

must pay closer attention to the necessity to institute equitable legislative and judicial practices, including the revision of criminal procedures and the establishment of legal aid services for all criminal defendants. Using empirical research, I have examined both the advantages and shortcomings of adopting these reforms. My analysis suggests that greatly expanding the perimeter of the legal aid services to all criminal defenses is necessary to protect the rights of the accused, and criminal defense services should be made available to all defendants throughout China, including remote regions and areas.

CHAPTER 2

Stratification or Diversification?

2011 Survey of Young Lawyers in Japan

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I Introduction

Japan introduced a system of post-graduate law schools in 2004. Unlike the old system which did not require completion of university legal education as a prerequisite for sitting for the bar examination, the new system requires in principle graduation from a law school as a prerequisite for sitting for the bar examination. On the other hand, apprenticeship training provided to those who passed the bar examination by the Legal Training and Research Institute operated by the Supreme Court was shortened from one and a half years under the old system to one year under the new system. We wanted to examine new lawyers' career trajectory under the new system, including work environment, specialization, income, job stratification, and impacts of gender, educational background, and other factors. We obtained a funding for five years from fiscal 2010 to 2014 and conducted a longitudinal survey of all lawyers who completed apprenticeship in 2009. They included those who passed the old bar examination, as well as those who passed the new bar examination, so that we could examine whether any differences appear in career development of the two groups. We conducted the first wave of survey in January to February 2011 and the second wave of survey in January to March 2014.

In this paper, we will report part of the findings from the first wave of our survey, particularly on specialization, work environment, and income. Before presenting our findings, we will outline previous national surveys of Japanese

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lawyers and provide context under which our survey was planned and conducted. In conclusion, we will discuss whether the apparent relationship between educational background and firm size and practice fields should be considered as a sign of stratification among Japanese lawyers.

II National Surveys of Japanese Lawyers

Several national surveys have been conducted to examine the activities of Japanese lawyers as summarized below. All of them have used mailed questionnaires.

A Japan Federation of Bar Associations

The Japanese Federation of Bar Associations (JFBA) is the mandatory national bar association in Japan. Practicing attorneys in Japan are required to register both at the JFBA and a local bar association. The JFBA conducted its first national survey of Japanese lawyers in 1980. Similar to the US census, this survey is conducted every ten years. The most recent survey was conducted in March–June 2010. A total of 10,000 lawyers were chosen from its 17,194 members and 1,795 responded (18.0% response rate). Its results were published in the 2011 special issue of JFBA's flagship journal, *Jiyu to Seigi* (*Liberty and Justice*).

B Osamu Koyama

Osamu Koyama is a former staff researcher of the JFBA who is now an assistant professor at Doshisha University. He wanted to examine effects of law school education on attorneys' subjective assessment of their own competence. He mailed questionnaires to 10,067 attorneys who registered in 2007 to 2011. The JFBA provided their list. Koyama obtained responses from 1,370 lawyers (13.9% response rate) and reported his findings in No. 80 of *Ho Shakaigaku* (*Sociology of Law*) in 2014.¹

C Three Surveys Conducted by the Group of Scholars Led by Setsuo Miyazawa

A group of scholars led by Setsuo Miyazawa (henceforth "our group") has conducted three surveys since 2007.²

- 1 Mayumi Nakamura, a sociologist at Toyama University, conducted a secondary analysis of the same data. See, Mayumi Nakamura, "Legal Reform, Law Firms, and Lawyer Stratification in Japan," *Asian Journal of Law and Society* 1 (2014): 99–123.
- 2 The co-authors of this paper have been major members of this group. Approximately 20 more scholars and practitioners recruited from all over Japan have also participated as advisory members, particularly at earlier stages of the project.

1 Survey in December 2007 to February 2008

Our group conducted a survey of a random sample of the whole population of practicing attorneys in Japan from December 2007 to February 2008. The Japan Law Foundation provided the grant for this research, while the JFBA provided a list of its members.

