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Transnational Legal Education: A Comparative Study of Japan and Australia

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Abstract

Legal education is transnationalizing. The legal classroom is globalizing, in that a university's classroom is not defined by walls but is now mobile through technology and international university affiliations. The legal classroom itself is globalized, composed of local and international students. To meet the demands of a global economy and the subsequent globalization of the legal profession, law faculties have been required to transnationalize their legal education, teaching a mix of domestic law, the law of foreign jurisdictions and the growing streams of international law. This article examines the transnational legal education system through a comparative study of Japan and Australia. In Japan, legal education at Osaka University will be compared to the University of Sydney and Monash University in Australia.

1. Introduction

The classroom for law students in Japanese universities is going global and at the same time Japanese legal education is transnationalizing. Transnational law has been described as law that crosses national boundaries. Lawyers operating in this field not only need to understand different international legal regimes, but also possess the skills to understand foreign legislation, case law and legal culture in relation to their own law¹⁾. The product of transnational legal education is an increasing number of Japanese law graduates who are international or transnational

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1) Terry Hutchinson, "Educating the Transnational Lawyer: Globalisation and the Effects on Legal Research Skills Training," *Proceedings Australasian Law Teachers Association – ALTA* (2006) 1, 5.

legal professionals. Demand for international Japanese lawyers is driven by the corporate sector, government agencies, international organizations and non-government agencies ('NGO')². The global expansion of Japanese corporations, fuelled by a strong currency, corporate cash reserves, slow growth in domestic markets and a dramatic recent increase in foreign acquisitions by Japanese companies has created demand for global lawyers. Japan now exceeds China and the United Kingdom in supplying capital in the global mergers and acquisition market³. By May 2012, Japanese corporations had invested US\$34 billion in foreign investments, an amount likely to exceed the US\$84 billion spent in 2011⁴. Recent activity by Japan includes investments in the United States, Brazil, Australia, Belgium, the United Kingdom and Malaysia⁵. Not only does this investment spree create work for lawyers, it creates work for Japanese lawyers who understand foreign law and culture. Similarly, demand for legal professionals inside Japanese corporations is generated by global competition and investment, as identified by Kota Fukui and Yusuke Fukui⁶.

In the context of Australian law schools, internationalization has been described broadly as involving curriculum, student mobility through exchange programs, student and staff composition, staff mobility, international networks and the flow of visitors⁷. Australia's policy of multiculturalism, combined with recent growth in law students from Asia⁸, has naturally created a global classroom. Consequently, classrooms in Australia's law faculties include Australians, first and second generation Australians and foreigners. Also, a degree of transnationalism is

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- 2) Jeff Waincymer, "Internationalization of legal education: Putting the 'why' before the 'how'," in *Legal Education in Asia: Globalization, change and contexts*, ed. Stacey Steele et al. (London: Routledge, 2010), 70.
 - 3) Kana Inagaki and Atsuko Fukase, "Cash Rich Japanese Firms Go on Global Buying Spree," *The Wall Street Journal*, May 29, 2012, accessed November 2, 2012, <http://online.wsj.com/article/SB10001424052702303505504577403743150818820.html>.
 - 4) Inagaki and Fukase, "Cash Rich Japanese Firms."
 - 5) Inagaki and Fukase, "Cash Rich Japanese Firms."
 - 6) Kota Fukui and Yusuke Fukui, "Empirical Support for Redefining the Legal Profession and New Roles for Lawyers in Japanese Corporations," *Australian Journal of Asian Law* 12:2 (2010): 274.
 - 7) Michael L. Perlin, "Online, Distance Legal Education as an Agent of Social Change," *Pacific McGeorge Global and Business Development Law Journal* (2011): 6, 8, 11.
 - 8) See Steven Freeland and Grace Li and Angus Young, "TEACHING NOTE: The Crossing the Language and Cultural Divide- The Challenges of Educating Asian Law Students in a Globalising World," *Legal Education Review* 14 (2004): 223-225.

naturally inbuilt into the curriculum of Australian law schools. For example, as a former British colony, the study of Australia's common law legal system involves the study of British law, and as a member of the Commonwealth, can include law from New Zealand and Canada, not to mention the United States' law as a result of our close economic and political ties⁹⁾. During the 1990s, Australia's transnational legal education focused on disciplines in the field of international trade law and Asian law¹⁰⁾. Yet despite the efforts of law deans, the internationalization of law in Australian legal education is yet to gain traction and typically focuses on revenue maximization¹¹⁾. However, in light of the Gillard Government's White Paper titled "Australia in the Asian Century"¹²⁾, released in October 2012, the internationalization of Australian legal education may return to the agenda of legal education. This white paper identified the role of Asia in the twenty-first century in driving economic opportunities for Australia in mining, agriculture, sport, education, banking and finance, manufacturing and services and sustainable environmental projects¹³⁾. Economic growth in these areas will require international lawyers, from Australia and Asia, able to complete transactions and resolve disputes. Pressure on Australian universities to produce international lawyers may also come from the legal profession, following a number of recent mergers between top-tier Australian law firms and law firms from the UK and US¹⁴⁾. These mergers are driven by Australia's natural resources boom and the status of Australia as China's second largest source of investment¹⁵⁾. Consequently there is a growing market for Australian lawyers who can work in a transnational legal environment¹⁶⁾.

