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## **KYUSHU UNIVERSITY LAW SCHOOL (HŌKADAIGAKUIN) EXTERNAL EVALUATOR'S REPORT**

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### **INTRODUCTION**

I visited Kyushu University Law School on 30 March 2007 and 2 April 2007. I also had the honor of delivering a lecture as part of the Commencement Ceremony for entering Law School students on 1 April 2007. Before my visit I read the Report on the Implementation of the 2006 Plan for the Law Faculty and Law School [*Kyushu daigaku hōgakubu/hōgakufu/hōgakukenyūin*] *Heisei 18 nendo nendokeikaku no jissekihōkokusho* (hereafter 'H 18 Implementation Report').

I wish to record my thanks to the Dean, Professor Doi and the academic and administrative staff and students who responded to many questions openly discussed the achievements and challenges facing the Law School.

This external evaluation visit was by two of the three-member committee. We met with the Dean and academic staff, observed two classes in session and had an extended hearing with student representatives from Years 1, 2 and 3. We also toured the facility and had a detailed demonstration of the distance-learning television conferencing equipment. We were asked to submit separate evaluation reports.

### **SUMMARY AND OBSERVATIONS**

The academic and administrative staffs at Kyushu Law School have achieved a very high level of operation within a short space of time,

with limited resources. This evaluation focuses to a large extent on the quality of teaching and the educational environment in 2006-07.

I acknowledge at the outset several institutional factors that are beyond the control of the Dean and academic staff, including:

- the results of the first post-Law School Bar exam in 2006, which yielded a much lower national pass rate than expected;
- a nation-wide shortage of professors in certain fields available to teach the Law School curriculum;
- the Law School curriculum design dictated by the Ministry of Education, Science and Technology (MEXT) for the first 3 years of Law School operation, with curricular reform becoming possible from H. 19 onward;
- Kyushu Law School's temporary accommodation in prefabricated buildings that are now full to (planned) capacity for both student study space and for classrooms;
- The need to relocate the Law School, due to the Kyushu University plan to vacate the main campus and move to a newly-established campus by 2018-19.

The Law School has implemented ambitious operational plans for 2005 and 2006 and has in place a very comprehensive system of self-evaluation. The quality of its planning is first-rate and reflects an enormous commitment by both academic and administrative staff.

One advantage that Kyushu has is that it is an ideal size. The entering class of 100 students (in 2006 about 48/53 law graduates/non-law graduates respectively) and an academic staff of about 30 is a good ratio for both teaching and for policy implementation.

The building, study spaces and classrooms are modern, well-designed and relatively comfortable. Students seem to get on well with one another and to enjoy a good study environment.

The comments that follow represent comments on a successful Law School that appears to be functioning well.

### **COMMENTS ON THE SELF-EVALUATION REPORT FOLLOWING THE EXTERNAL EVALUATION MARCH/APRIL 2007**

The Law School's Self-Evaluation for H. 18 is largely favorable. I broadly concur with the self-evaluation, given the design constraints

for all Law Schools and the unexpectedly low national pass rate for the first post-law school Bar Exam in 2006.

Below I comment only on those numbered items in the Self-Evaluation Report that seem to require it or that were the subject of some discussion by the External Evaluation Committee during our visit in March/April 2007.

I refer to the numbering in the document *Heisei 18 nendo nendokeikaku no jissekihōkokusho (Hōgakufu)* (hereafter 'H 18 Implementation Report'), using the numbers under 18 bangō.

**1. (Aiming for an 80% pass rate in the new Bar Exam 2006-)**

A total of 15 students graduated from Kyushu in 2006; one sat and passed the old Bar Exam and one elected not to take the Bar. Of the 13 who took the new Bar Exam, 7 passed; the total of 8 yielded an institutional pass rate of 57%, which was higher than the national average. This clearly falls below Kyushu's own stated institutional goal, but is consistent with a national pass rate that was much lower than expected. The teaching faculty at the Law School is now expressing their 80% goal as a *cumulative* goal after the 3 attempts per student at the Bar Exam permitted under the new law school system.