This survey had two purposes. One was to find out practicing attorneys' expectations about educational contents of post-graduate professional law schools that were introduced into Japan in 2004. The inspiration was the survey conducted by Bryant G. Garth and his colleagues in 1991–1992.³ The other purpose was to find out the social structure of the Japanese bar, including specialization, stratification, and impacts of educational background. The inspiration was the surveys of Chicago lawyers conducted by John P. Heinz, Edward O. Laumann, and their colleagues in 1975 and 1994–95.⁴

In this survey, 3,000 lawyers were randomly chosen from the population of 24,306, and a total of 304 responded to survey questionnaires (10.1%). The results were published in four papers published in Nos. 2 through 5 of *Aoyama Homu Kenkyu Ronshu* (*Aoyama Law Journal*) in 2010 to 2012.⁵

2 Survey in January to February 2011

The second and third surveys conducted by our group are the first and second waves of surveys in a longitudinal study of the same cohort of young practicing attorneys. The purpose of the project was to examine new lawyers' career trajectory under the new system, including work environment, specialization, income, job stratification, and impacts of gender, educational background, and other factors. The inspiration was the After the JD (AJD) project conducted by the American Bar Foundation (ABF) that followed almost 5,000 lawyers for ten years.⁶ The funding for our group was provided by the Japan Society for the

3 Bryant G. Garth and Joanna Martin, "Law Schools and the Construction of Competence," *Journal of Legal Education* 43 (1993): 469–509.

4 John P. Heinz and Edward O. Laumann, *Chicago Lawyers: The Social Structure of the Bar* (NY: Russell Sage Foundation, 1982) (revised ed., Chicago: Northwestern University Press and the American Bar Foundation, 1994); John P. Heinz, Robert L. Nelson, Rebecca L. Sandefur, and Edward O. Laumann, *Urban Lawyers: The New Social Structure of the Bar* (Chicago: University of Chicago Press, 2005).

5 Papers published in this journal can be downloaded from the institutional repository of Aoyama Gakuin University, accessed July 21, 2014, [http://www.agulin.aoyama.ac.jp/opac/repository/1000/?lang=0&acc_schema\[\]=1000&acc_cate=all](http://www.agulin.aoyama.ac.jp/opac/repository/1000/?lang=0&acc_schema[]=1000&acc_cate=all). Use 宮澤節生 as the search word.

6 See "After the JD: The Beginning of a Longitudinal Study," American Bar Foundation, accessed July 21, 2014, <http://www.americanbarfoundation.org/publications/afterthejd.html>.

Promotion of Science (JSPS) for five years from fiscal 2010 to 2014. Unlike the AJD project, the funding was for only five years, but it was the maximum length available from the JSPS (a Japanese equivalent of the National Science Foundation in the United States).

The first wave of survey by our group was conducted from January to February 2011, and a total of 2,121 new lawyers who completed their judicial apprenticeship in the fall of 2009 were contacted, as they were the newest lawyers when the funding was approved in April 2010. They included both those who passed the old bar examination that did not require completion of formal legal education and those who passed the new bar examination that required graduation from a post-graduate professional law school.⁷ These lawyers were called the 62-*ki* (62nd cohort) of judicial apprenticeship. The JFBA provided a list of attorneys, and a letter from its Secretary General that encouraged them to reply was attached to the questionnaire. A total of 621 responded to the survey (29.3% response rate). Findings were published in Nos. 4 and 6 of the *Aoyama Law Journal* in 2011 and 2013.⁸ This chapter discusses some of the findings of this survey.

3 Survey in January to March 2014

Our group conducted the second wave of survey of the 62nd cohort of practicing attorneys in January to March 2014. The purpose was to find changes and

7 In Japan, those who passed the bar examination are required to complete apprenticeship managed by the Supreme Court before choosing one of the three groups of legal professionals for their career, namely, assistant judge, prosecutor, and practicing attorney. Training is provided by the Legal Training and Research Institute operated by the Supreme Court as well as by local courts, prosecutor's offices, and law offices. There were two groups among those who completed judicial apprenticeship in the fall of 2009. One consisted of those who passed the old bar examination which did not require formal legal education. They received apprenticeship for one and a half years. This old bar examination was abolished after 2011. The other consisted of those who passed the new bar examination which required graduation from a post-graduate professional law school. The law school system was introduced in 2004, and its first cohort of graduates took the first new bar examination in 2006. Those who chose this route received apprenticeship for one year. On the process of the introduction of the law school system, see Setsuo Miyazawa, "Law Reform, Lawyers, and Access to Justice," in *Japanese Business Law*, ed. Gerald P. McAlinn (The Hague: Kluwer Law International, 2007), 45-46, 64-74. On the current crisis of the law school system, see Daniel H. Foote, "The Trials and Tribulations of Japan's Legal Education Reforms," *Hastings International and Comparative Law Review* 36 (2013): 369-442.