9) David Weisbrot, "What Lawyers Need to Know What Lawyers Need to Be Able to Do: An Australian Experience," *Journal of the Association of Legal Writing Directors* 1 (2002): 31.

10) Eugene Clark, "Internationalisation: Its Impact on Undergraduate, Pre-Admission and Continuing Legal Education," *Journal of Professional Legal Education* 13:1 (1995): 101.

11) Michael Coper, "Law Schools and Legal Education: What is Really Important?," *ANU College of Law Research paper No. 12-34* (2012): 4-5.

12) Australian Government, *Australia in the Asian Century*, White Paper October 2012. Available at http://australianpolitics.com/downloads/foreign/12-10-28_aust-in-the-asian-century-white-paper.pdf.

13) Australian Government, *Australia in the Asian Century*, White Paper October 2012, 8.

14) Leanne Mezrani, "Mixed emotions," *Lawyers Weekly*, July 17, 2012, accessed 15 November 2012, <http://www.lawyersweekly.com.au/features/mixed-emotions>.

15) Leanne Mezrani, "Mixed emotions."

16) Terry Hutchinson, "Educating the Transnational Lawyer," 12.

The internationalization or transnationalization of legal education takes many forms. Universities in Japan and Australia provide opportunities for local and foreign law students to complete their studies in a transnational legal environment, a global classroom, where students and teachers are exposed to different laws, legal systems and approaches to law. Transport and technology permit the legal classroom to be mobile, allowing students to study overseas or online through the use of teleconferencing and other technology. The study of law has been internationalized in a number of ways, including: Japanese law subjects, a myriad of international law subjects, comparative law, student and staff exchange programs, short-term study abroad programs, student enrolment in undergraduate and postgraduate law degrees, the use of video conferencing and the internet to facilitate collaborative learning by Japanese and foreign students¹⁷⁾ and foreign universities teaching law units in Japan¹⁸⁾.

This article will conduct a comparative study of transnational legal education in Japan and Australia. Transnational legal education in both countries is the result of different economic and political factors, and the structure of the legal profession in each country also shapes the form of transnational legal education. This article will begin by examining the structure of legal education in Japan and Australia, in particular, analyzing how entry into the legal profession shapes contemporary legal education. Next, based on my experiences as a research fellow in 2012, the internationalization of law at Osaka University will be discussed. Finally, this article will analyze the internationalization of legal education in Australia. This section will look at my experiences as a Master of Laws student at the University of Sydney, and how the internationalization of law differs in two schools at Monash University: the Department of Business Law and Taxation and the Faculty of Law.

2. The legal education systems in Japan and Australia and transnationalization

In July 1999, former Prime Minister Koizumi Junichiro established the Justice System Reform Council ('JSRC') to conduct a review of problems in the Japanese judicial system. The JSRC made a number of recommendations in 2001, and were implemented from 2004. A key reform included increasing the number of

17) Luke Nottage et al, "Beyond Borders in the Classroom – The Possibility of Transnational Legal Education," *Ritsumeikan Law Review* 25 (2008) 183.

18) Perlin, "Online, Distance Legal Education," 6, 8, 11.

applicants who pass the Japanese bar exam, the *shihô shiken*¹⁹⁾. The number of candidates passing the bar exam was kept under 500 until 1990, but increased to 1,200 in 2003, then 1,450 in 2004 and the projected number of successful candidates for 2010 was 3,000²⁰⁾. Yet the magic number of 3,000 successful candidates has not been attained, and 2,102 candidates passed in 2012²¹⁾. From 2005, to become a *bengoshi* (lawyer) not only requires passing the two-part bar exam, but also a one-year course at the Legal Training and Research Institute (“LRTI”)²²⁾. Another important reform was the introduction of graduate law schools from 2004. The new law schools were designed to focus on mixing legal theory and practice, and eradicate the “double school problem”, where law students do not attend classes in favor of bar examination study at preparatory schools²³⁾. While the creation of new professional graduate law schools makes the internationalization of legal education difficult to the pressure to pass the bar examination, the JSRC recommended developing a legal profession able to respond to domestic and global needs²⁴⁾. This recommendation has implications for Japanese legal education as the recommendations suggest promoting international exchange and incorporating internationalization into legal training²⁵⁾. The Ministry of Education, Science and Culture (“MEXT”) made available to all law schools US\$10 million for international programs between 2004 and 2007. Chuo University received funding from MEXT and established the summer school at the University of Melbourne in Australia in 2005²⁶⁾, a program that continues to

19) Prior to the reforms of 2004, an average of 2 per cent of students passed the bar examination. In the 1990s, this percentage translated to about 3,000 people per year: Kent Anderson and Trevor Ryan, “Gatekeepers: a comparative critique of admission to the legal profession and Japan’s new law schools”, in *Legal Education in Asia: Globalization, change and contexts*, ed. Stacey Steele et al. (London: Routledge, 2010), 52-54.

20) Noboru Kashiwagi, “Creation of Japanese law schools and their current development,” in *Legal Education in Asia: Globalization, change and contexts*, ed. Stacey Steele et al. (London: Routledge, 2010): 186.

