

Ritsumeikan University Proposal from Kyoto Private School of Law and Politics to Ritsumeikan Kyoto Law School

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Contents

Introduction

- I. Professional legal education as the key to the judicial reform
 - (1) Qualitative and quantitative expansion of the role of the lawyer
 - (2) Reinforcement of the organizational and human infrastructure of the judicial system
- II. Importance of the Law School Proposal
 - (1) Need for a new system of professional legal education
 - (2) University and graduate school reform and the Law School Proposal
 - i) Promotion of graduate school reform to produce highly skilled legal professionals
 - ii) Enhancing law college education
- III. Fundamental Philosophy of Ritsumeikan Kyoto Law School
 - (1) Ritsumeikan Kyoto Law School: educating the global-citizen lawyer of the 21st century
 - (2) The lawyer as a global citizen
- IV. Basic Framework for Ritsumeikan Kyoto Law School
 - (1) Overview an open-access law school
 - (2) The relation with the law college and the course length
 - (3) Third-party evaluation and related matters
 - (4) Entrance examination
- V. Education system and curriculum
 - (1) Overview
 - (2) Inculcation of the ability to think in legal terms and capacity to make judgments required of lawyers
 - (3) Education in legal practice at law school
 - (4) Rich elective curriculum oriented toward future specializations

Introduction¹⁾

The Judicial Reform Council established by the Japanese cabinet is currently engaged

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1) On January 30, 2000, Ritsumeikan University held the symposium, "On the Judicial Reform Lawyers and Professional Legal Education in the 21th Century." This paper was prepared for the

in energetic deliberations on “fundamental measures required for reform of the judicial system and judicial infrastructure arrangement” (Article 2, Paragraph 1 of the Law Concerning the Establishment of the Judicial Reform Council) ; one of the focal points of its discussions is the size of the lawyer population and the system for their professional education. At the recently held 10th meeting of the Council, it was decided to take as the starting point of the debate the problem of the human infrastructure of the judicial system, including professional legal education. Reform of the professional legal education system has thus become an important issue in the judicial reform ; as a result, focus has turned to the so-called Law School Proposal, which proposes a change from the present education system consisting of the bar examination and study at the Legal Training and Research Institute (LTRI) to one centered on graduate schools of legal studies (Japanese-style law schools).

Amid the recent calls for judicial reform, this Law School Proposal, which proposes a change to a system whereby the majority of those receiving the professional legal education to be offered at university-based graduate law schools would acquire professional qualification as lawyers, has been cited in the judicial reform proposals of the Liberal Democratic Party and the business world and has also been advocated by academics. Meanwhile, the University Council, in an October 1998 report entitled “The University in the 21st Century and Future Reform Measures the Attraction of Individuality in a Competitive Environment” recommended that the high-level specialist skills and knowledge required in specialist professional areas such as the law should be imparted in specialized practically oriented master’s degree courses at graduate schools. In response, in September 1999, the criteria for the foundation of graduate schools were revised and criteria for “professional graduate schools” announced. Meanwhile, many universities, starting with Kyoto University in July 1999 and continuing through to the recent example of Waseda University, have held symposia on the future of professional legal education and legal education in general, and have announced plans to establish a law school. Further, the Tokyo Bar Association and the Daini Tokyo Bar Association have each from their professional standpoints issued proposals for a law school system.²⁾

Ritsumeikan University, with its one hundred years of experience in professional legal education since its foundation as Kyoto Private School of Law and Politics, has also investigated the idea of establishing a law school through the Law School Proposal Committee of the College of Law and the university-wide Law School Promotion Committee, and has progressed as far as acquiring buildings for the purpose and having a first draft prepared at committee level regarding the philosophy, framework and curriculum

↘ symposium. I thank to Kazue Shinji and Thomas Hannon who originally translated my paper to English.

2) In November 2000, the Judicial Reform Council released the interim report in which it proposed the change of professional legal education system in Japan by establishing Japanese style law schools.

of the proposed law school.³⁾ Today, I first wish to address the importance of the Law School Proposal; then, on the basis of the first draft of the committee, and adding my own opinions, I wish to outline the Law School Proposals of Ritsumeikan University.

I. Professional legal education as the key to the judicial reform

(1) Qualitative and quantitative expansion of the role of the lawyer

Why is it that a reform of this kind in the professional legal education system is being advocated? As the century turns, Japanese society is being forced to face great changes. Reform of the political and administrative systems and deregulation are progressing, forcing a change from the bureaucratically directed form of government and society which has existed since the Meiji era to a mature society made up of independent entities (citizens and enterprises) and based on transparent rules. At the same time, the rapid advance of internationalization and disappearance of national borders has placed the whole range of activities of Japan's government, society, industry and citizens in a direct and everyday relation with global forces which transcend local and national dimensions. These changes have greatly increased the demand in Japanese society for legal services. For instance, the liberalization of economic activity through deregulation has increased the number of legal and non-legal disputes at home and abroad between enterprises and between enterprises and citizens. Courts of law and other dispute-resolution organs along with attorneys and other legal professionals have an important task to fulfill in ensuring that such disputes are resolved promptly in accordance with principles of justice and equity. Further, the law and the legal profession will play an important part in ensuring that the activities of citizens, enterprises, government and other elements of society fulfill their appropriate functions and thus avoid fresh generation of disputes and damages or aggravation of existing cases. Meanwhile, in order to cater to the activities of enterprises and citizens in today's globalized society, lawyers' activities must also have a global character. In particular, if harmony is to be established between diverse societies and individuals, there is a need for large numbers of lawyers equipped with rich international experience and sensitivity to human rights.

Meanwhile, in order for individual citizens to protect or enforce their human rights on the strength of their own efforts, a multi-faceted, multi-layered societal framework for the support of citizens demands and the enforcement of their rights is required. In establishing and operating such a system to support the continued enforcement of citizens' rights, lawyers must play an appropriate and effective part. In modern society, on one hand, there is accelerated exchange and circulation of people, goods, money, information,

3) Ritsumeikan University held two more symposia on the professional legal education, and has improved its Law School Proposals.

services and so on, on the other hand, in order for this exchange and circulation to work in the interests of freedom and citizens' rights, there is a need for finer legal control not only of political power, but also of "social power" and social control; it thus presents an increased need to provide a multiple safety net for the weaker members of society. The role of law and lawyers in such a modern scenario is thus an important one.