8 "After the JD," *supra* note 6.

continuities in their careers. Questionnaires were sent to 2,087 attorneys, and 406 responded, with a response rate of 19.5%. Members of the project are preparing to report its findings in Nos. 9 and 10 of the *Aoyama Law Journal* in 2014 and 2015. The next challenge is securing funding for continuing this project for at least five more years, so that it will be possible to complete a longitudinal study in a way that matches the AJD project.

III 2011 Survey

A Research Questions and Respondents

In our survey in 2011, we were interested in the examination of the following questions: (1) whether or not legal education has any impact on career paths of new attorneys in the same cohort; and (2) what other factors affect their career paths and trajectory. Our specific questions included: (1) experience at law schools, during preparation for the bar exam, and during apprenticeship trainings; (2) locations and municipalities of legal practice, firm characteristics, and their job status in the firm; (3) any status changes in work place or law firms; (4) length of employment, daily activities, time allocation in relation to practice areas and client types, specialized fields, and job stratification; (5) satisfaction with job or position, and any concerns for their future career; and (6) impact of gender and educational background on new lawyers' work environment and employment arrangement.

The 62nd cohort attorneys ($n = 2,121$) were comprised of the following two groups: (1) lawyers who came out of the old system, i.e., they did not graduate from professional law schools but passed the old bar exam in 2007 ($n = 323$, 15.2% of the cohort); and (2) lawyers who graduated from law schools and passed the new bar exam in 2008 ($n = 1,798$, 84.2% of the cohort). An 18-page questionnaire was sent to all of them in January and February 2011, and 621 lawyers returned their questionnaires: 85 lawyers who came out of the old system (13.7%) and 536 from new law school graduates (86.3%). No significant group differences were found between the population and our respondents. We may consider our respondents as a representative sample of our population.

B Law School as a Variable in Our Survey

The Chicago study used the law school ranking by *US News & World Report* and classified law schools into the following four distinct groups: (1) elite schools (i.e., Chicago, Columbia, Harvard, Michigan, Stanford, and Yale); (2) prestigious schools (i.e., UC Berkeley, Cornell, Duke, Georgetown, NYU, Northwestern, and four other schools); (3) regional schools; and (4) local

schools. The group-based analysis found that the status and reputation of law schools impacted lawyers' specialization and stratification. The study further showed that both socio-economic backgrounds and race/ethnicity influenced the selection of law schools, and the status of law schools attended then affected the trajectory of lawyers' professional career, including the size of law firms, client types, the practice of specialization, and the prestige and stratification in the bar. This is what the authors of the Chicago study meant by the concept of the social structure of the bar.

Our study replicated the Chicago study and used its methodology, though there was no ranking of Japanese law schools equivalent to that in *US News & World Report* in the US. In Japan, the University of Tokyo is considered the only "elite" school. Additional "prestigious" law schools were chosen who had 25 or more respondents in order to carry out meaningful statistical analysis for our study. Therefore, we simply selected the five law schools that produced 25 or more respondents in our survey. The following table indicates these, with respective number of respondents and passage rate in the new bar examination in 2008. 2,209 passed the new bar examination in 2008, with the average passage rate of 33%. All of the five law schools exceeded the average passage rate.⁹

These five law schools and Kyoto University, which had fewer than 25 respondents, may look comparable to "elite" and "prestigious" law schools in the U.S. However, surprisingly, significant differences were found among them as we will show later in this paper.