21) “National bar examinations results 2012,” Ministry of Justice, accessed November 20, 2012, <http://www.moj.go.jp/content/000102108.pdf>.

22) Peter Lawley, “The Post-‘Law School’ Future of Japanese Undergraduate Legal Education A Personal Perspective Comparison with Australia,” *Journal of Japanese Law* 20 (2005): 83.

23) Noboru Kashiwagi, “Creation of Japanese law schools”, 187-188.

24) Anderson and Ryan, “Gatekeepers,” 54-55.

25) Justice System Reform Council (JSRC). 2001. “Recommendations of the Justice System Reform Council – For a Justice System to Support Japan in the 21st Century”. Chapter III, Part 3, 5. [Internet]. Accessed November 15, 2012. Available at http://www.kantei.go.jp/foreign/policy/sihou/singikai/990612_e.html.

operate annually. However, the internationalization of legal education continues to be inhibited by the continuation of the LRTI entrance exam, and a failure of the government to deliver its promised high pass rates for the bar examination²⁷⁾.

Australia's tertiary legal education system continues to grow and now has 34 universities offering undergraduate law degrees. This growth in law schools is notwithstanding a national review of legal education in 1986 that recommended that no new law schools be established beyond the then 12 schools. Universities in Australia and their law schools are typically ranked according to age (and prestige), research output, teaching and graduate outcomes, and the top universities form the Group of Eight ("G08")²⁸⁾. Legal education in most Australian universities remains an undergraduate degree, the Bachelor of Laws ("LLB"). However, in 2007, the University of Melbourne replaced the LLB with postgraduate legal education in the form of a Juris Doctor ("JD")²⁹⁾. Unlike Japan, the introduction of the JD was not part of a government overhaul of legal education³⁰⁾. The University of Melbourne made an institutional decision to convert law to postgraduate study, and other universities have since introduced a JD as a standalone law program or in addition to the LLB³¹⁾.

Like Japan, the curriculum of Australian law schools is dominated by the

26) Masahiko Omura and Satoru Osanai and Malcolm Smith, "Japan's New Legal Education System: Towards International Legal Education?," *Journal of Japanese Law* 20 (2005): 48-49.

27) Masahiko Omura and Satoru Osanai and Malcolm Smith, "Japan's New Legal Education System," 46.

28) The member universities of the G08 are the Australian National University, the University of Melbourne, Monash University, the University of Sydney, the University of New South Wales, the University of Adelaide, the University of Queensland and the University of Western Australia. See Group of Eight Australia, accessed November 16, 2012, <http://www.go8.edu.au/>.

29) Stacey Steele and Kathryn Taylor, "Introduction: globalization, change and contexts," in *Legal Education in Asia: Globalization, change and contexts*, ed. Stacey Steele et al. (London: Routledge, 2010), 14-15.

30) See Donna Cooper et al, "The Emergence of the JD in the Australian Legal Education Marketplace and its Impact on Academic Standards," *Legal Education Review* 21 (2011): 23-48.

31) In addition to the university of Melbourne, some of the Australian universities to introduce a JD program include the University of Sydney, Monash University, the University of New South Wales, Bond University and RMIT University.

requirements of admission to the legal profession. Whereas admission as a lawyer in Japan is regulated through the bar examination and the LRTI, in Australia, depending on the jurisdiction, upon completing a post-graduate practical legal training course or a “Supervised Workplace Training” program³²⁾, law graduates can then be admitted as a lawyer to a state or territory supreme court³³⁾. Admission as a lawyer requires graduates to complete their LLB or JD and the “Priestley 11”, a list of 11 areas of law recommended by the Consultative Committee of State and Territorial Admitting Authorities³⁴⁾. The Priestley 11 form the basis of legal education in Australian universities. The 1999 Australian Law Reform Commission’s (“ALRC”) inquiry³⁵⁾ into the federal justice system was critical of the Priestley 11 for focusing on an arbitrary set of substantive law and for a lack of practical skills subjects³⁶⁾. Calls for the internationalization of legal education in Australia have also come from the federal government. In 2004, the International Legal Education and Training Committee, part of the Attorney General’s International Legal Services Advisory Council acknowledged the efforts by Australian law schools in internationalizing legal curriculum, but also made several recommendations for internationalizing legal curriculum and producing lawyers with a global outlook. These recommendations included a national policy and strategy on the internationalization of Australian legal education, incentives through Commonwealth funding for global perspectives to be included in substantive and skills-based legal education, integration of internationalization into core legal subjects, revision of the Priestley 11 to include internationalization and the internationalization of a law degree³⁷⁾.

32) In Victoria, Supervised Workplace Training replaced an article clerkship. For admission guidelines in Victoria, see: “Admission to practice: supervised workplace training,” Law Institute of Victoria, accessed November 19, 2012, <http://www.liv.asn.au/Practising-in-Victoria/Careers-Centre/Admission-to-practice/Supervised-Workplace-Training>.

33) Admission is also required for the High Court of Australia and the Federal Court.

34) The Priestley 11 law subjects are criminal law and procedure, torts, contract law, property law, equity and trusts, company law, administrative law, federal and state constitutional law, civil procedure, evidence and legal ethics: see “Admission requirements,” Council of Legal Education Board of Examiners, accessed November 19, 2012, http://www.lawadmissions.vic.gov.au/admission_requirements.