To respond to the social changes outlined above and to the increased demand for legal services, the role of lawyers will have to undergo a dramatic qualitative and quantitative expansion. There is a need for a large number of lawyers possessing high-level specialist knowledge and equipped with a firm understanding of the law and the human mind, the ability to identify and resolve problems, and the ability to devise new laws to meet new problems. The pressing question is thus how to produce a large number of lawyers of high quality.

(2) Reinforcement of the organizational and human infrastructure of the judicial system

However, as the epithet "small justice" suggests, Japan's lawyers are extremely few, numbering around 20,000 individuals, or 15.6 per 100,000 head of population. This is an extremely low figure compared to the 363 of the US, 158.3 of Britain, 135.7 of Germany and 61.3 of France (figures from a 1997 survey by the General Secretariat of the Supreme Court). Meanwhile, there are more than 70 so-called "zero-one districts", or areas under the jurisdiction of a District Court or Family Court which have only one attorney or none at all. The number of judges is also small compared to other countries. Disputes are rarely brought before the law, and the term "twenty percent judicature" has been applied to describe the alleged situation whereby the judicial system is only capable of handling twenty per cent of the cases which it ought to; while there are organizational reasons for the existence of such an inaccessible judicial system, the phenomenon of "small justice" is also a major contributing factor.

As outlined in the above paragraph, Japan's lawyer population is extremely small compared to other developed countries. Therefore, in order to realize a judicial system accessible to the public, it is not enough simply to enhance the organizational infrastructure; a dramatic increase in the lawyer population is essential. Considerable progress has been made recently in speeding up civil cases, but the caseload of individual judges is said to exceed 200 per individual in the case of District Court judges. For judges to be able to listen attentively to the pleas of all parties and deal conscientiously with each case according to its individual circumstances, rather than simply hurrying to produce a judgment, the number of judges must be increased and individual caseload reduced. Meanwhile, as considerable time is required by cases of a highly specialized nature, such as actions relating to medical mispractice, intellectual property or pollution, or by large-scale actions, the issue has arisen of how to process such cases more swiftly without sacrificing due procedure. The education of judges and attorneys with specialist knowledge has thus

an urgent priority.

In criminal cases, in order for the accused to receive a proper defense, lawyers need to be well-versed in the practice of criminal law. However, there are many lawyers who run individual practices and deal with criminal cases as a sideline to a heavy load of civil cases. Meanwhile, the introduction of the jury system, under which a jury consisting of members of the public issues a verdict in light of the evidence presented, has become one focus of the judicial reform debate. If the jury system were introduced in criminal cases, the focus of proceedings would shift to oral presentation before the jury, which would also likely render proceedings more readily understandable, and raise public interest in the judicial system. Since introduction of the jury system would involve members of the public serving as jurors, trials would have to be conducted in a concentrated manner to be completed in a short space of time; however, due to the abovementioned practical circumstances of lawyers and their practices, it would be difficult for lawyers to adjust to such a system. In order to improve the defense service provided to the accused, and also as a foundation for the introduction of the jury system, an increase in the number of attorneys, an accompanying amalgamation of attorneys' practices, and a certain degree of specialization are therefore required.

Another issue in judicial reform is a changeover to the "unified legal profession system", in other words "a system based on the appointment of judges from among individuals qualified as attorneys and possessing experience in an area of legal practice other than that of judge" (Law Concerning the Establishment of a Special Judicial System Inquiry Committee, Article 2, Paragraph 1, Clause 1). Up till now, there has been a career system whereby those who have completed their training at the Legal Training and Research Institute are taken on as assistant judges and remain in their profession until retirement. However, there is a danger that individuals who pass the bar examination, complete their studies at the Legal Training and Research Institute and then immediately become judges may lack worldly experience and that, since apart from their period of apprenticeship, they have never had the experience of acting for a plaintiff or defendant, they may find it difficult to base their handling of a case on an understanding of the motives and feelings of the parties involved. A unitary legal profession system is therefore an attractive idea as it would mean that judges were appointed from among attorneys who have experience with plaintiffs and defendants and experience of the world. However, a question remains as to whether it would be possible to convert to such a system immediately. The recruitment of judges from among attorneys was recommenced in 1992, but only a handful of attorneys are appointed as judges each year. This fact reflects the situation of many attorneys as managers of individual practices, and the fact that with the present scarcity of attorneys it is impractical to enlist them as judges. To introduce a unitary system, a dramatic increase in the number of lawyers is an infrastructural precondition.

Given the present situation in Japan, the formation of a legal profession rich in quality and in quantity is clearly an urgent task as well as the key to the success or failure of reforms to strengthen the organizational infrastructure of the judicial system.

II. Importance of the Law School Proposal

(1) Need for a new system of professional legal education

As outlined above, there is a pressing need to produce a large number of lawyers possessing high-level specialist knowledge and equipped with a firm understanding of the law and the human mind, the ability to identify and resolve problems, and the ability to devise new laws to meet new problems. However, the perception has become widespread that the framework for educating legal professionals hitherto in place in Japan is insufficient to cope with this task. To explain, the bar examination tests knowledge of the six codes of law and ability to apply them (This is actually true of the second examination. The first examination is waived for those who have completed a general education), but this does not mean that it tests for the presence of a profound knowledge of the legal system beyond the scope of the examination subjects; it is also beyond its scope to test for a firm understanding of the law and the human mind, an ability to identify and resolve problems, and an ability to devise new laws to meet new problems. With examinees increasingly dependent on preparatory commercial courses (cram schools) leading to the bar examination (in the 1999 academic year, more than 90 per cent of students of the Legal Training and Research Institute [LTRI] had attended such courses), and with many of those who pass the examination doing so after acquiring the successful examination techniques imparted by these courses, the examination has ceased to function adequately even as a test of ability to apply knowledge of the examination subjects. At the recent symposium held at Waseda University, opinions expressed on the LTRI students of recent times included that they “lack problem-solving ability and swallow whole everything they are taught” and “are unable to cope with problems not featured in the examination [and] unable to think systematically by tracing their way back to the root of an issue”. Meanwhile, the main purpose of the training received by candidates successful at the bar examination (consisting of group instruction at the Legal Training and Research Institute and an apprenticeship; previously of two years combined duration but changed in 1999 to one-and-a-half years), or at least the group instruction portion is impart the practical abilities required as a lawyer; it has to be said nevertheless that its scope is limited with regard to imparting a firm understanding of the law and the human mind, the ability to identify and resolve problems, the ability to devise new laws to meet new problems, and other fundamental qualities of the lawyer, or imparting advanced specialist knowledge of frontier areas of law.