Law school	Respondents	Bar passage rate in 2008 (%)
University of Tokyo	43	54.6
Waseda University	37	37.7
Chuo University	35	55.7
Keio Gijuku University	31	56.5
Hitotsubashi University	26	61.4
59 Other schools	351	
No answer	98	

⁹ One may wonder why Waseda's bar passage rate was clearly lower than those of four other schools. A possible explanation may be that Waseda adopted an admission policy to admit a large number of graduates of non-law undergraduate faculties, while most students at other schools were graduates of undergraduate law faculties.

C Specialization among New Lawyers

Our study tried to measure engagement of new lawyers in 36 practice fields. The questionnaire asked the respondents to select one of the following four responses for each field:

1. None at all
2. Almost none
3. Some amount of time
4. Fairly large amount of time

For example, in the field of "criminal defense," the result was the following:

1. None at all	2.3%
2. Almost none	16.6%
3. Some amount of time	55.7%
4. Fairly large amount of time	24.5%
5. No answer	1.0%

These responses were further converted to a bivariate measurement, excluding no answers: (1) no (combining "none at all" and "almost none") (19.0%); and (2) yes (combining "some amount of time" and "fairly large amount of time") (81.0%).

We repeated the same procedure for the remaining 35 specialization fields. The results are indicated in Table 2.1.

The most commonly practiced fields included: (1) criminal defense (81.0% active); (2) domestic family practice (70.1% active); and (3) individual bankruptcy (70.1% active). The least commonly practiced fields included: (1) tax with individual and small business clients (2.0% active); (2) tax with other business clients (2.0% active); and administrative law with corporate clients (2.6% active). Our analysis suggested the emergence of diverse specialized practices even among new lawyers. We will explore this point further.

D Analysis of Co-practice Pattern

Our analysis used the measure of co-practice and the method of hierarchical cluster analysis used in the Chicago study to find out the likelihood of co-practice in different practice fields by the same persons and to examine the clustering among various practice fields.¹⁰ The measure of co-practice was indicated by the

¹⁰ On Chicago study's method of cluster analysis, see Heinz and Laumann, *supra* note 4, 48-53; Heinz et al., *supra* note 4, 30-37.

TABLE 2.1 Number and % of active lawyers in the 36 practice fields

Field	No. of active lawyers (No. of respondents)	%	Field	No. of active lawyers (No. of respondents)	%
Criminal defense	498 (615)	81.0	M & A	107 (612)	17.5
Family: domestic	431 (615)	70.1	Workers' compensation	105 (608)	17.3
Individual bankruptcy	431 (615)	70.1	International business	81 (610)	13.3
Will & Inheritance	358 (616)	58.1	Receivership	76 (611)	12.4
Debt collection	337 (617)	54.6	Intellectual property	73 (610)	12.0
Traffic accident: plaintiff	325 (613)	53.0	Medical: plaintiff	69 (609)	11.3
Juvenile case	225 (608)	37.0	Administrative law: individual	61 (609)	10.0
Consumer: plaintiff	227 (613)	37.0	Antitrust & fair trade	54 (610)	8.9
Corporate bankruptcy	214 (615)	34.8	Family: international	41 (607)	6.8
General Corporate	210 (612)	34.3	Medical: defendant	37 (610)	6.1
Labor: employee	204 (611)	33.4	Crime victim assistance	33 (601)	5.5
Labor: employer	195 (611)	31.9	Foreigners' rights	30 (607)	4.9
Real property sale	194 (610)	31.8	Environmental	30 (609)	4.9
Construction dispute	181 (611)	29.6	Administrative law: agency	29 (611)	4.7
Neighborhood dispute	172 (610)	28.2	Administrative law: corporation	16 (610)	2.6
Real property lease: tenant	172 (609)	28.2	Tax: individual/small business	12 (609)	2.0
Traffic accident: defendant	122 (609)	20.0	Tax: other business	12 (609)	2.0

average conditional probability (ACP) calculated with the method called K2 (Kulczynski similarity measure 2) indicated in Table 2.2.¹¹ The measure has a range of 0 to 1.