**Comment:** Everyone agrees that the 2007 and 2008 Bar Exams will be difficult because they represent the first attempt by the 'first-time' law school student cohort (which in fact includes significant numbers of students with an undergraduate law degree), as well as the unsuccessful bar candidates from 2006. That Kyushu has reframed its goal in this way seems understandable.

The overwhelming concern of all the faculty and students I spoke with in 2007 was the Bar Exam and future pass rates.

**Law School admissions**

Kyushu faculty is satisfied that they have been able to retain the majority of their own good students from the law faculty as part of the admissions test. This is significant because the *kishū* (prior study of law) exam is designed to be tough at Kyushu and so Kyushu students are able to pass the *kishū* exam elsewhere and have the option of moving for Law School to a different institution.

We discussed the long term trajectory of law school admissions and that the system may perhaps require some voluntary reduction in class size by a number of institutions, but this kind of institutional re-design may not occur until the pattern of the new Bar exam emerges fully.

#### **4. (Legal Practice Research Fellows /hōmukenkyūin system)**

The Law School and Law Faculty have established an academic status for students wishing to continue using the Law School and university facilities after completing Law School but before passing the Bar. This includes access through the MyDesktop system/USB access to teaching materials.

**Comment:** Not all graduates have taken advantage of this, but it seems as if it could be a useful and practical measure.

#### **Comment: Dealing with non-Bar passing graduates**

I am still concerned that not a great deal of thought seems to have been given to supporting the students who will *not* pass the Bar Exam. If the initial pattern holds we could expect national pass rates of 30-40% in the first few years. Even after using 3 attempts, there will be a significant number of students who simply cannot pass the Bar. Even if Kyushu does better than the national average it may end up with a situation where 50% of its own graduates have not passed the Bar.

(a) At Kyushu, as at other law schools in Japan, the current assumption by the Law School academic staff seems to be that corporations will absorb their non-Bar pass graduates. Kyushu's excellent internship program is partially aimed at creating ties with local businesses to foster these opportunities.

However, most observers acknowledge that business cannot absorb all the non-Bar passers because this requires restructuring of corporate recruitment and internal classification of positions as well as a reexamination of large corporations' age limits for new recruits.

(b) There still does not seem to be much institutional support in the form of career guidance or post-graduation support for non-Bar passers. Kyushu is not alone in this respect but the problem is going to become more and more acute.

(c) Kyushu students are still engaged in magical thinking. So in discussion for example, they will say, "No-one wants to think about not passing the Bar" or "If I fail I'll open a ramen stand".

Understandably students are very anxious about the Bar exam and pre-exam preparation. The students we spoke to reported to us that most students seem to be taking *yobikō* practice exams or using *yobikō* tapes, or participating in the Shōhōkai (Kyushu alumni-led study circle). Students believe that other Law Schools are administering practice exams and testing students after the completion of each course and that "Kyushu is the only school that is following the manual". Students feel disadvantaged what they perceive as Kyushu's compliance with the rules.

What seems to be missing here at Kyushu, as in other Japanese law schools, is a credible narrative about what students can become after completing law school but not taking or passing the Bar. The answer cannot simply be "a failed lawyer" because that uses a definition of lawyer that is far too narrow. Some thought needs to be given to this. Faculty say that they need students to be "more positive", but students need more positive images or narratives to imagine their future lives as successful, legally-trained professionals. Law professors need to provide some of these, even if Japanese government planners and practitioners are unable to.

### **11. (Distance Learning)**

The audio-visual system developed by Kyushu in cooperation with NTT has enabled a richer curriculum. Established with a special competitive start-up fund for law schools, the system links Kyushu, Kumamoto, Kagoshima and the University of the Ryukyus in a teaching consortium, but also makes possible presentations by specialists at other universities and by practitioners.