Candidates for the bar examination are not required to have graduated from a college

of law, but since the overwhelming majority of candidates have done so (or have graduated from the legal course of a joint studies faculty), the present professional legal education system consisting of the bar examination and subsequent training at LTRI is likely to assume that they have acquired the core abilities and qualities of a lawyer at university. However, university-based education in law and the system for educating legal professionals have never formed any organic connection. The origin of this discrepancy is that, since the Meiji period, education in law at Japanese institutions of higher education has been divided in two: on one hand, an elite education at state universities to produce administrative and judicial officials and lawyers; on the other hand, education at private universities to produce practicing lawyers and personnel for private-sector enterprises. After the war, there were reforms to the judicial system and the higher education system, but there was no fundamental change in the system of education in law at universities; as Japan entered its period of rapid economic growth, a large number of colleges of law was established, mainly at private universities, with an increase in student intake, and the role of these colleges was extended to include the training of public officials, industry personnel and generalists with knowledge of the law. This expansion in education at law colleges, however, presented a kind of dilemma: what kind of relationship should exist between law college education, which aimed to turn out staff with a grounding in law to work in various areas of society, and education to produce legal professionals? At the same time, the bar examination was becoming more and more difficult to pass, which drove an even wider gap between the concerns of professional legal education and the realities of law college education. Recent reform of the bar examination, intended to close the gap, has instead led to increased resort to preparatory commercial courses and an accompanying marked drift away from law college on the part of those wishing to become lawyers. Many law colleges apparently find their teaching activity increasingly undermined by the phenomenon of students simultaneously attending commercial courses.

From this perspective too, the present system of professional legal education, consisting of recruitment of lawyer material through the bar examination system and apprenticeship at the Legal Training and Research Institute, has been shown to have limited ability to support the ongoing qualitative and quantitative expansion of the role of the lawyer in Japanese society. Reform of the professional legal education system must come to be recognized as the very key to judicial reform. Further, a professional legal education system meeting the requirements of the new age must be one based on a university-level course of education. The place where would-be lawyers are educated to acquire a firm understanding of the law and the human mind, the ability to identify and resolve problems, and the ability to devise new laws to meet new problems can only be the university. Even if the system of legal training after the bar examination is retained more or less unchanged (see section V (3)), it should be seen as an opportunity to give practical training to those already in possession of the fundamental abilities and qualities of a

lawyer. The university therefore needs to directly address the question of professional legal education. Considering the importance for would-be lawyers of having a general education and their need for a firm understanding of the legal system and a certain degree of personal maturity, and given the need for a law college education to produce generalists with a grounding in law, the appropriate level at which to provide the core of a university-based professional legal education must be the postgraduate level.

In reaction to such circumstances surrounding the legal profession today and the contemporary problems of professional legal education, a new education system based on Japanese-style law schools is being proposed. This new system would make use of the intellectual infrastructure laid down over time by universities and graduate schools and, in response to the changes in modern society and its increased demand for various legal services, would provide society with lawyers equipped with advanced ability in the application of the law. This would be the professional legal education system of the 21st century, meeting the demands of a new age and operating in a new social dimension.

(2) University and graduate school reform and the Law School Proposal

Meanwhile, the Law School Proposal opens up new horizons for high-level professional education and for graduate school reform, which has in turn expanded the role of such education; it also realigns the goals of undergraduate education in line with the requirements of a society which is becoming more sophisticated. By advancing these reforms, it contributes to the diversification and upgrading of university education and becomes part of the creation of the university of the 21st century.

i) Promotion of graduate school reform to produce highly skilled professionals

Japanese graduate schools (at least in the humanities and social sciences) have conventionally taken as their goal the fostering of researchers. Recently, however, they have been exposed to growing demand for the education and retraining of highly skilled professionals, and in the humanities and social sciences, reform focused on such goals has progressed. As examples of this trend can be cited the establishment of professional development programs at nine national universities and the corresponding emphasis placed on postgraduate education. In 1994, Ritsumeikan Graduate School of Law became the first private university to establish a professional development program aimed specifically at training highly skilled legal professionals. The School now has two professional development programs: one for the education of lawyers and the other for the education of corporate legal officers, public employees, international public employees, tax accountants, patent attorneys, etc. Along with those at the nine national universities and Jochi University (Sophia University), these programs for the education of highly skilled professionals are now receiving positive evaluation for their vanguard achievements. However, as long as the present system of professional legal education represented by the bar examination and subsequent legal training remains unchanged, it will not be possible

for graduate schools to implement fully developed programs to produce highly skilled legal professionals. The Ritsumeikan Graduate School of Law professional development program for lawyers, which aims to impart to its students the abilities needed by a lawyer, cannot help but be influenced by the content of the bar examination which is the current reality, and therefore does not yet contain all the subject components which are in fact necessary. Meanwhile, It is said that in the graduate schools of law, which host the professional development programs, there are apparently instances in which program students aiming for the bar examination do not attend program lectures which are in fact for nature students. Thus, a Law School Proposal which provides “a system under which those who have completed a course of specialist education for the training of lawyers have a smooth path to entering the profession” (University Council Report “The University in the 21st Century and Associated Reform Measures”) is one important measure in further advancing the hitherto achieved reform of graduate schools toward the education of highly skilled professionals.