The result of hierarchical cluster analysis on the basis of ACPs among the 36 practice fields is shown below (see Figure 2.1). At 0.3 ACP level, a "corporate client" cluster and an "individual client" cluster became recognizable. The ACP

TABLE 2.2 K2 method for calculating ACP

Field X	Field Y	
	Active	Non-active
Active	a	b
Non-active	c	d

ACP by Kulczynski 2

$$K2(x, y) = (a/(a + b) + a/(a + c))/2$$

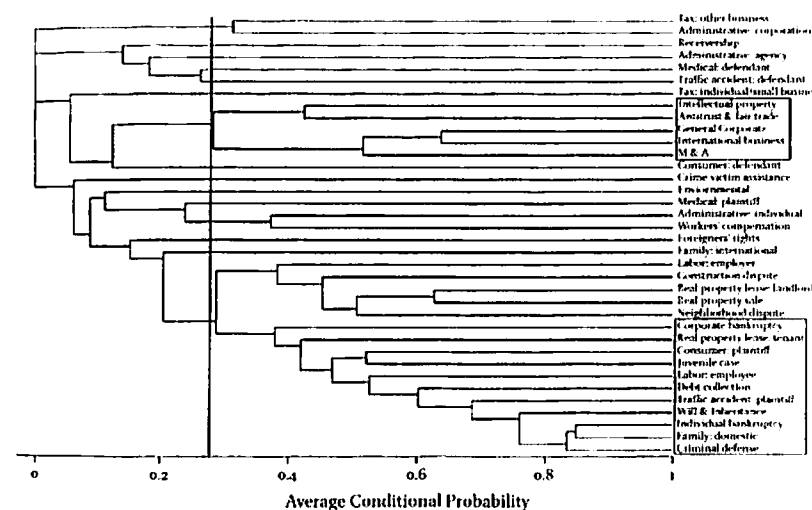
$$0 \leq K2 \leq 1$$


FIGURE 2.1 Result of hierarchical cluster analysis

of 0.3 means that on average, two fields are likely practiced together in 30% of cases. Although these two clusters are not as distinct as the two "hemispheres" of legal practice found in the Chicago study,¹² they suggest a possibility of increased specialization among recent generations of Japanese attorneys.

¹² On the two "hemispheres" found in the Chicago study, see Heinz and Laumann, *supra* note 4; Heinz et al., *supra* note 4.

The "corporate client" cluster consists of six practice fields, including "intellectual property," "antitrust and fair trade," "general corporate," "international business," and "mergers and acquisitions." On the other hand, the "individual client" cluster included "corporate bankruptcy (small/minor firms)," "real property lease (tenant)," "consumer (plaintiff)," "juvenile cases," "labor (employee)," "debt collection," "traffic accident (plaintiff)," "will and inheritance," "individual bankruptcy," "family (domestic)," and "criminal defense."

E Questions of Legal Specialization

Our results showed that the average number of active fields of practice was 9.2, with 22 as the largest number among new Japanese lawyers. The Chicago study revealed that lawyers were active in far smaller numbers of fields in the US 23% of respondents in its 1975 survey worked in only one field, and 33% of respondents in its 1994-95 survey worked in only one field.¹³ Japanese lawyers still appear to be largely "generalists" even in recent generations.

However, our analysis also showed that lawyers who are active in "corporate client" fields are active in less diverse fields than lawyers who are active in "individual client" fields. One may expect that pace of specialization will be faster among the first group of lawyers than among the second group of lawyers.

Although signs of specialization can be seen among new Japanese lawyers, it is still far from the level of concentration found among American lawyers in major cities. It seems worth exploring whether new lawyers in Tokyo show a much higher level of engagement in "corporate client" fields and concentration in a smaller number of fields than those in smaller cities.

Our findings also raise an interesting question for comparative analysis: "Are new American lawyers in small towns similar to new Japanese lawyers in their level of specialization and concentration?" This question requires research in the United States.

F Who Engages in Corporate Work at the Largest Firms?

Our study found that out of 621 new lawyers, only 28 (4.5%) joined a law firm with 200 or more lawyers for their first job. Furthermore, 16 of 28 such lawyers are the University of Tokyo graduates (57.1%). Among the graduates of the pre-selected five schools, the University of Tokyo had the highest percentage of their first job in a law firm with 200 or more lawyers (38.1%, i.e., 16 out of 42). Other schools had lower percentages (10.8% for Waseda; 10.3% for Keio; 6.3% for Kyoto; 3.8% for Hitotsubashi; and 0.6% for all other schools). If "elite" law

school should be defined in terms of the size of law firms of their graduates, the University of Tokyo appears to be the only "elite" law school in Japan.