35) Australian Law Reform Commission, *MANAGING JUSTICE: A Review of the Federal Civil Justice System*, Report No. 89 1999 at <http://www.austlii.edu.au/au/other/alrc/publications/reports/89/>.

36) David Weisbrot, “What Lawyers Need to Know,” 35-36.

37) Terry Hutchinson, “Educating the Transnational Lawyer,” 10-12.

3. The internationalization of law at Osaka University

This section will focus on the internationalization of law at Osaka University. Between April and July in 2012, the author was a visiting Asian law research fellow at Osaka University's Department of Law in the Faculty of Law. The fellowship was for the first semester of the 2012 Japanese academic, and intersected with semesters one and two in the Australian academic year. Osaka University is a leading Japanese University and was established as one of seven designated Imperial Universities in 1931. Approximately 25,000 students (including 1,924 international students) were enrolled for the 2012 academic year at the University's campuses at Toyonaka, Minoh and Suita. Osaka University has 11 undergraduate schools and 16 graduate schools³⁸⁾. The Department of Law has a presence in both schools with the Undergraduate School of Law and the Graduate School of Law and Politics. The Faculty of Law is located at the Toyonaka campus. The Faculty of Letters and Law was established at Osaka University in 1948³⁹⁾. Then, in 1953, the faculty was separated into separate Faculties of Letters, and Law and Economics⁴⁰⁾. In 2008, Osaka University merged with the Osaka University of Foreign Studies, and the Faculty of Law was divided into the Department of Law and the Department of International Public Policy⁴¹⁾.

The internationalization of the Faculty of Law at Osaka University is fostered by the presence of the Department of International Public Policy within the Faculty. Yet the internationalization of the Faculty of Law is part of a broader internationalization movement within Osaka University and is part of the university's international strategy, as reflected by the university's motto of "Live Locally, Grow Globally" (地域に生き世界に伸びる)⁴²⁾. The visible face of this internationalization is Osaka University's large international community, composed predominantly of students⁴³⁾, post-doctorate research fellows and visiting scholars.

38) "Introduction to Osaka University," Osaka University, accessed November 15, 2012, <http://www.osaka-u.ac.jp/en/guide/about/outline.html>.

39) "About the Schools," School of Law, Graduate School of Law and Politics, Osaka University, accessed November 20, 2012, <http://www.law.osaka-u.ac.jp/en/contents/about02.html>.

40) "About the Schools," School of Law, Graduate School of Law and Politics, Osaka University.

41) Kota Fukui and Stacey Steele, "Internationalising legal education in Japan as discourse and practice," Forthcoming 2013: 20.

42) "The International Strategy of Osaka University," Osaka University, accessed November 17, 2012, http://www.osaka-u.ac.jp/jp/international/iab/e/strategy_e.html.

Osaka University's Faculty of Law has embraced the internationalization of its law programs. The Department of International Public Policy itself focuses on foreign studies and requires students to complete a course in English⁴⁴). Anecdotal evidence suggests that the international focus of the Department of International Public Policy influences students in the Department of Law⁴⁵). In 2010, law students could participate in exchange programs in Europe, Asia, North America, Oceania and South/Central America, ranging in length from three months to one year. Summer programs of two weeks to two months are offered in the Netherlands, Thailand and England, and exchanges longer than one semester are available mainly in the US, but also Canada, Taiwan and several countries in Europe⁴⁶). Law students have a number of opportunities to participate in study abroad programs. From 2011, students participated in the "Canberra seminar" in Australia, and from 2012 Osaka University law students participated in the "Gold Coast seminar on Australian law". These seminars are hosted respectively by the Australian National University and Bond University, in association with the Australian Network for Japanese Law ("ANJeL")⁴⁷). A unique feature of the Gold Coast Seminar was that prior to attending the seminar, students studied Australian law, in Japanese, at Osaka University. During this period, to prepare students for life as a student in Australia, two Australian exchange students provided guest lectures, and I delivered a lecture in English on federalism. The Canberra and Gold Coast seminars demonstrate that the global legal classroom is mobile.

Internationalization presents opportunities for students to study around the globe but it has also diversified the traditional Japanese legal classroom. Two

43) Depending upon Japanese language proficiency, international students can enroll in the Regular Student Exchange Program or the Osaka University Short-term Student Exchange Program ("OUSSEP"). The Regular Program allows students to study subjects in Japanese, while both groups can study International Exchange Program subjects, taught in English and also offered to Japanese students. See "International Exchange," Osaka University, accessed October 25, 2012, <http://www.osaka-u.ac.jp/en/international>.

44) Courses include English Certificate I or project seminar in English: Kota Fukui and Stacey Steele, "Internationalising legal education in Japan," 23-24.

45) Kota Fukui and Stacey Steele, "Internationalising legal education in Japan," 24.

46) Kota Fukui and Stacey Steele, "Internationalising legal education in Japan," 25.

47) The University of Melbourne hosts the Melbourne law summer school for law students from Chuo University. For a description of the courses hosted by ANJeL in association with different host institutions, see "Programs and Courses," The Australian Network for Japanese Law, accessed October 25, 2012, http://sydney.edu.au/law/anjel/content/anjel_teaching_pro.html.

