, I disagree with his assessment. While I recognise that, as Yanagida suggests, many students would likely be able to make a more informed decision as to whether they wish to study law after completing an undergraduate degree, I argue that this is not the case with all students. Indeed, professional legal education in both the United Kingdom and Australia is conducted at the undergraduate level, requiring students to make the decision to study law in the final year of high school.<sup>74</sup> Similarly, I made the decision to study law upon finishing high school and am now in my sixth year of legal education still with the intention of practicing law upon graduation. My situation is evidence that high school students *can* make the decision that Yanagida appears to believe is beyond them.

Yanagida's argument has merit to a certain extent. However, it does not provide adequate justification for those students who are certain they want to practice law to complete at least six years of legal education (not including the LTRI) before they can do so. Six years of legal education is a substantial outlay, in time, money and effort.<sup>75</sup>

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72 YANAGIDA, *supra* note 62, 22.

73 *Ibid.*

74 FACULTY OF LAW, AUSTRALIAN NATIONAL UNIVERSITY, Welcome to the Undergraduate Section (2005) <<http://law.anu.edu.au/Undergraduate/index.asp>> at 18 February 2005; UNDERGRADUATE ADMISSIONS, OXFORD UNIVERSITY, *Law (Jurisprudence)* (2005) <<http://www.admissions.ox.ac.uk/courses/law.shtml>> at 18 February 2005.

75 Over a four year period *hōgakubu* students are required to complete approximately 145 credits in law and liberal arts. Four credits is the equivalent to just over three contact hours a week. With an average of 18 credits per semester, over 8 semesters, students would have approximately 60 contact hours a week. See FACULTY OF LAW, *supra* note 21; COLLEGE OF ARTS AND SCIENCES, *supra* note 20. For details of tuition fees at Chuo Law School, see LAW SCHOOL, CHUO UNIVERSITY, *Gakuhi / Shōgaku-kin ni tsuite* [About Tuition Fees and Scholarships] (2005) <<http://www2.tamacc.chuo-u.ac.jp/law-school/fellowship/>> at 18 February 2005.

The weight of this outlay is compounded by the fact that, as it presently stands, only a relatively small percentage of students who attend a post-graduate law school (currently estimated at less than 50%) will be able to pass the bar examination.<sup>76</sup>

One way to accommodate both those students who decide in high school to study law and those students who make that decision later is to provide flexibility in the structure of the *hōgakubu* program. The program might allow those aiming to be law-versed generalists to gain the liberal arts and legal knowledge they require in a standard four-year degree. It might also allow those aiming to be lawyer-generalists to acquire the minimum liberal arts and legal knowledge they require in the minimum amount of time so they can continue their studies at a post-graduate law school as soon as possible. Finally, it should allow those who were originally aiming to be lawyer-generalists but changed their minds to re-focus easily their efforts towards becoming a law-versed generalist.

The current structure of the *hōgakubu* system addresses the above criteria quite satisfactorily. Students can acquire the liberal arts and legal knowledge necessary to be a law-versed generalist in four years. Students who decide mid-stream that they no longer wish to practice law can simply complete the four-year program and pursue an alternative career as a law-versed generalist. Indeed, those students aiming to become lawyer-generalists must first complete the four-year *hōgakubu* program and become law-versed generalists. Even after entering a post-graduate law school those students who change their mind can always fall back on their undergraduate qualification. Finally, the *kishū* course system ensures that those students who are certain they wish to practice law can do so in six years instead of seven.

The Justice System Reform Council's 2001 Recommendations proposed the implementation of the so-called 'grade-skipping system' whereby *hōgakubu* students with excellent academic records would be allowed to apply for post-graduate law school admission in their third year of undergraduate studies.<sup>77</sup> This system would further lessen the burden on students by allowing them to reduce their university legal education from six years to five. Practice in other countries suggests that five years is sufficient to provide students with an education that adequately prepares them for legal practice.<sup>78</sup> The majority of practical legal training in Australia is undertaken at the post-graduate level.<sup>79</sup> In post-reform Japan, similar practical legal training is undertaken after completion of law school at the LTRI. A combined law degree in Australia provides students, in five years, with an educational background necessary for post-

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76 '06 bar-exam pass rates raised, in: *The Asahi Shimbun* (Tokyo) 2 March 2005, <<http://www.asahi.com/english/nation/TKY200503020175.html>> at 22 April 2005.