G Who Earns the Most?

As indicated in Table 2.3, there is a strong positive correlation between the firm size and lawyer's income. While only 11.5% of our respondents earned an annual income of ten million Japanese yen (i.e., approximately US\$100,000) or more, the percentage was nearly six times that (63.2%) among lawyers who joined a firm with 30 or more.

Since the law school attended by lawyers, particularly graduation from the University of Tokyo, was related to the size of law firm, one may also expect a strong relationship between law school of lawyers, particularly the graduation from the University of Tokyo, and the level of annual income. Table 2.4 clearly indicates this.

The pattern is clear, at least for graduates of the University of Tokyo. They are clearly more likely than the others to join larger law firms and to gain the largest amount of income. Since larger law firms are more likely to provide services to larger corporations, this situation looks similar to the upper hemisphere of Chicago lawyers: graduates of "elite" and "prestige" law schools join larger law firms, provide services to larger corporations, earn larger income, and enjoy higher "prestige" in the bar.¹⁴ This is the social structure the Chicago

TABLE 2.3 Annual income by firm size

Firm size	Annual income				
	Less than 2,000,000	2,000,000- <5,000,000	5,000,000- <10,000,000	10,000,000 or more	Total
Solo	1 (3.3%)	11 (36.7%)	15 (50.0%)	3 (10.0%)	30 (100.0%)
2 or 3	5 (2.4%)	49 (23.2%)	145 (68.7%)	12 (5.7%)	211 (100.0%)
4-9	0 (0.0%)	42 (18.9%)	171 (77.0%)	9 (4.1%)	222 (100.0%)
10-29	0 (0.0%)	9 (11.1%)	63 (77.8%)	9 (11.1%)	81 (100.0%)
30 or more	0 (0.0%)	2 (3.5%)	19 (33.3%)	36 (63.2%)	57 (100.0%)
Total	6 (1.0%)	113 (18.8%)	413 (68.7%)	69 (11.5%)	601 (100.0%)

Fisher's exact test $p = 0.000$

¹⁴ On the concept and measurement of "prestige" of practice fields in the Chicago study, see Heinz and Laumann, *supra* note 4; Heinz et al., *supra* note 4.

TABLE 2.4 Annual income by law school

Law school	Annual income				Total
	less than ¥2,000,000	2,000,000-¥5,000,000	5,000,000-¥10,000,000	10,000,000 or more	
University of Tokyo	1 (2.3%)	5 (11.6%)	16 (37.2%)	21 (48.8%)	43 (100.0%)
Waseda University	0 (0.0%)	7 (18.9%)	22 (59.5%)	8 (21.6%)	37 (100.0%)
Chuo University	1 (2.9%)	8 (22.9%)	26 (74.3%)	0 (0.0%)	35 (100.0%)
Keio Gijuku University	0 (0.0%)	6 (19.4%)	20 (64.5%)	5 (16.1%)	31 (100.0%)
Hitotsubashi University	0 (0.0%)	5 (19.2%)	18 (69.2%)	3 (11.5%)	26 (100.0%)
Others	3 (0.9%)	64 (18.5%)	255 (73.7%)	24 (6.9%)	346 (100.0%)
Total	5 (1.0%)	95 (18.3%)	357 (68.9%)	61 (11.8%)	518 (100.0%)

Fisher's exact test $p = 0.000$

study found among Chicago lawyers. Lawyers of the lower hemisphere are graduates of "regional" and "local" law schools. They join smaller law firms, provide services to individual clients, earn smaller income, and enjoy no "prestige" in the bar. In short, "stratification" characterizes the social structure of the bar in major cities in the United States.

Should we conclude, then, that stratification is also emerging in Japan with the University of Tokyo as the sole "elite" law school? We will return to this issue later in this paper.

II Who Works in Small Municipalities?