“international exchange subjects” at Osaka University are taught in English to a global classroom comprising of international and Japanese undergraduate students⁴⁸). These two units are special topics in comparative law and special topics in Japanese law. Approximately 20 Japanese and international students studied both units⁴⁹). The duration of my comparative law classes were quite short, lasting 90 minutes per week over 16 weeks. The content and readings were designed to introduce to students studying law in English, and to create a basic legal knowledge of law in order to undertake basic comparative legal study⁵⁰). Dan Rosen highlighted that the aim of teaching foreign law to Japanese students (and the international students) was for them to understand another legal system from the perspective of a lawyer in that system, thereby allowing students as graduates to effectively represent their client or corporation in global business⁵¹). A high level of Japanese language skill is required to undertake subjects in Japanese. One of my students, whose conversation Japanese was quite high, told me that it would have been great if more subjects were offered in English, because this would have allowed him to study at Osaka University for one year. The issue of insufficient subjects offered in English was identified by Kota Fukui and Stacey Steele, and is caused by a lack of interested Japanese students with competent language skills and difficulties finding qualified academics to teach subjects in Osaka⁵²).

The composition of my comparative law class was a small scale of a meeting at the United Nations. In total, the class represented five continents, 14 countries, spoke a minimum of ten languages and live in common law and civil law jurisdictions. The following nations were represented in our ‘United Nations of legal scholars’: Japan, Australia, China, Hong Kong, Thailand, the United States, Canada, France, Germany, Holland, Spain, the Canary Islands, Sweden and Brazil. Equally as diverse was the academic disciplines studied by students. Jeff

48) An American lawyer taught Japanese law in 2012, and the visiting Asian law research fellow annually teaches comparative law.

49) Other subjects include Japanese legal/political system and culture, Japan’s relations with Asian countries and Topics in Anglo-American Law.

50) To achieve this aim, comparative law was divided into four modules, each module four weeks in duration: what is law, issues in Australian law, issues in Japanese law and the legal profession in Japan and Australia.

51) Dan Rosen, “Butaman for breakfast and other morsels of legal reasoning”, in *Legal Education in Asia: Globalization, change and contexts*, ed. Stacey Steele et al. (London: Routledge, 2010), 202.

52) Kota Fukui and Stacey Steele, “Internationalising legal education in Japan,” 22-23.

Waincymer noted that an interdisciplinary approach to law assists in evaluating the law, understanding the operation of law and identifying biases in the law⁵³). These issues were raised in the context of my globalized classroom, consisting of students from disciplines including law, international law, economics, mathematics, arts, science, biochemistry, engineering and linguistics. Noboru Kashiwagi identified that as society increases in complexity, the need for lawyers from diverse backgrounds will also increase⁵⁴). Students in the global legal classroom in Osaka will not only produce lawyers able to work in a transnational environment, but also engineers, economists and scientists working in a globalized economy who are aware of transnational legal issues. The resulting teaching and learning environment challenged students (and their lecturer) to view the law from alternative legal and academic perspectives.

Although the JSRC recommended the internationalization of legal training and the creation of 74 new law schools⁵⁵), the teaching staff at law faculties is yet to take on high numbers of international academics. In the mid 2000s, the number of foreign academics in Japanese legal education comprised 10 to 15 professors and is supplemented by visiting appointments⁵⁶). Each year the Faculty of Law at Osaka University has a visiting research fellow, and in 2012, employed a local American lawyer as a casual lecturer. But the transnational legal education at Osaka University has created opportunities for Japanese academics to ‘internationalize’. Professor Fukui Kota is a passionate advocate of transnationalization within the Department of Law who encourages students and academics to internationalize⁵⁷).

4. Transnational legal education in Australia

The global composition of the legal classroom in Australia is predominantly driven by international students from China and other parts of Asia. Such students

53) Waincymer, “Internationalization of legal education,” 69.

54) Noboru Kashiwagi, “Creation of Japanese law schools”, 187.

55) Not all JD law schools have been able to attract sufficient numbers of students and the MEXT have stopped providing financial aid. In 2011, Himeji-Dokkyo Daigaku closed its JD program. From 2013, Kobe-Gakuin Daigaku, Meiji-Gakuin Daigaku, Surugadai Daigaku and Ohmiya-Houkadaigakuin Daigaku will stop enrolling students.

56) Masahiko Omura and Satoru Osanai and Malcolm Smith, “Japan’s New Legal Education System,” 48.

57) In 2010, Fukui-sensei was a visiting professor at the University of Melbourne, conducting research on the legal profession and working with local scholars. In 2012, he accompanied students on the Bond and Canberra seminars, attending classes and participating in field

provide an annual revenue stream of approximately AUD\$500 million to Australian universities⁵⁸). International students in effect, subsidize the cost of undergraduate education for Australian students⁵⁹). But the Australian legal classroom is mobile and the legal curriculum is transnationalizing. This section will examine transnational legal education in Australia using several case studies. Utilizing my experiences as a Master of Law (“LLM”) student, this section will start by examining the transnationalization of legal education at the Faculty of Law at the University of Sydney. The next section will discuss the internationalization of law at the Faculty of Law and the Department of Business law and Taxation (“BLT”) at Monash University.