77 JUSTICE SYSTEM REFORM COUNCIL, *supra* note 7, pt 2.2(5).

78 See generally LEGAL PRACTITIONER ADMISSIONS BOARD, Admission as a Legal Practitioner (2005) <[http://www.lawlink.nsw.gov.au/lpab.nsf/pages/faq\\_index](http://www.lawlink.nsw.gov.au/lpab.nsf/pages/faq_index)> at 18 February 2005.

79 *Ibid.*

graduate practical legal training.<sup>80</sup> One would expect that the same level of education could be provided in five years in Japan.

The drawback to the grade-skipping system would be in relation to the advantage alluded to above whereby law school students who decide they no longer want to be lawyers can fall back on their *hōgakubu* degree. If students are able to move straight to law school before finishing *hōgakubu*, then those who change their mind after reaching law school will not have an undergraduate qualification to fall back on. One possible solution to this problem might be to award a completed *hōgakubu* degree to students who skip to law school after three years. However, this may be difficult to justify to those students on the law-versed generalist track unless the full degree requirements had been completed, even for students with excellent academic records. Another option might be to give students a choice as to whether they wish to complete the final year of *hōgakubu* before entering law school. This would allow students to make a trade-off between adding an extra year to their education and the risk of failing the bar examination and being left completely unqualified.

(b) Striking a Balance Between Law and Liberal Arts

Yanagida argues that with the introduction of law schools the current two-year liberal arts element of *hōgakubu* should be expanded to create a program with the ‘essential character’ of a department of liberal arts.<sup>81</sup> As I have argued above, *hōgakubu* should attempt to strike an appropriate balance between law and liberal arts. There would need to be sufficient emphasis on liberal arts to prepare future law-versed generalists for a variety of different careers and to provide future lawyer-generalists with the knowledge they require to fulfil their role as lawyers. Conversely, there would need to be sufficient emphasis on law to prepare future lawyer-generalists for law school and to provide future law-versed generalists with the level of legal expertise they may require in a variety of different careers. Ideally, students on both career tracks would also come to understand the relationships between the different parts of the two elements of the degree.

I acknowledge the various authorities cited by Yanagida supporting the case for a liberal arts education at the preliminary stage of a legal education,<sup>82</sup> but I would like to offer an opinion based on my experiences in the *hōgakubu* at *Tōdai*. Many students viewed the liberal arts element at the beginning of the *hōgakubu* program to be nothing more than an obstacle to be overcome so that they could concentrate on the law element in the latter half of the program. Few students approached the liberal arts element as a serious academic endeavour on its own. Furthermore, the separation of the liberal arts element and the law element into first half and second half of the program is not as conducive to students understanding the importance of the two in relation to each other

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80 *Ibid.*

81 YANAGIDA, *supra* note 62, 25.

82 YANAGIDA, *supra* note 62, 25 (note 42).

as if they were undertaken concurrently. This curricular separation is exacerbated by the physical separation of the junior and senior campuses at many universities, including *Tôdai*.<sup>83</sup> Even if the curriculum allowed students to complete the liberal arts and law elements of their degree concurrently, in many cases the logistical circumstances would prevent them from doing so. In my experience, by the time students are studying law in the final two years of *hōgakubu*, much of the liberal arts education they received in the first two years is no longer familiar enough to be of any significant assistance in their education of the law and legal practice.

Some may argue that the liberal arts element is placed at the beginning of the *hōgakubu* program so that students can sample a wide variety of fields before they make a final decision as to in what field they want to major. This argument is undermined by the fact that students are tied to a particular major at the time of their entrance into the university,<sup>84</sup> and the number of transfers to and from a faculty allowed each year is very low.<sup>85</sup>

An alternative to the liberal arts element of *hōgakubu* as it currently exists is the adoption of 'Combined Law' degrees, such as currently exist in Australia. Luke Nottage and Takahiro Saitō argue that this system helps to produce well-rounded, 'multi-functional' lawyers.<sup>86</sup> I have no doubt that this is true, but I argue that the education provided in these combined law degrees is too specific. Such degrees are ideal for producing a 'lawyer-economist', 'lawyer-scientist', 'lawyer-psychologist' or any number of other combinations, but they do not necessarily produce either a lawyer-generalist or a law-versed generalist.