ii) Enhancing law college education

As mentioned above, from the period of rapid economic growth in the 1960s, the establishment of many new colleges of law, mainly at private universities, and the increased student intake brought an expansion in the role of law colleges to include the education of generalists, public officials and corporate personnel with knowledge of the law. However, this expansion in law college education presented law colleges with a dilemma as to what kind of relationship should exist between the kind of legal education which aimed to turn out staff with a grounding in law to work in various areas of society, and education to produce legal professionals. Since the mid-1960s, Ritsumeikan College of Law has introduced various reform programs in response to this dilemma. Chief among these have been emphasis on small-group tuition in the form of proseminars during the first year of the program and seminars in the third and fourth years; reorganization of the traditional curricular structure (1970); creation of new curricular subjects in response to the diversified range of student interests and upgraded academic research standards (1979); introduction of a course system (two-course system in law and in politics and administration; 1987); implementation of a five-course system to cater to diversified student interests (1994); a switch to a system of four specialist courses (1999); introduction of a semester system allowing flexible timeframes for completion of courses (1994); and institution of special legal courses for students wishing to sit the bar examination or other highly challenging examinations (1999). In addition, as mentioned above, Ritsumeikan Graduate School of Law has started professional development programs oriented toward the professional education of lawyers; and, by working through graduate school reform toward the realization of a system to educate highly skilled professionals, has made endeavors toward the progressive resolution of educational issues. Within the campus, Extension Center courses have also been set up to prepare students for the bar

examination and other examinations. This educational development at Ritsumeikan University has produced results in terms of attracting a diverse student body and students of high academic ability, and, by widening the range of potential candidates for the bar examination, has produced a certain improvement in the success rate, albeit to an insufficient extent when compared to the recent increase in the number of successful candidates. The problem of the undermining of lectures has also been less conspicuous. However, at Ritsumeikan University, because of the presence of a diverse student body, the dilemma of education of generalists with a knowledge of the law versus professional education of lawyers has indeed been the source of problems. If a law school is established to specialize in professional legal education, Ritsumeikan College of Law can in turn pursue more effectively its aim of producing generalists with a knowledge of the law to work in various areas of society.

As outlined above, the present judicial reform, the creation of a new system of professional legal education and the establishment of graduate schools specializing in the education of lawyers (Japanese-style law schools) are developments which, firstly, open a perspective through which Japanese university-level institutions – not least Ritsumeikan's College of Law and Graduate School of Law, whose basic objectives have consistently included the education of lawyers – may directly and boldly approach the question of the ideal system for the education of lawyers; and, secondly, seen in terms of fulfilling more effectively the other core task of law college education, that of providing diverse areas of society with qualified personnel possessing a knowledge of the law, presents a vision of a law college education with a wider social import and fresh tasks, and simultaneously clarifies that vision.

III. Fundamental Philosophy of Ritsumeikan Kyoto Law School

(1) Ritsumeikan Kyoto Law School: educating the global-citizen lawyer of the 21st century

If the graduate law school is to become the core institution for professional legal education, the education offered at such institutions must impart the abilities needed by a lawyer, and all graduate law schools in the country must operate under a common framework created by the three legal professions, the Ministry of Education and the universities themselves. At the same time, it is desirable in the interests of creating a diverse legal profession that each law school, while conforming to the framework and relevant requirements, nevertheless provide an education with a distinctive identity. In this connection, the fundamental philosophy of each law school is significant. Thus, the law school of Ritsumeikan University, it is proposed, should be named Ritsumeikan Kyoto Law School in order to indicate its inheritance from the Kyoto Private School of Law and Politics. But what is to be the fundamental philosophy of this law school?

Ritsumeikan University has developed under a founding spirit of academic freedom and enterprise and an educational philosophy of peace and democracy. The abovementioned educational reforms introduced by the university's College of Law and Graduate School of Law were undertaken in direct service of the same founding spirit and educational philosophy. Efforts toward graduate school reform focusing on the education of highly skilled professionals are apparent not only in the Graduate School of Law's establishment of professional development programs and curricular restructuring, but also university-wide, in the addition of independent academic organs such as the Graduate School of International Relations, the Graduate School of Policy Science and the Graduate School of Science and Engineering. At the same time, the university has actively fostered exchange and partnership with numerous overseas universities and research institutions. Examples of the university's commitment to education and research geared to internationalization include the institution of a minor course in English, the establishment of the College of International Relations and the planned opening in April this year of the International Institute, an interdisciplinary organ designed to foster professionals capable of functioning at international level. Additionally, in April of this year, the Ritsumeikan Trust opens the Ritsumeikan Asia Pacific University, consisting of two academic divisions the College of Asia Pacific Studies and the College of Asia Pacific Management at Beppu, Oita Prefecture. With half its student body of overseas origin, chiefly from countries in the Asia Pacific region, the new university is intended to educate professionals capable of contributing to peaceful development and harmonious co-prosperity within the region and to open new horizons in the educational and research activity of Ritsumeikan University and the Ritsumeikan Trust. Meanwhile, the establishment of a liaison office, among other measures, is designed to promote interchange between industry, government and academics and is evidence of the university's efforts to respond to the requirements of industry. The College of Law and Graduate School of Law organize practically oriented lectures under agreements with the Kyoto Lawyers' Association and the Kinki Tax Accountants' Association, organize internships with the cooperation of the relevant branches of commerce and industry and take other steps to give undergraduate and postgraduate students increased opportunities to encounter the world of work and social reality.

In light of these educational traditions and endeavors, we propose the fundamental philosophy of the graduate law school of Ritsumeikan University as "educating the global-citizen lawyer of the 21st century". The Ritsumeikan Kyoto Law School thus adopts as its fundamental philosophy the education of highly skilled legal professionals who will directly address the tasks required of lawyers by the global society of the 21st century; who will act within society as those charged with the enforcement of societal rules commensurate with human rights, democracy, peace, justice and equity, or as specialists supporting its enforcement; who, equipped with an international perspective, will be active both globally

and locally; who will combine firm understanding of the law and the human mind with the ability to identify and resolve problems and the ability to devise new laws to meet new problems; and who will thus be global citizens of the 21st century.