Legal education at the University of Sydney offers a number of opportunities in Australia and overseas for undergraduate⁶⁰) to undertake transnational legal study. Postgraduate students can undertake several LLM degrees with an international specialization⁶¹), and are offered a greater number of international law

trips. Fukui-sensei’s research on the legal profession has resulted in a number of journal articles on the changing face of the legal profession in Japan. More recently Fukui-sensei’s research has expanded to include China. Students and academics benefit from Fukui-sensei’s knowledge of foreign law. The global classroom cannot exist without global legal scholars like Fukui-sensei, who creates opportunities for Japanese students and academics to internationalize. See Kota Fukui and Yusuke Fukui, “Empirical Support for Redefining the Legal Profession and New Roles for Lawyers in Japanese Corporations,” *Australian Journal of Asian Law* 12:2 (2010): 273-297, Kota Fukui, “Justice System Reform in Japan: The Connection between Conflict Management and Realization of General Rules of Law,” *Osaka University Law Review* 51 (2004): 55-76.

58) Andrew Trounson and Julie Hare, “International student fees keeping universities afloat,” *The Australian*, July 1, 2011, accessed October 25, 2012, <http://www.theaustralian.com.au/national-affairs/international-student-fees-keeping-universities-afloat/story-fn59niix-1226085176780>.

59) Trounson and Hare, “International student fees.”

60) Public international law is a compulsory unit for LLB students, who can study a number of international law units, Islamic law, Roman law, Canadian constitutional law and US constitutional law: see “2013 Units of Study: Bachelor of Laws,” Sydney Law School, the University of Sydney, accessed November 19, 2012, http://sydney.edu.au/law/cstudent/undergrad/docs_pdfs/2013_LLBUunitlist.pdf.

61) In addition to the Master of Laws, postgraduate students at the University of Sydney can undertake Master of Law and International Development, Master of Global Law, Master of International Business and Law, Master of International Law, Master of International Law and Taxation, Master of International Law and Development: “The Sydney LLM & Postgraduate Coursework Programs,” Sydney Law School, the University of Sydney, accessed November 19, 2012, <http://sydney.edu.au/law/fstudent/coursework/programs.shtml>.

subjects than the LLB program⁶²). As a LLM student, half of my degree was spent studying in Asia. I studied two Japanese law units at Ritsumeikan University in Japan, participating in the Kyoto and Tokyo Seminars, conducted collaboratively with ANJEL. I also participated in the Shanghai Winter School at the East China University of Politics and Law, where I studied Chinese law and legal systems. Both of these intensive study programs were offered to undergraduate and postgraduate students, and a small number of cross-institutional students also participated. The Faculty of Law at the University of Sydney also offers the Himalayan Field School, Sustainable Development Law in China, the Sydney Law School in Europe exclusively for postgraduate students and in 2012 began the South East Asia Winter School, taught in Indonesia and Malaysia⁶³). The prevalence of study abroad programs in Asia is supported by the Centre for Asian and Pacific Law (“CAPLUS”). Studying Japanese law in Japan, and Chinese law in China was significantly different to studying equivalent units in Australia. After class in Kyoto, Tokyo and Shanghai, my fellow students and I were able to view the law in operation, and at the same time, gain a cultural understanding of the legal systems we studied. My LLM studies also included studying dispute resolution in Asia and international investment in Asia. In total, six of my eight LLM units were Asian law subjects, in effect creating a de facto Master of Asian Laws.

The Faculty of Law at Monash University also provides opportunities for transnational legal education in undergraduate studies, albeit fewer than the University of Sydney. Students in the LLB can study overseas through Monash University’s campuses in Kuala Lumpur in Malaysia and Prato in Italy. A number of internships are available in foreign law firms, the United Nations and international NGOs. Five elective international law subjects are offered but no country specific law subjects⁶⁴). Electives in the JD degree focus on practical

62) Over 17 international law subjects are offered and subjects on law in Japan, China, Indonesia, the European Union, the UK and the US: “Units of Study 2013 by Alphabetical Order,” Sydney Law School, the University of Sydney, accessed November 19, 2012, <http://sydney.edu.au/law/subjects/subject2013.shtml>.

63) “Offshore opportunities,” Sydney Law School, the University of Sydney, accessed November 19, 2012, <http://sydney.edu.au/law/cstudent/>.

64) These subjects are international commercial arbitration, international criminal law, international environmental law, international human rights law and international law: “Law Undergraduate Course Guide 2013,” Monash University, accessed November 19, 2012, <http://www.law.monash.edu.au/future-students/undergraduate/course-guide/law-undergrad->

skills⁶⁵). The LLM provides a transnational legal education, offering 22 subjects on international law and two units on European law⁶⁶). In light of Australia's geographical position, its close economic relationship with Asia and the federal government's white paper on the Asian century, it may be that the Faculty of Law at Monash University will move towards teaching Asian law subjects.