We have so far focused on those lawyers who are working in larger law firms and earning larger incomes. However, one of the main purposes of the justice system reform initiated by the Justice System Reform Council in 2001 was to make legal services available all over Japan.¹⁵ Therefore, it is vitally important to find out about lawyers who went to small municipalities where only a very small number of lawyers used to work.

We examined how many lawyers went to "municipalities outside Tokyo where less than 10 lawyers work" for their first or second job. The second job was included because some lawyers received training in a larger city with an intention to practice in small municipalities. Only 84 lawyers (13.5%) went to such places. The breakdown by law schools shows that the proportion of graduates who went to such small municipalities was lower than average at major law schools: 4.7% among the graduates of the University of Tokyo; 8.1% among the Waseda graduates; 8.6% among the Chuo graduates; 6.5% among the Keio graduates; and none among the Hitotsubashi graduates. On the other hand, for instance, 80% (4 out of 5) of Aichi University graduates, 50% (5 out of 10) of Hokkaido University graduates, and 35.7% (5 out of 14) of Sophia University graduates went to such municipalities. This result suggests that further increase of lawyers in small municipalities will largely depend on the survival of smaller and local law schools.

I "Prestige" of Practice Fields

Now, we return to the issue of whether stratification comparable to that in the United States is emerging in Japan with the University of Tokyo as the sole "elite" law school in Japan.

¹⁵ On the justice system reform initiated by the Justice System Reform Council, see Miyazawa, *supra* note 7; Setsuo Miyazawa, "Symposium: Successes, Failures, and Remaining Issues of the Justice System Reform in Japan," *Hastings International and Comparative Law Review* 36 (2013): 313.

The key concept in Chicago study's analysis of stratification is "prestige." "Prestige" is defined as "an entitlement to deference."¹⁶ In the Chicago study, respondents were asked to rate "the general prestige within the legal profession at large" of each of practice fields, using a five-point scale, ranging from "outstanding" to "poor."¹⁷ This method of measurement of "prestige" implies an assumption that "prestige" of practice fields is one-dimensional.

The results were virtually the same in the 1975 survey and the 1994-95 survey. Practice fields for corporate clients such as "securities," "trademark and copyright," "international law-private," "international law-public," "patents," "civil litigation corporate," "income tax, corporate federal," "antitrust-defendant," "general corporate," and "real estate-finance and development" were rated highest, while practice fields for individual clients such as "divorce," "immigration law," "juvenile law," "real estate-landlord/tenant," "consumer law-consumer/debtor," "general family practice-poverty clients," "general family practice-paying clients," "real estate-residential transfers," "consumer law-seller/creditor," "personal injury-plaintiff," and "personal bankruptcy" were rated lowest.¹⁸ This result indicates that lawyers working for corporate clients are far more entitled to deference, while lawyers working for individual clients are far less entitled to deference. Since engagement in certain practice fields is determined by firm size, and firm size is determined by law school, there is a fairly rigid stratification which connects law school, firm size, practice fields, and "prestige."

We hesitate to say that such a picture of rigid stratification in the United States is an artifact of one-dimensional measurement of "prestige." One-dimensional concept and measurement of "prestige" may fit the reality in the United States.

However, we have a serious reservation in applying such a one-dimensional concept and measurement of "prestige" to Japan. That is because leadership positions of the JFBA and local bar associations are often held by lawyers from small law firms who are working mainly for individual clients, and *Jiyu to Seigi* and other publications by the JFBA and local bar associations often feature practice fields for individual clients. It is difficult to think that lawyers working for corporate clients are more deferred to than lawyers working for individual clients in Japan. In other words, "prestige" of practice fields and lawyers working in different fields may be multi-dimensional in Japan.

16 Heinz et al., *supra* note 4, 81.

17 Heinz and Laumann, *supra* note 4, at 90; Heinz et al., *supra* note 4, 81.

18 Heinz et al., *supra* note 4, 84.

In order to test the multi-dimensionality of valuation of practice fields in Japan, our survey in 2008 asked respondents to rate 37 practice fields on the three dimensions of "intellectual and technical rigor," "social significance," and "profitability," using a two-point scale ("yes" or "no").¹⁹

On "intellectual and technical rigor," the highest rated fields were "medical-plaintiff," "intellectual property," "M&A," "construction dispute," and "medical-defendant," while the lowest rated fields were "real property lease-tenant," "real property lease-landlord," "family-domestic," "individual bankruptcy," and "consumer-defendant." The highest rated fields have both corporate and individual clients, but all of the lowest rated fields have individual clients.