Making the requirement of the lawyer as a global citizen the school's fundamental philosophy is not only a continuation of the educational tradition of the university and its endeavors hitherto, but also an attempt to rise to the challenges of the 21st century.

To explain, the 20th century realized great progress in science and technology and great economic growth, and affirmed the philosophy represented by the universal human values of peace, human rights and democracy, which were progressively implemented in society; at the same time, the world experienced two world wars and numerous conflicts between peoples, and failed to satisfactorily address environmental destruction on a global scale, the inadequate protection of the human rights of women and children, the development toward a society of psychic stress, and other negative phenomena; it was also a century in which new evils appeared. The 21st century needs to carry over the positive elements of human society from the foregone century and to overcome its evils to become a century in which great forward strides are made toward a state of peace and prosperity for all humanity. The guardians of such a vision are independently operating individuals and groups who consciously lay claim to the universal human values of human rights, democracy and peace, endeavor to live in harmony with a diversity of cultures and values and with the natural environment, take the lead in efforts toward the formation of a society based on justice and equity, and whose actions are based on both a global perspective and one which considers specific local benefit. Within this scenario, there will be a great expansion in the role of the lawyer involved as a highly skilled professional in law as a system or societal code which favors the development of a peaceful and prosperous humanity, and in the creation and application of law. The lawyer of the future will be required to be a global citizen capable of rising to the challenges of the 21st century and equipped with the developed qualities outlined below.

(2) The lawyer as a global citizen

In concrete terms, what kind of a lawyer is the lawyer as global citizen? First and foremost, groups and individuals, before becoming the object of the rule of law, must become its guardians. The lawyer as a legal professional, as well as being humanity's guardian of peace, human rights and democracy (the lawyer as a global citizen), must, in order for such universal values to be put into practice in civil society, be a nationally, locally and globally active force supporting the independence and solidarity of individuals and groups, their socioeconomic activity commensurate with justice and equity, and activity by public organs in line with the ideal of the rule of law (the lawyer as a global citizen supporting the realization of a fair and just society).

Secondly, the rapid globalization of recent times has greatly accelerated the

internationalization of socioeconomic activity so that international transactions have developed greatly not only at corporate level but also at the level of the individual through the Internet and similar media. Meanwhile, environmental problems, security problems, regional conflicts and other issues have taken on a global character. The education of internationally active lawyers who, while showing respect at global level for diverse value systems, have the thorough knowledge of comparative law and the international perspective needed to create and apply societal rules commensurate with justice and equity, is an urgent task for humanity in the 21st century (the lawyer as a global citizen acting from an international perspective).

Thirdly, and in contrast, there are now calls for the development of richly diverse regional societies and decentralization of power, creating a demand for lawyers who, while retaining an international perspective, identify closely with their regional communities and support the resolution of legal problems specific to their region, or regionalist lawyers (global-citizen lawyers serving regional communities).

Fourthly, in light of a range of issues, including the task of supporting the elderly and the mentally disabled in leading independent lives, the destabilization of the model of gender-based role division within the family, juvenile delinquency, the reappraisal of law studies from the viewpoint of gender theory, and the coexistence of citizens with a diverse range of ethnic backgrounds, cultures and value systems, there is an urgent need to restructure the human model which conventional laws have assumed (one based on a highly independent individual functioning within a nation-based state). This connects with the issue of the humanization of the law around fresh parameters. The education of lawyers with relevant perspectives and knowledge is required (global-citizen lawyer supporting the humanization of the law).

Fifthly, the problem areas relating to the societal tasks outlined above demand specialization of lawyers in relevant areas: for instance lawyers conversant with the international issues pertaining to intellectual property rights, lawyers conversant with tax affairs and corporate law, lawyers with the special knowledge needed to assist elderly or mentally disabled people in leading independent lives, lawyers who can analyze regionally occurring environmental problems from an international perspective and lead them to resolution, lawyers capable of working together with family court investigative magistrates and counselors to resolve disputes between parents and children and between spouses, and sexual harassment and similar cases, and lawyers able to bring an understanding of the delinquent's emotions to dealing with the problem of juvenile delinquency (global-citizen lawyer with a professional specialization).

IV. Basic Framework for Ritsumeikan Kyoto Law School

(1) Overview an open-access law school

Now, given its fundamental philosophy of the education of lawyers as global citizens, in concrete terms, what kind of education will the law school of Ritsumeikan University provide, and in what kind of framework? Ultimately, the question of what kind of law school is to be established will naturally be greatly influenced by the recommendations of the Judicial Reform Council, the reform of the bar examination system which will flow therefrom and the formulation of standards for law school establishment. Here, bearing mind that there are still many unclarified areas, I would like to outline our thoughts at the present time on what kind of law school we wish to create.

Law schools will likely be organized as specialist graduate schools in accordance with the standards for the establishment of graduate schools, but the law school of Ritsumeikan University will likely be organized as an independent graduate school acting as a professional school. Admission will be open wide not only to graduates of the Ritsumeikan University College of Law, but also to graduates of other colleges of the university and of other universities, mature students from a diverse range of specialist fields, and overseas students (law school open to all levels of Japanese society and to the world). If the law school is to become the core institution for the education of lawyers, it must also offer open access to candidates other than law college graduates from universities incorporating a law school. In addition, reception of individuals from diverse backgrounds (people with experience of working life after graduation, people who have studied specialist subjects other than law, etc.) will have an invigorating and stimulating effect on the educational environment. We aim to have Ritsumeikan University College of Law graduates as half the intake of the law school. We also hope to form diverse partnerships with universities of the Kyoto area and the wider Kansai region. Partnerships with other universities will be significant from the point of view of complementing and enhancing education at the law school and also as a means of opening wide the path to professional qualification as a lawyer.