Monash University is one of the few universities in Australia to retain a business law department. Part of the Faculty of Business and Economics, the Department of Business Law and Taxation teaches law units to undergraduate and postgraduate students, and has a number of PhD students, mainly from Asia. As part of the Faculty of Business and Economics, BLT's degree programs are taught at multiple campuses in the Australian state of Victoria, and campuses in South Africa, Italy and Malaysia. The Asia Pacific Business Regulation Group is responsible for the transnational nature of subjects offered in both undergraduate and postgraduate programs, and hosts a number of annual research seminars, workshops and conferences. Due to the international nature of Monash University, undergraduate students can study Malaysian and South African business law, company law and taxation law. International trade law is taught to undergraduate and postgraduate students. Postgraduate students can study a number of international law subjects⁶⁷), Chinese business law and law in Asia⁶⁸). Even though Asian law subjects are not offered at the Faculty of Law, Monash University offers these units through the Department of Business Law and Taxation.

Conclusion

Legal education in Japan and Australia is transnationalizing. But the level of transnationalization is influenced by the university, student interest and presence of qualified academics within a faculty. Even with a university transnational legal education is not consistent. Monash University, an international university with campuses on three continents, teaches law through two faculties, each faculty

courseguide-2013.pdf.

65) See "Postgraduate – course 3387 – Master of Laws (Juris Doctor)," Monash University, accessed November 19, 2012, <http://monash.edu/pubs/handbooks/courses/3387.html>.

66) "Faculty of Law Postgraduate Units," Monash University, accessed November 19, 2012, <http://www.law.monash.edu.au/future-students/postgraduate/units-overview.html>.

67) International trade law, international institutions and organizations, international law and policy and international issues in employment law.

68) "Department of Business Law and Taxation," Monash University, accessed November 19, 2012, <http://www.buseco.monash.edu.au/blt/>.

embracing transnational legal education and research in different methods. Admission to the legal profession in Japan and Australia continues to inhibit the growth of international subjects offered in undergraduate law degrees. Perhaps the answer to growth in transnational legal education lies in the hands of the legal profession, a legal profession that is globalizing through mergers of law firms in response to a global economy. It is time for legal curriculum to reflect the changes in legal practice and the economy by producing global lawyers through a system of transnational legal education.

REFERENCES

- Anderson, Kent and Ryan, Trevor. "Gatekeepers: a comparative critique of admission to the legal profession and Japan's new law schools." In *Legal Education in Asia: Globalization, change and contexts*, edited by Stacey Steele and Kathryn Taylor, 45-67. London: Routledge, 2010.
- Australian Government, *Australia in the Asian Century*, White Paper October 2012. Available at http://australianpolitics.com/downloads/foreign/12-10-28_aust-in-the-asian-century-white-paper.pdf.
- Australian Law Reform Commission, *MANAGING JUSTICE: A Review of the Federal Civil Justice System*, Report No. 89 1999 at <http://www.austlii.edu.au/au/other/alrc/publications/reports/89/>.
- Clark, Eugene. "Internationalisation: Its Impact on Undergraduate, Pre-Admission and Continuing Legal Education." *Journal of Professional Legal Education* 13:1 (1995): 99-110.
- Cooper, Donna and Jackson, Sheryl and Mason, Rosalind and Toohey, Mary. "The Emergence of the JD in the Australian Legal Education Marketplace and its Impact on Academic Standards." *Legal Education Review* 21 (2011): 23-48.
- Coper, Michael. "Law Schools and Legal Education: What is Really Important?". *ANU College of Law Research paper No. 12-34* (2012).
- Council of Legal Education Board of Examiners. "Admission requirements." Accessed November 19, 2012. http://www.lawadmissions.vic.gov.au/admission_requirements.
- Fukui, Kota and Steele, Stacey. "Internationalising legal education in Japan as discourse and practice." Forthcoming 2013.
- Fukui, Kota and Fukui, Yusuke. "Empirical Support for Redefining the Legal Profession and New Roles for Lawyers in Japanese Corporations." *Australian Journal of Asian Law* 12:2 (2010): 273-297.
- Fukui, Kota. "Justice System Reform in Japan: The Connection between Conflict Management and Realization of General Rules of Law." *Osaka University Law Review* 51 (2004): 55-76.
- Freeland, Steven and Li, Grace and Young, Angus. "TEACHING NOTE: The Crossing the Language and Cultural Divide- The Challenges of Educating Asian Law Students in a Globalising World." *Legal Education Review* 14 (2004): 219-238.
- Group of Eight Australia. Accessed November 16, 2012. <http://www.go8.edu.au/>.
- Hutchinson, Terry. "Educating the Transnational Lawyer: Globalisation and the Effects on Legal Research Skills Training." *Proceedings Australasian Law Teachers Association – ALTA* (2006): 1-24.
- Inagaki, Kana and Fukase, Atsuko. "Cash Rich Japanese Firms Go on Global Buying Spree." *The Wall Street Journal*, May 29, 2012. Accessed November 2, 2012, <http://online.wsj.com/>