It should be noted, however, that the increasing corporatisation of the higher education sector in Australia<sup>87</sup> may lead to a greater number of high school leavers foregoing a combined law degree, in exchange for a 'straight' law degree, in order to lower the cost of their tertiary education. As Rob Guthrie and Joseph Fernandez point out,

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83 UNIVERSITY OF TOKYO, Hongo Campus Access Map (2005) <[http://www.u-tokyo.ac.jp/campusmap/map01\\_02\\_e.html](http://www.u-tokyo.ac.jp/campusmap/map01_02_e.html)> at 17 February 2005; UNIVERSITY OF TOKYO, Komaba Campus Access Map (2005) <[http://www.u-tokyo.ac.jp/campusmap/map02\\_02\\_e.html](http://www.u-tokyo.ac.jp/campusmap/map02_02_e.html)> at 17 February 2005. For example, the senior campus of Aoyama Gakuin University is located in Aoyama near the centre of Tokyo, whereas the junior campus is located in Sagami-hara, an hour train ride away. See AOYAMA GAKUIN UNIVERSITY, Train Map (2005) <[http://www.aoyama.ac.jp/en/other/access\\_campus.html](http://www.aoyama.ac.jp/en/other/access_campus.html)> at 17 February 2005.

84 COLLEGE OF ARTS AND SCIENCES, *supra* note 20.

85 For example, see FACULTY OF LAW, *supra* note 21.

86 L. NOTTAGE / T. SAITO, Americanization of Australian law and legal education? Implications for Japan, in: *Hōritsu Jihō* 940 (2004) 30 (Page 8 of English translation available at <[http://www.law.usyd.edu.au/anjel/content/anjel\\_research\\_pub.htm](http://www.law.usyd.edu.au/anjel/content/anjel_research_pub.htm)>).

87 See generally AUSTRALIAN GOVERNMENT DEPARTMENT OF EDUCATION, SCIENCE AND TRAINING, *Our Universities: Backing Australia's Future* (2005) <<http://www.backingaustraliasfuture.gov.au>> at 22 October 2005; *Higher Education Support Act 2003* (Cth).

'[g]iven the increasing numbers of students who will not enter the legal profession, universities would do better to ensure that law students are equipped for a range of vocations.'<sup>88</sup> This might entail increasing the number of non-law electives students are required to complete as part of their law degrees.<sup>89</sup> The result would most likely be similar to the model for lawyer-generalists and law-versed generalists I have proposed for Japan.

However, the fact that combined degrees are less suited to producing generalists than an education in the liberal arts, or that Australia could potentially also move toward a more liberal arts focused law degree, does not mean that combined degrees are of no value. Indeed, there is no reason why Japan could not introduce combined degrees in addition to the straight *hōgakubu* course that currently exists. Such an addition would not only provide students with greater choice and flexibility with respect to their career options, it would also contribute to realising the Justice System Reform Council's desire for greater student diversity in the new law schools.<sup>90</sup>

## 2. Curriculum at Law Faculties

Mark Levin has written extensively on styles of legal education in both the United States and Japan. In an article published in 2000 he compares law schools in America and Japan, particularly focusing on differences in curricular content.<sup>91</sup> As with Yanagida, Levin's examination is from the perspective of training lawyers and therefore differs slightly to my perspective of training lawyer-generalists and law-versed generalists. Nevertheless, his observations are relevant given the contributory role of *hōgakubu* in the new 'process' of legal qualification, and that many skills important in legal practice may also be of benefit to law-versed generalists. Below I examine Levin's arguments with respect to education in foreign languages, technological literacy and basic academic skills, seminar-style classes, and ethical education.

### (a) Foreign Languages

Levin argues that few *hōgakubu* graduates will use foreign language skills in their careers and, as such, legal education should give higher priority to technological literacy.<sup>92</sup> On the contrary, there are good reasons for education in English to continue

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88 R. GUTHRIE / J. FERNANDEZ, *Law Schools in the 21<sup>st</sup> Century: Not Just Training Legal Practitioners*, in: *Alternative Law Journal* 29 (2004) 276.

89 The straight undergraduate Bachelor of Laws at the Australian National University, for example, currently only requires students to complete two non-law electives during the entire degree. See FACULTY OF LAW, AUSTRALIAN NATIONAL UNIVERSITY, *Programs Offered* (2005) <<http://law.anu.edu.au/Undergraduate/ProgramsOffered.asp>> at 22 October 2005.

90 JUSTICE SYSTEM REFORM COUNCIL, *supra* note 7, pt 2.2(2)c.

91 M. LEVIN, *Legal Education for the Next Generation: Ideas from America*, in: *Asian-Pacific Law and Policy Journal* 1 (2000) 3.