In the plans for law schools presented so far, there have been different views as to the range of legal professionals to be educated therein: a narrow definition limited to judges, public prosecutors and attorneys; and a definition taking into account the education of corporate legal officers and public officials; a still broader definition including the education of tax accountants, patent attorneys and judicial scriveners is also conceivable. Regarding this point, it is envisaged that nearly all graduates of the Ritsumeikan Kyoto Law School will sit the new bar examination and then enter one of the professions mentioned in the narrowest of the definitions above. Therefore, the course will be designed on the assumption that its students will be taking a professional legal

qualification, even if they are ultimately destined to specialize in corporate legal affairs or patent work. It is of course a good thing if students who have received a common professional legal education at a law school offering a professional legal qualification later become active in various areas of society; however, we define law school as a place for the education of legal professionals with knowledge in a fixed specialist area that is lawyers in the narrow sense above and do not propose courses for the sake of education of legal professionals in the broad sense. However, to take account of the growing amount of legal work in international business in all areas of working life, and the progress of internationalization in the judicial field as made clear recently in the issue of “foreign lawyers” and in line with Ritsumeikan University’s history of international exchange and partnership, a parallel course will be established as preparation for entry to an American law school which will feature, alongside the specialist legal subjects required for qualification as a lawyer, an intensive course in specialist English and other relevant courses. In addition, partnerships with law schools in America and other countries will be encouraged in order to foster two-way exchange of students.

(2) The relation with the law college and the course length

Even after the establishment of law schools as postgraduate institutions specializing in professional legal education, there is still likely to be a strong demand from society for law colleges as institutions providing large numbers of generalists for all areas of working life. A certain portion of the present specialist curriculum of the law college will be handed over to the law school, leaving the law colleges to place still greater emphasis on general education and basic specialist education, which will become a significant proportion of their curriculum.

In connection with the law school proposal, there is debate as to whether colleges of law should offer entry courses to law schools. If such a course is offered, other difficult questions will arise: by what standards should the students of the course be selected? What should be the relation between the students of the course and those who fail to gain a place on it? How should the content of the course and its level be differentiated from those of other courses? Moreover, the law school which we envisage will not be affiliated to the Ritsumeikan University College of Law but is an educational institution and organization open wide to other colleges of the university, other universities and the wider society. We wish to avoid creating the kind of course which would lead to a law school consisting of students of our own college of law selected during the second year of their studies at the college.

Accordingly, since the legal education of the law college will be centered around basic instruction in the legal system and legal concepts, and in order to sufficiently implement the ideal of offering a law school education of an advanced nature both theoretically and practically, we believe that the law school should in principle offer a three-year course of

education. The duration of the course will be heavily influenced by the modalities of the bar examination. However, in all events, society will need to see that a level of knowledge and accomplishment superior to that of candidates successful in the present bar examination has been provided. We therefore wish to take as our starting point the maintenance of a fully developed educational content. However, a preparatory course will be offered to students with a non-legal educational background, mature students, overseas students, etc., in which basic knowledge of the law will be acquired intensively with the aim of enabling them subsequently to study as first year students of the law school (recognition of course credits, etc., gained prior to entry to the law school will also be studied). With the already operational system allowing accelerated entry to graduate school for particularly able students, and, following the amendment of the School Education Law, the introduction of a system allowing law college students enrolled after the start of academic year 2000 to graduate in three years, it is envisaged that certain students will be able to complete combined studies at the College of Law and the law school in six years.

(3) Third-party evaluation and related matters

If the law school is to become the core institution for professional legal education, and if the majority of its graduates are to acquire professional legal qualifications, a framework to guarantee the quality of law school education is required. Accordingly, Ritsumeikan Kyoto Law School will establish an organ for third-party evaluation and strive to meet the approval of this organ. This is the point referred to by the criteria for the establishment of graduate schools when they state that professional graduate schools must be “evaluated by a person or persons professionally engaged at a high level in the relevant field and possessing a highly developed and wide-ranging critical ability”. It is possible that a common accreditation institute for all law schools will be created, but regardless of whether such a body is established, we wish to establish an independent organ for third-party evaluation.

In addition, in order to guarantee high-quality education at law schools, it will be necessary to formulate common standards for all law schools. Ritsumeikan Kyoto Law School will actively promote joint and coordinated research with other law schools and legal professionals, and will work to establish a consensus among law schools on educational principles.

(4) Entrance examination

Since the law school will be charged with the societal mission of educating highly able lawyers, and since the very idea of creating law schools is based on a critical appraisal of the current bar examination, the law school entrance examination must be fair and objective, provide free access, and be capable of selecting individuals rich in the ideal

qualities of a lawyer. An examination taking the form of a written test on core legal subjects has limited scope to assess the abilities and qualities desirable in a lawyer (non-legal educational standard is not tested, the candidate is not required to have a broad general education in areas outside the subjects examined, and so on). It therefore risks turning the law college into a cram course for the law school. Accordingly, it will probably be necessary to hold interviews in order to assess abilities and qualities which cannot be assessed in written tests. An admissions office (AO) system will therefore be widely adopted to allow an overall assessment of cumulative academic achievement and the extent to which the required knowledge and abilities are present. If it is ultimately decided to conduct a preliminary examination common to all law schools and administered by a joint examination board composed of representatives of the law schools and the three legal professions what might be called a Japanese version of the LSAT the results of such an examination would be used as a guideline, and an independent second examination would be conducted in addition.

Further, we intend to form admission agreements, not only with the other colleges of Ritsumeikan University but also with the law colleges of other universities and other institutions that display an especially rich understanding of the objectives of the law school and its educational and research activities, in order to promote still more actively the development of professional legal education.