- article/SB10001424052702303505504577403743150818820.html.
- Justice System Reform Council (JSRC). 2001. "Recommendations of the Justice System Reform Council – For a Justice System to Support Japan in the 21st Century". [Internet]. Accessed November 15, 2012. Available at: http://www.kantei.go.jp/foreign/policy/sihou/singikai/990612_e.html.
- Kashiwagi, Noboru. "Creation of Japanese law schools and their current development." In *Legal Education in Asia: Globalization, change and contexts*, edited by Stacey Steele and Kathryn Taylor, 186-199. London: Routledge, 2010.
- Law Institute of Victoria. "Admission to practice: supervised workplace training." Accessed November 19, 2012. <http://www.liv.asn.au/Practising-in-Victoria/Careers-Centre/Admission-to-practice/Supervised-Workplace-Training>.
- Lawley, Peter. "The Post-'Law School' Future of Japanese Undergraduate Legal Education A Personal Perspective Comparison with Australia." *Journal of Japanese Law* 20 (2005): 81-100.
- Mezrani, Leanne. "Mixed emotions." *Lawyers Weekly*, July 17, 2012. Accessed 15 November 2012, <http://www.lawyersweekly.com.au/features/mixed-emotions>.
- Ministry of Justice. "National bar examinations results 2012." Accessed November 20, 2012. <http://www.moj.go.jp/content/000102108.pdf>.
- Monash University. "Postgraduate – course 3387 – Master of Laws (Juris Doctor)." Accessed November 19, 2012. <http://monash.edu/pubs/handbooks/courses/3387.html>.
- Monash University. "Law Undergraduate Course Guide 2013." Accessed November 19, 2012. <http://www.law.monash.edu.au/future-students/undergraduate/course-guide/law-undergrad-courseguide-2013.pdf>.
- Monash University. "Faculty of Law Postgraduate Units." Accessed November 19, 2012. <http://www.law.monash.edu.au/future-students/postgraduate/units-overview.html>.
- Monash University. "Department of Business Law and Taxation." Accessed November 19, 2012. <http://www.buseco.monash.edu.au/blt/>.
- Nottage, Luke and Bennett, Frank and Prokati, Kittisak and Anderson, Kent and Wolff, Leon and Ibusuki, Makoto. "Beyond Borders in the Classroom – The Possibility of Transnational Legal Education." *Ritsumeikan Law Review* 25 (2008): 183-208.
- Omura, Masahiko and Osanai, Satoru and Smith, Malcolm. "Japan's New Legal Education System: Towards International Legal Education?." *Journal of Japanese Law* 20 (2005): 39-54.
- Osaka University. "Introduction to Osaka University." Accessed November 15, 2012. <http://www.osaka-u.ac.jp/en/guide/about/outline.html>.
- Osaka University. "International Exchange." Accessed October 25, 2012. <http://www.osaka-u.ac.jp/en/international>.
- Osaka University. "The International Strategy of Osaka University." Accessed November 17, 2012, http://www.osaka-u.ac.jp/jp/international/iab/e/strategy_e.html.
- Perlin, Michael L. "Online, Distance Legal Education as an Agent of Social Change." *Pacific McGeorge Global and Business Development Law Journal* (2011): 95-106.
- Rosen, Dan. "Butaman for breakfast and other morsels of legal reasoning." In *Legal Education in Asia: Globalization, change and contexts*, edited by Stacey Steele and Kathryn Taylor, 200-212. London: Routledge, 2010.
- School of Law, Graduate School of Law and Politics, Osaka University. "About the Schools." Accessed November 20, 2012. <http://www.law.osaka-u.ac.jp/en/contents/about02.html>.
- Stacey Steele and Kathryn Taylor. "Introduction: globalization, change and contexts." In *Legal Education in Asia: Globalization, change and contexts*, edited Stacey Steele and Kathryn Taylor, 3-19. London: Routledge, 2010.
- Steele, Stacey and Taylor, Kathryn, eds. *Legal Education in Asia: Globalization, change and*

- contexts*. London: Routledge, 2010.
- Sydney Law School, the University of Sydney. "Units of Study 2013 by Alphabetical Order." Accessed November 19, 2012. <http://sydney.edu.au/law/subjects/subject2013.shtml>.
- Sydney Law School, the University of Sydney. "The Sydney LLM & Postgraduate Coursework Programs." Accessed November 19, 2012. <http://sydney.edu.au/law/fstudent/coursework/programs.shtml>.
- Sydney Law School, the University of Sydney. "Offshore opportunities." Accessed November 19, 2012. <http://sydney.edu.au/law/cstudent/>.
- Sydney Law School, the University of Sydney. "2013 Units of Study: Bachelor of Laws." Accessed November 19, 2012. http://sydney.edu.au/law/cstudent/undergrad/docs_pdfs/2013_LLBUitlist.pdf.
- The Australian Network for Japanese Law. "Programs and Courses." Accessed October 25, 2012, http://sydney.edu.au/law/anjel/content/anjel_teaching_pro.html.
- Trounson, Andrew and, Hare, Julie. "International student fees keeping universities afloat." *The Australian*, July 1, 2011. Accessed October 25, 2012, <http://www.theaustralian.com.au/national-affairs/international-student-fees-keeping-universities-afloat/story-fn59niix-1226085176780>.
- Waincymer, Jeff. "Internationalization of legal education: Putting the 'why' before the 'how'." In *Legal Education in Asia: Globalization, change and contexts*, edited by Stacey Steele and Kathryn Taylor, 68-88. London: Routledge, 2010.
- Weisbrot, David. "What Lawyers Need to Know What Lawyers Need to Be Able to Do: An Australian Experience." *Journal of the Association of Legal Writing Directors* 1 (2002): 21-49.