**Comment:** This is a truly world-class system that works as a very flexible, responsive teaching tool. The quality is excellent and it will continue to be useful if faculty continue to use it actively. It would seem to have commercial applications and the reviewers urged the Law School to look at this as a possible revenue area.

In discussion, students positively evaluated being able to take courses offered at other law schools in the consortium.

### **12 and 13 (Short-term study abroad)**

As part of the establishment (*keisei*) fund for the Law School, overseas study opportunities were created for students for short-term visits to foreign practice and court locations. This was linked to an English language course. In 2006-07 only 2 students were scheduled to participate in an England/France study tour and the English language course component is to be reevaluated. The survey of student intentions regarding study abroad to date suggests that only 1-2 students were indicating interest in this study opportunity in future.

**Comment:** This seems an extraordinarily low rate of participation for a planned, subsidized, short-term overseas study opportunity. There may be more happening here than is obvious to an outside observer. The very low participation rate may be linked to anxiety about the Bar Exam, discussed further below.

### ***15 (Formation of practitioners; clinics and externships)***

The Law School appears to be putting tremendous effort into its externship and legal clinic programs. The Implementation report indicates that the faculty has studied the Report of the No 2 Tokyo Bar Association on practical legal education and conducted a Faculty Discussion (FD) on this topic and is seeking to improve on the Law School's performance in practical and clinical legal education.

**Comment:** Of the two, externships are clearly operating very well and faculty report that they self-evaluate their externships as being better than those of other law schools. Students are supportive of externships. The Law School has 70 externship locations for 2007, which is quite an amazing accomplishment. At least one placement has resulted in a job offer.

Students commented, however, that their externship experiences were very different, depending on the location and even the department in which they were located. One problem seemed to be that there was no standard protocol for having students in the office and so some staff were reluctant to share confidential legal documents (This could be overcome by having the students sign a confidentiality agreement).

The students with whom we spoke seemed more satisfied in places where there were in a real legal department and less satisfied where the legal affairs department is just a sub-section of the company. Many saw this as a great motivator for the rest of their study, or for a way of gauging the atmosphere of the company (recognizing that not all

companies had interesting legal matters happening during the internship period).

By contrast, the clinic is unique to Kyushu in that it is an actual law firm run by faculty who are also practitioners. Although it offers direct client contact, student demand is relatively low. A satellite clinic offered over Summer at Yakushima island is also a unique and interesting educational experience, but the student response we heard in interviews was "It seems like a lot of work"

**Comment:** It would be preferable for the clinic to be more firmly established and properly funded. The instructor/student ratio of 1:7 is ideal and this seems like a perfect opportunity for students. Unfortunately it is offered in 3<sup>rd</sup> year, when other demands on student time are relatively low, but when anxiety about the Bar Exam is at its peak. This seems to be the main disincentive for students.

### **16 (Common standards for instruction)**

Through student evaluations of teaching, surveys, FD discussions and peer observations of classes, the Law School is establishing the content and methods of instructions for its classes. The "MyDesktop" system is also being used to gather that data and to make syllabi and course outlines transparent to all staff and students. This should assist with coordination of course content and evaluation of effective instructional approaches.

Ideally the MyDesktop system will be used to balance workloads and hand-in dates for assignments, if faculty are diligent about uploading the data and checking data for other courses.

### **17 (Teaching methods and class sizes)**

From H 19 (2007) onward the Law School has elected to increase the size of classes for basic instructional courses to 50 and maintain the size of advanced classes or tutorials at 25-35.

1<sup>st</sup> and 2<sup>nd</sup> year students now have more compulsory classes and the intention is to create some economy of scale for the foundational courses. The result is that Kyushu now has fewer credits in total than many other law schools but has not decreased the number of elective courses, for which there are no minimum enrollment requirements. Faculty are concerned that it is difficult to persuade students to take electives.

We observed two classes, both taught by faculty who are also practitioners. One class was Criminal Procedure, the other was Company Law. Both were different in style (Criminal Procedure was more interactive and relied on examples from a recent, well-known case), but both were effectively taught. Both classes covered a great deal of material in a short space of time, so that it would have been very difficult for students to keep pace with the class without doing preparatory reading. This is a reasonable expectation for graduate level work.