V. Education system and curriculum

(1) Overview

The law school is the basic and core educational institution for the education of legal professionals. Moreover, the bar examination for law school absolvents should be made into a true qualifying examination which tests the successful completion of law school studies. Given these points, the law school curriculum must not only provide basic legal knowledge in no way inferior to that of candidates successful at the current bar examination, but must also impart the ability to identify problems and strong ability in the application and devising of law. In addition, it should also provide the adaptability needed to serve as a lawyer in a variety of different fields. Starting with the full range of positive law subjects, the curriculum will offer basic legal studies subjects, applied law subjects, specialist foreign languages and practice-oriented subjects. Forms of teaching will include interactive small-group classes, Übung and practicals, and, in addition to the two semesters of the academic year, intensive summer and winter sessions. The first year will consist of compulsory subjects, the second of parallel compulsory and elective subjects, and the third year chiefly of elective subjects. In each subject, content will be based on a standard content established chiefly by teaching staff of the law school with reference to their research activities, but following any relevant contentual standards established by the three

legal professions and the law schools. The syllabus thus formulated will be published and evaluation sought from third parties and the public.

(2) Incultation of the ability to think in legal terms and capacity to make judgments required of lawyers

Since the law school is the most important and basic institution of professional legal education, it must impart the fundamental concepts, systems and theory of the core areas of law; provide the ability to analyze, think and judge in legal terms which is required to isolate the issues involved in individual and specific problems, apply to them general rules and regulations, and thereby deduce individual and specific solutions for the relevant cases; and the ability to locate these in the problem's historical and social context. Accordingly, Ritsumeikan Kyoto Law School will implement a curriculum whose central content consists of the core legal subjects of private law (civil law, civil procedure, etc.), criminal law (criminal law, criminal procedure, etc.), constitutional law, etc., in order to achieve the objectives stated above. These subjects will be compulsory and will be completed at a relatively early stage.

Since education in core subjects is provided at law college, there will be a need to consider the relationship between education at the law college and at the law school.

At present, the law college curriculum offers a diverse range of legal subjects centered around the six codes of law, so that on graduation the student will have acquired basic legal knowledge and the ability to think in legal terms. After the establishment of a law school as a professional graduate school specializing in professional legal education, law college education is likely to concentrate on producing generalists with a knowledge of the law; part of the present specialist subjects of the law college will be handed over to the law school and the law college will emphasize more strongly than hitherto general education and the basics of specialist education, which will become a significant proportion of its curriculum. But since core legal subjects will be taught at both the law college and the law school, there will be a need to differentiate in content, level and methodology between the two institutions. Taking methodology first, the law school will adopt small-group interactive methods favoring dialogue between teaching staff and students, even in lectures. It will also emphasize case studies using real examples and there will also be classes where the Socratic method is employed. In terms of content, the law college will devote considerable space to understanding the basic structure of various laws, while the law school will favor aspects relating to concrete dispute handling. The following is a summary in more specific terms of the question of teaching content at the law school using examples from core subjects.

Private Laws

Here we take the example of civil law: at present, education in civil law at the law college aims to impart basic knowledge of the whole of civil law and to encourage a legal-

minded approach to civil law. Following the establishment of the law school, there will be a still stronger need to emphasize law college-type educational content to provide professionals with a knowledge of the law for various areas of society. In the area of civil law, the subjects mentioned above will therefore need to be maintained and reinforced.

Thus, civil law education at the law school will aim to impart the ability to apply and adapt the basic knowledge acquired at law college to real-life issues (as mentioned above, for those who have not attended law college, a preparatory system to impart basic knowledge of the law will be provided). Regarding the format for instruction, organization of lectures adapted to theoretical points or actual cases and interactive teaching will provide the framework for confirming basic knowledge and for Übung to encourage the ability to apply it.

As regards content, it will not be necessary to cover all areas with reference to the text of the Civil Code; the structure should be based on the study of a range of issues which include in their scope practical problems. These could for instance be divided up as follows: contract law; property law (law relating to land and buildings); finance law; and torts. In addition, related subjects outside the range of civil law could be included, and the setting of consumer law and medical law as subjects might be considered. Civil law education at the law school would need to be conducted with an awareness of legal practice, and content would need to reflect more strongly the connection with civil procedure.

Criminal Laws

In the core subject of Criminal Law, the material studied would consist of precedents from Criminal Law (general theory), Criminal Law (crimes) and from special criminal laws, which account for a high proportion of actual practice, to thus impart a thorough understanding of core concepts, and of the relative scope of precedent and interpretation of the text of the law. On the basis of actual examples including traffic accidents, manmade disasters, chemical damage, pollution and other important social issues, ability to apply criminal law in line with the roles of the three legal professions in the adjudication of criminal cases would be developed. As an example of special criminal law, economic criminal law would be treated.

Education at the law school would need to impart a strong grounding in legal theory to promote a firm ability to apply the law in professional life, and, on the basis of an accurate understanding of legal practice, an ability to critically analyze and evaluate the practice of the law in order to encourage further development of ability in this area. Instruction would therefore need to present criminal law in close connection with criminal procedure rather than as substantive law in isolation. In order to provide the ability to adapt appropriately to the recent expansion in the sphere of activity of professionals engaged in criminal law for instance in cases of domestic violence, child abuse, sexual violence, bribery, political corruption, abuse of power, and also in support of crime victims

it is also important to provide education in criminology based on a scientific perception of the phenomenon of crime and an accurate understanding of the criminal justice system.

To inculcate the ability to think and judge in legal terms required of a lawyer, study of basic law subjects as well as positive law subjects is important. In the basic subjects of law school education, development of comprehensive capabilities as a jurist would be aspired to by teaching how to refer to legislative materials, how to investigate the intent of legislators, and how to conduct social surveys and statistical analysis to elucidate the actual workings of the legal system; by increasing the ability to grasp and consider problems through training in theory via the study of precedent and basic theory of the legal system, the theory of legal interpretation methodology, the history of individual legal systems, understanding of law and social changes, study of cases of international dispute from the perspective of comparative law, and so on; and by interdisciplinary approaches to the new problems of the modern age, for instance study of the theory of the judicial system, bio-ethics and the law, international society and human rights, legal informatics, and so on. The learning process should be encouraged even under a system of elective choice.