92 *Ibid*, 15.

to be conducted at Japanese *hōgakubu*. First, Japanese students are educated in English for six years in high school<sup>93</sup> and post-graduate law schools consider applicants' English ability in their admission process.<sup>94</sup> English education at *hōgakubu* would therefore contribute to the 'organic connection' in the process of legal qualification and help students to prepare for the English language examinations required for their law school applications. This, in turn, would help to counter the prevalence of the *daigaku banare* phenomenon.<sup>95</sup> Second, English is the language of international discourse and *hōgakubu* graduates, whether lawyer-generalists or law-versed generalists, will benefit from at least a basic knowledge of the language in what Yanagida calls our 'increasingly sophisticated, complex, and cosmopolitan society'.<sup>96</sup>

The above reasons do not apply as readily to foreign languages other than English, which might be given the lower priority that Levin proposes by removing the requirement that students take two years of classes in a second foreign language in the liberal arts element of their degrees. There is no reason to discourage further education in foreign languages, however, and languages other than English could still be offered as electives.

(b) Technological Literacy and Basic Research Skills

Technological literacy and research skills are both essential for *hōgakubu* students. As Levin asserts, these skills sets are inter-related because students must 'be able to use technological resources to carry out research and obtain information, to organize and manipulate relevant data, and to communicate information effectively to others.'<sup>97</sup> Regardless of whether they become law-versed generalists or lawyer-generalists, students will make considerable use of these abilities throughout their university education and beyond.<sup>98</sup>

The first years of the liberal arts element of *hōgakubu* at *Tōdai* includes courses in both basic research skills and information technology. Both courses are highly valuable to new university entrants, but they lack an emphasis on the inter-relationship between the two sets of skills. At the ANU law school, for example, the Foundations course taught in the first semester of the degree includes a library tutorial element that teaches students how to conduct legal research using a variety of different online databases

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93 MINISTRY OF EDUCATION, CULTURE, SPORTS, SCIENCE AND TECHNOLOGY (JAPAN), Elementary and Secondary Education (2005) <<http://www.mext.go.jp/english/shotou/030301.htm>> at 18 February 2005.

94 FACULTY OF LAW, *supra* note 42.

95 *Daigaku banare* translates as 'separation from university' and refers to the trend of university students skipping university lectures to attend preparatory school classes instead. See JUSTICE SYSTEM REFORM COUNCIL, *supra* note 7, pt 2.1.

96 YANAGIDA, *supra* note 62, 27.

97 LEVIN, *supra* note 91.

98 *Ibid.*



available through the university's library website.<sup>99</sup> These tutorials not only teach students how to conduct research more effectively, they also increase their overall technological literacy by exposing them to technology they otherwise may not have encountered. It may not be appropriate to simply combine the information technology and basic research skills courses at *Tôdai*, but it is logical to assume that students will benefit from amalgamation of some elements of each course, as has been done at ANU.

(c) Seminars

Levin identifies small seminar classes as one way in which law professors in the United States strive to develop critical analytical skills in their students. He describes this as an ability to 'look at facts and argument and to discern conceptual relevance, fallacies, and relationships'.<sup>100</sup> Levin also argues that developing this skill is difficult in large lectures with a single exam at the end of the semester.<sup>101</sup> I agree entirely with these observations and argue that the development of critical analytical skills through seminar-style classes is of benefit to lawyer-generalists and law-versed generalists alike.

Lectures at *hōgakubu* at *Tôdai* do very little to encourage independent thought in students. Lecture classes for core units can comprise up to 600 students. Many students do not attend and many of those who do attend sleep through the lecture. In most cases, the lecturer explains a topic for 100 minutes and very few questions are asked. In contrast, seminar classes at *Tôdai*, like ANU, will often involve class discussions of certain issues and/or working through problem questions. I have found that such activities encourage students to question the strength and validity of different points of view. While these critical analytical skills are probably most beneficial in the field of law, they can essentially be put to use in any field where the deconstruction of arguments is necessary. Currently at *Tôdai*, *hōgakubu* students can take a maximum of four seminar classes in their entire degree – one each semester for the final two years.<sup>102</sup> The expanded use of seminar classes beyond the current level would assist future lawyer-generalists in their study at law school and in legal practice as well as law-versed generalists in a variety of careers.

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99 FACULTY OF LAW, AUSTRALIAN NATIONAL UNIVERSITY, Laws1201: Foundations of Australian Law (2005) <<http://law.anu.edu.au/scripts/Course.asp?UnitID=497&menu=u>> at 17 February 2005.