**Comment:** The re-design of class sizes is a sensible response to student comments, self-evaluation and external evaluation in previous years. It represents a more rational allocation of resources, allowing more attention to be paid to 2<sup>nd</sup> and 3<sup>rd</sup> year students, where the pressure is greater.

### ***Writing skills***

Although writing skills are not addressed specifically in the Implementation Plan, we were told in 2005 that that writing skills were a problem, in part because of the diverse backgrounds of those enrolled. Faculty now report that they have introduced supervised writing to fro students aiming at entry to the PhD program and an introduction to reading legal materials and that students welcome this.

### **18 and 22 (*Tutoring system*)**

The tutor system has been revised to balance the workload equitably among staff, making one professor responsible for a mixed group of 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> year students. This professor is also responsible for interventions for students in difficulty or who are failing and there is an expectation that the mixed nature of the group will make peer-to-peer advice easier as well.

**Comment:** The stated position of the Law School is to create an environment suitable for self-study. Nevertheless, some students reported that they would like more individual instruction and/or tutoring. This is understandable, given the high level of anxiety about the Bar Exam.

### **20 (*Grading system*)**



From H 19 the Law School has moved to a grading curve (A 30%/B 40%/C, D) for classes of 20 or more students. This should ensure that everyone's expectations for grading are in line and that similar standards are used across courses.

**Comment:** This change directly addresses and answers student criticisms raised during the 2005-06 external evaluation.

Students would like to have a study week between the end of each course and the beginning of the exam period, even if this means using some of Summer and/or Spring Break. This is a reasonable request, but it depends on whether there are physically enough weeks in the year to accommodate it. In discussion, faculty suggested that this may not be possible.

## **25 (Support staff)**

The self-evaluation talked about the need to establish and rationalize support services for the Law School.

**Comment:** During the external evaluation it emerged that the Law School was established with no permanent staff and that of the 3 administrative staff currently working at the Law School, one is responsible for trouble-shooting the distance learning equipment as well as regular administrative duties. It was suggested that the use of MyDesktop will automate a lot of routine administrative tasks such as course enrollment and booking rooms in the building, for example.

While this may be true, this ratio of administrative staff to faculty and students is very low and clearly needs to be rethought before the Law School moves to another location. Running a top quality law school with no permanent administrative staff on site is unsustainable.

## **27 (Learning environment/Study rooms)**

The study spaces in the Law School building, while comfortable are now full. The students have established their own "Study Room Environment Committee" which may in time develop into a Student Bar Association. This is self-governance and a way for students to monitor those parts of their study experience that are within their own control.

**Comment:** Students report that the heating in the building is a problem because it cuts out at 10pm while access to the building is

possible 24 hours a day and students use it at all hours prior to exams. In discussion with the Dean the evaluators established that this is a budget constraint, which has been explained to the students. Other students complain that the building is too hot – as a prefabricated building temperature management is an issue.

Students also complain that although their study spaces are fine, and better than the environment at other Law Schools, the area around the Law School has absolutely nothing. Food becomes a problem at weekends, particularly now that some of the university cafeterias have closed or have reduced hours. Students were inconclusive about how they wanted to resolve this issue.

These problems, of course, will be solved eventually with the planned move of the Law School to the preferred location – the shared court/Bar Association complex, expected to take place in 2013.

### **28 (*Information exchange/MyDesktop system*)**

2007 is the test year for really using all the features of the Law School's electronic portal, MyDesktop. The faculty expectation is that the MyDesktop system will be the primary mode of communication between faculty and students and among students.

**Comment:** This makes sense, particularly as the faculty offices are located in the Law Faculty Building. However, student perceptions during our discussions were very different. Students don't generally understand why the MyDesktop is a compulsory, closed system that can only be accessed through a USB. Students would rather have a system that is more mobile and that can be accessed through, for example, their cell phones. The faculty explanation is that it needs to be a closed system because it will ultimately contain much of the Law School's intellectual property in the form of syllabi, problems and information. This makes sense.