(3) Education in legal practice at law school

The question of whether to include practical education is one of the major issues in the law school debate. There are many law school proposals which recommend that education in legal practice should be conducted at the Legal Training and Research Institute as part of the training that includes group instruction, while the role of the law school should be to conduct education in legal theory that also offers a practical perspective. Certainly, the idea of conducting the full range of legal education and training at a university-based law school is at present unrealistic. At least for the time being, the training at the Legal Training and Research Institute that includes group instruction should be retained. However, even assuming the continued existence of the Legal Training and Research Institute, the incorporation of basic practical training in the educational program of the law school is quite feasible and indeed desirable. Even if the Legal Training and Research Institute is to be the chief institution for education in legal practice in the narrow sense, if one considers the duration of the training conducted there, it becomes desirable to conduct a certain degree of education in legal practice at the law school stage in preparation for the practical training to come. Practice in the legal research and legal writing skills required of lawyers and education in legal ethics can also be conducted at the law school. Also, implementing a certain degree of education in legal practice at law school will increase the motivation of students toward entering their chosen profession and will have the educational effect of providing a practical perspective and foundation to their theoretical studies.

Meanwhile, while there is an expanding role for the lawyer to play toward the

establishment of a society in which citizens and business coexist harmoniously and the ideals of the constitution come to be reflected in the marketplace, stimulating interest in the relevant abilities and social issues is not always easy in the regular teaching environment. Accordingly, Ritsumeikan Kyoto Law School will attempt this task in clinical courses and externship courses held separately to regular classes.

Clinical legal education refers to a practical training program introduced at American law schools from the 1960s. It combines practical training with an element of community service and can thus be said to represent a form of education in legal ethics. As well as being a medium for practical education, it performs to a certain degree the role of a social contribution on the part of the law school. In concrete terms, tentative plans in this area include clinics dealing with consumer problems, juvenile crimes, and problems of the aging society (planned in concert with the Ritsumeikan University Graduate School of Science for Human Services, which is due to be established in April 2001). These clinics are not intended to replace the training at the Legal Training and Research Institute; rather the educational objective is that law school students, by striving toward the resolution of real problems with the assistance of researchers and professionals, should increase their problem-solving abilities and their interests in social problems, and become aware of the responsibilities of lawyers.

Elsewhere, by strengthening ties with outside institutions of various kinds, we hope to organize a variety of externship courses with a view to cultivating interest in social problems through practical experience. In concrete terms, the following might be considered :

- a) legal consultation externships (envisaged as a more developed version of the present activities of the student-run citizens' advice bureau) : in partnership with attorneys
consultation service for household and consumer issues and other legal problems of citizens.
- b) in partnership with the committees of the bar associations anti-pollution measures, children's rights, the rights of the elderly and disabled, etc.
- c) partnerships with and assistance to citizen's groups, NPOs.
- d) partnerships with enterprises corporate legal affairs, legal work in international relations, etc.
- e) partnerships with local government bodies

If a certain degree of practical training is to be conducted at the law school, and if clinic courses are to be held, it will naturally be necessary to enlist a certain number of experienced legal professionals to take charge of such courses as full-time or adjunct instructors. In core and frontier legal subjects likewise, instruction by experienced legal professionals individually and jointly with the researchers who form the school's teaching staff will enhance the practical character of education at the law school, and will be significant in bridging the gap between theory and practice. In this respect, it will be

necessary to establish firm relationships of partnership and exchange at some organizational level within the law courts, the public prosecutor's offices and the bar associations. Here, we look particularly to the cooperation of lawyers who are former graduates of Ritsumeikan University. In addition, partnerships with associations and groups of judicial scriveners, tax accountants, attorneys and other legal professionals, and with corporate legal divisions, will be pursued in the interests of externships and similar opportunities.

(4) Rich elective curriculum oriented toward future specializations

Ritsumeikan Kyoto Law School, in addition to cultivating the core abilities in the application of the law required of a lawyer, will elaborate a rich curriculum which will enable students to gain the capabilities which will make them worthy of the title of global-citizen lawyer. The relevant subjects will all be of an elective nature and students will choose freely taking account of their future specialization. Using to the full its advantage of being a law school based at a multidisciplinary university, students of the school will be able to take courses offered by the university's other schools. Joint projects and seminars with them should also be organized.

i) International perspective and comparative law perspective

To deepen the international perspective and the comparative law perspective, a full complement of subjects related to international law will be aimed for. In addition to fostering the international perspective required of the lawyer in the 21st century, the full range of legal subjects of which the lawyer requires knowledge in professional practice will be offered. In addition, to deepen knowledge of these subjects and increase ability to apply them, joint projects will be instituted with the Ritsumeikan University Graduate School of International Relations and the Ritsumeikan Asia Pacific University as well as partnerships with overseas law schools.

ii) Frontier areas of law and combined areas of law

A diverse curriculum will also be offered in frontier areas of law and combined areas of law in which global developments suggest relevance. Intellectual property rights, cyberspace law and other advanced areas of law will be offered as subjects, while a full program will also be instituted in the combined areas of tax law, which is becoming indispensable to legal practice; environmental law and urban development law, which have a great impact on citizens' lives; and gender and law. In order to promote understanding of these areas, partnerships will be formed with the university's graduate schools of Policy Science and Science and Engineering, and with the Business School whose establishment in the near future is now being studied.

iii) Law and humanization

From the viewpoint of the humanization of law, the establishment of courses to impart specialist knowledge in areas such as psychology and social welfare will be studied in partnership with the Ritsumeikan University Graduate School of Science for Human

Services.

Concluding remarks

In the above, I have outlined the need for a reform of the professional legal education system based on the Law School Proposal and the law school proposals of Ritsumeikan University. However, there are areas that remain unclarified regarding the direction of the reforms so that, in line with the future development of the debate, we are likely to be presented with the need to make major adjustments to our proposals. Moreover, the proposals which I have presented today, with the admixture of my own opinions, represent no more than a first draft at a committee level, and there are many points which need to be addressed in greater depth. From now on, assisted by criticisms and opinions from a wide constituency including citizens, legal professionals and academics, we are committed to continuously improving on our proposals and engaging actively in the debate on judicial reform including the transition to an optimal professional legal education system. We hope that our contribution may be of some value.