100 LEVIN, *supra* note 91, 9. For a more complete discussion of law-related critical analytical thinking, Levin directs readers to R. ALDISERT, *Logic for Lawyers: A Guide to Clear Legal Thinking* (1991).

101 LEVIN, *supra* note 91, 10.

102 This is based on the assumption that students will complete their degree in the standard four years. See University of Tokyo, *Shingaku no tame no gaidansu* [Guidance for Advancement] (2005) <[http://www.u-tokyo.ac.jp/stu03/guidance/H16\\_html/index.html](http://www.u-tokyo.ac.jp/stu03/guidance/H16_html/index.html)> at 6 March 2005.

(d) Ethical Education

Ethical education is not the ‘imposition of a dogmatic pedagogy of what is right and wrong’, as Mark Levin suggests some Japanese academics may fear.<sup>103</sup> Ethical education is helping students to understand an ethical framework within which they may come to their own conclusions as to what is right and wrong.<sup>104</sup> Understanding this framework is vital for law-versed generalists negotiating the ethical issues they encounter in their careers. Similarly, studying the law with a preliminary understanding of this ethical framework will assist future lawyer-generalists to understand the multiple dimensions of the legal issues they may face in their careers.

Ethical education in *hōgakubu* at *Tōdai* is entirely inadequate. The only course in ethical education I completed at *Tōdai* was an elective course in the liberal arts element of the degree. The content of the course bore no relationship to legal practice and was largely theoretical with very little practical value. I did not recognise the value of a practical course in ethical education until I was required to take one at the ANU law school. There are few better ways of helping students to recognise and understand the role they will play in society in their future careers than by having them think through how they would deal with a variety of ethical dilemmas they may realistically face in those careers.

However, even the ANU ethics course falls short. Patrick Schiltz suggests that many law students cannot see themselves becoming unethical lawyers because they identify unethical lawyers with the ‘sleazeballs’ they see in the movies.<sup>105</sup> On the contrary, especially in a big firm, ‘practic[ing] law ethically will depend ... upon the hundreds of little things that you will do, almost unthinkingly, each and every day.’<sup>106</sup> The ethics course at ANU, and, I suspect, at most law schools, focuses primarily on the model professional rules and largely fails to address this subtler element of ethical legal practice.

From a Japanese perspective, Tatsuo Kuroyanagi expresses similar concern about ethics in big law firms, which have only recently emerged in Japan. Specifically, he addresses the fact that, until recently, legal practice itself and regulation of legal practice in Japan has centred largely on the courtroom. As a result, ethical issues peculiar to big firm practice such as conflicts of interest and, presumably, the type of subtle unethical behaviour Schiltz identifies are yet to be properly addressed.<sup>107</sup> As the size of

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103 Levin, *supra* note 91, 16.

104 *Ibid.*

105 As examples, Schiltz mentions Danny DeVito’s ambulance chaser in *The Rainmaker*, Bill Murray’s insurance scammer in *Wild Things*, and Al Pacino’s evidence destroying crew in *The Devil’s Advocate*. See P. SCHILTZ, On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession, in: *Vanderbilt Law Review* 52 (1999) 871, 907.

106 *Ibid.*, 911.

107 KUROYANAGI, The Development of a Method for Teaching Legal Ethics in Japan and Japan’s New Law Schools, in: *Australian Journal of Asian Law* 7 (2005) number 3 (in print).

law firms in Japan is expected to grow further, such issues should also be addressed in any *hōgakubu* and/or law school ethics courses.

#### IV. CONCLUSION

My impetus for writing this article was a personal concern that, with the advent of post-graduate law schools in Japan, the undergraduate law program (from which I graduated) might lose some of its significance. I conclude that to retain their significance in the post-law school era *hōgakubu* need to continue to produce law-versed generalists but also adapt to their new role in the post-reform 'process' of legal education and qualification by contributing to the training of lawyer-generalists. This dual goal can be achieved through reform of the course structure and curriculum of *hōgakubu*.

A four-year *hōgakubu* program followed by two or three years of law school and with the option of skipping the final year of *hōgakubu* to move straight to law school would be the most flexible system for producing both types of graduates. It would allow either type of graduate the opportunity to complete their legal education and training in a minimal amount of time and at minimal expense. It would also provide a number of different career options for students as well as a fallback position for those who do not pass the bar examination. Furthermore, the concurrent study of the liberal arts and law elements of *hōgakubu* would assist students in understanding the inter-relationships between the two elements and benefit them in their careers as either lawyer-generalist or law-versed generalist.