On "social significance," the highest rated fields were "criminal defense," "juvenile cases," "consumer-plaintiff," "environmental-plaintiff," and "crime victim assistance," while the lowest ranked fields were "international business," "traffic accident-insurance company," "tax-other than individual/small company," "real property sale," and "debt collection." All of the highest rated fields have individual clients, while the lowest rated fields have both corporate and individual clients.

On "profitability," the highest rated fields were "will and inheritance," "real property sale," "M&A," "traffic accident-plaintiff," and "corporate bankruptcy," while the lowest rated fields were "environment-plaintiff," "foreigners," "crime victim assistance," "administrative law-individual," and "juvenile delinquency." Both the highest rated fields and the lowest rated fields have both corporate and individual clients.

In the Chicago study, all of the most "prestigious" fields have corporate clients and all of the least "prestigious" fields have individual clients. That is not the case in Japan. Among the three dimensions we used in the 2008 survey, "intellectual and technical rigor" and "profitability" may be closer to "prestige" in the Chicago study. Unlike the most "prestigious" fields in the Chicago study, both corporate client fields and individual client fields appear among the highest rated fields on "intellectual and technical rigor" and "profitability" in the 2008 survey.

The dimension of "social significance" in our 2008 survey may be further from "prestige" in the Chicago study. All of the highest rated fields in our survey are similar to the least "prestigious" fields in the Chicago survey. While the Chicago study claims that lawyers working in small law firms for individual

19 Setsuo Miyazawa and Rikiya Kuboyama, "Bengoshikai naibu ni okeru Gyomu Bunya no 'Iiyoka' - 2008 Nen Bengoshi Chosa kara (Valuation of Practice Areas by Practicing Attorneys: From the 2008 National Survey of Practicing Attorneys)," *Aoyama Homu Kenkyu Ronshu (Aoyama Law Journal)* 3 (2011): 33-82.

clients can be entitled to "no deference," our survey indicates that lawyers working in such fields in Japan can be entitled to "much deference" in Japan. Otherwise, such lawyers would not reach leadership positions so often in the organized bar, and journals published by the JBA and local bar associations would not feature topics of their interest so often.

The correlation between the rating on "intellectual and technical rigor" and the rating on "social significance" was weakly negative ($r = -0.207$; $p = 0.109$), while the correlation between the rating on "social significance" and the rating on "profitability" was significantly negative ($r = -0.422$; $p = 0.005$). The principal component analysis of these ratings produced only one component, on which "social significance" was clearly located on the other side of "profitability" and "intellectual and technical rigor."

Our 2008 study revealed that practitioners in contrasting fields can enjoy equally high reputation because "prestige" among Japanese lawyers is multi-dimensional: lawyers working in less "profitable" or "intellectually and technically rigorous" fields may still enjoy much deference from other lawyers for their "socially significant" work. We have to see whether recent generations of Japanese lawyers are losing this multi-dimensionality of reputation and developing a one-dimensional reputation system found among Chicago lawyers. That is part of our 2014 survey of the 62nd cohort of Japanese lawyers.

IV Conclusion

Our 2011 survey found that specialization became recognizable among new lawyers in Japan. However, even relatively more specialized lawyers in Japan do not limit their practice to a narrow range of fields like American lawyers. A possibility of emerging stratification is recognizable in light of the effect of the University of Tokyo's background on firm size, income, and location of practice. Given the multi-dimensional nature of lawyer reputation and status in Japan, however, it is too early to conclude that Japanese lawyers will eventually develop a social structure like that in the US. We expect that the 2014 survey may answer some of these questions, including whether or not these patterns are leading to the formation of clearly differentiated stratification, or simply increasing diversity, and if career trajectories of new lawyers have become more fixed in the Japanese legal profession.

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