There seems to be some remaining tension, however, between building a compulsory system and hoping that students will adopt it voluntarily as an information exchange platform. Clearly that has not happened so far, but it is still early days in development.

### **30 (*Establishing a legal clinic*)**

See comments at 15 above

### **34 (Student evaluations of teaching)**

This year student evaluations of teaching were conducted during class time and yielded an 83.7% response rate. This is a significant improvement over previous response rates and represents useful data.

**Comment:** In discussion, students agreed that the interactive method works well in most classes and that students prepare for discussion and are ready to answer questions. There are some classes where the method is less necessary and students would be happier to proceed without discussion, particularly in technical fields where they have very little contextual knowledge.

### **35 (Faculty Development)**

This year the Implementation Report suggests that Faculty Development (FD) meetings are proceeding well.

**Comment:** In discussion, our interviewees said that the turnout by faculty has been good and includes all those people whose attendance is necessary. By contrast, the Nichibenren trial evaluation said there needs to be more faculty discussion and that most of the impetus for reform is coming from a small implementation group and not from the whole faculty. This is probably true, but is also a realistic picture of how universities operate.

As I look at the monthly FD topics for H. 18, it seems that they are focused on details, data and procedures, with one useful exception being reflections on faculty visits to observe each others' classes. I suspect that some of these sessions took the form of 'reporting back' rather than deep exchanges or discussions of difficult issues.

What is missing here is an injection of broader perspectives and background research information about teaching and learning. My suggestion from the last evaluation report was to invite some outside speakers or facilitators and to consider a 2-3 day retreat (*gasshuku*) to pursue some topics in depth.

### **38 (Student files and tutors)**

There is considerable emphasis on recording information (grades, queries, advice given) on a central file for each student to allow different instructors to see how an individual student is progressing. Professors are also using the questions raised with them during office

hours as the basis for FD discussions about issues that may extend more broadly into the student body.

**Comment:** Comprehensive student files seem a useful approach, provided that individual privacy can be guaranteed.

Students would like the tutor system to continue after the semester (presumably after they receive the results of their tests). The student perception is still that office hours and tutor time is insufficient and not timetabled as effectively as it could be.

#### **44 and 45 (*International exchanges and overseas study opportunities*)**

Comment: See comment 12 above.

### **CONCLUSION**

Given its geographic location and the constraints of its campus, Kyushu has made a spectacularly good start as a Law School. The quality of both the students and the academic staff seem high. The Dean and key professors and administrative staff responsible for planning are talented and dedicated. The planning and execution of the curriculum seem carefully thought-out and sustainable.

Kyushu's physical facilities are very good. Its video-conference-linked teaching is innovative and clearly stimulating for both professors and students. Its collaboration with three other regional law schools is also practical and innovative.

The faculty seem to have made very thoughtful responsive to student criticisms and requests in preceding years and have also come up with a balanced approach to using limited resources for strongest outcomes.

Most of the challenges for Kyushu Law School at present are externally driven, such as:

- Student and professor anxiety about the content and pass rate of the Bar Exam in 2007 and beyond;
- The choice of external evaluation system and meeting those evaluation criteria;
- Professors' heavy teaching loads and existing responsibilities to the Law Faculty;

- The need to move location before Kyushu University vacates its main campus;
- Insufficient university budget for necessary expenditures (eg Law School administrative staff; building expenses) and for discretionary expenditures.

Internally generated challenges are gradually being addressed, for example:

- Professor's unfamiliarity with the newer theory and practice of teaching;
- The gap between student expectations of the curriculum and what is possible to deliver under the current budget and the MEXT design for Law Schools, at least in their first three years of operation.

Given the effort that Kyushu Law School teaching and administrative staff have put into their self-evaluation process, Kyushu Law School shows every sign of becoming a successful Law School of high quality and I wish them well as they work towards this goal.

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