Finally, changes to the curriculum might help *hōgakubu* to provide students with the skills they require for law school and a variety of future careers. The expanded use of seminar-style classes could help to more effectively instill students with critical analytical skills necessary not only for law school but also for careers as either type of graduate. A greater emphasis on ethical education would help produce graduates possessing a basic ethical framework within which they can tackle the everyday ethical issues they will face in their careers. Greater integration between education in technological literacy and research skills will teach students the vital skills of utilising technology to conduct research more efficiently and effectively. Compulsory education in English would not only provide graduates with a valuable skill for their careers but also help to prepare them for the entrance requirements for law school and consequently counter the *daigaku banare* phenomenon.

## ZUSAMMENFASSUNG

*Der Beitrag untersucht die juristische Ausbildung in Japan auf dem undergraduate level im Lichte der Reformen der juristischen Ausbildung auf dem post-graduate level. Er entwickelt wünschenswerte Charakteristika für die Ausbildung an den nach Einrichtung der Law Schools weiter bestehenden juristischen Fakultäten (hōgakubu). Der Reformprozeß wird aus einer asymmetrisch vergleichenden Perspektive zu der juristischen Ausbildung in Australien und anderswo analysiert. Eigene Erfahrungen als Absolvent der hōgakubu der Universität Tokyo und als Student der juristischen Fakultät der Australian National University untermauern meine Argumentation.*

*Teil I (II) des Beitrages gibt einen grundlegenden Überblick über die aktuellen japanischen Reformen. Daran schließen sich Erläuterungen zur juristischen Ausbildung und Qualifikation vor und nach der Reform an. Vorgestellt werden der Graduiertenkurs (hōgakubu), die Postgraduierten-Option (joshu, die neuen Law Schools, das Master- und das Doktorprogramm), das gegenwärtige staatliche Abschlußexamen und die dafür vorgeschlagenen Reformen sowie das zentrale Ausbildungsinstitut für Referendare.*

*Der zweite Teil (III) differenziert zwischen zwei Arten von hōgakubu-Absolventen nach Einführung der Law Schools: dem allgemein gebildeten Juristen (lawyer-generalist) und dem juristisch versierten Generalisten (law-versed generalist). Als „lawyer-generalist“ bezeichne ich einen qualifizierten Juristen mit einem grundlegenden Verständnis in einer Reihe nichtjuristischer Gebiete. Den Begriff „law-versed generalist“ benutze ich für eine Person, die eine solide Ausbildung in unterschiedlichen Bereichen und daneben ein spezielles Verständnis vom Recht hat. Beide gleichen sich, als sie Kenntnisse im Recht und in nichtjuristischen Bereichen besitzen. Sie unterscheiden sich aber darin, daß lawyer-generalists von ihrer breiteren Ausbildung in ihrer Rolle als praktizierende Juristen Gebrauch machen, während die law-versed generalists ihre juristischen Kenntnisse in einem breiten Spektrum von beruflichen Tätigkeiten einsetzen können.*

*Insgesamt befürworte ich eine größere Flexibilität im hōgakubu-Programm. Wer law-versed generalist werden will, sollte die Möglichkeit haben, nichtjuristische und juristische Kenntnisse innerhalb eines Standard-Vierjahresprogrammes zu erwerben. Auch jene, die lawyer generalist werden wollen, sollten so rasch als möglich ein Minimum an Grundwissen erwerben können, um möglichst früh ein Postgraduierten-Studium an der Law School aufnehmen zu können. Schließlich sollte es möglich sein, zwischen beiden Ausbildungszweigen zu wechseln, wozu eine bessere Verzahnung spezifisch juristischer und anderer Teile der Ausbildung an der hōgakubu hilfreich wäre.*

*Bezüglich des Curriculums der hōgakubu schlage ich Veränderungen beim Erwerb fremder Sprachen, technologischer Fertigkeiten und Forschungsmethodik sowie eine stärkere Erziehung in Ethik vor, um so die Effizienz des hōgakubu-Programms zu steigern. Eine solche Reform der Ausbildung könnte den hōgakubu helfen, die richtige Balance bei der Ausbildung dieser beiden Typen von Graduierten zu finden.*

*(Deutsche Übersetzung durch d. Red.)*