

Presence and Voice:  
The History and Status Quo of Women Law Professors  
in Japan

存在と声:  
日本の女性法学者の歴史と現在

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#### ABSTRACT

This article presents data relating to women in legal education in Japan. Part II gives a historical background that introduces Japan’s pioneer women law scholars from the 1940s up to the late-1980s, noting what has been termed a “dark ages” period during which very few women entered the field between 1962 and the mid-1970s. Part III seeks to ascertain the current numerical count of women law professors in Japan, data which ought to be easily accessible and well-known, but in fact is neither. Part IV draws upon certain proxies in legal scholarship to assess the voice of women scholars in recent decades, acknowledging that while some progress has been made, there is still much room for improvement. Part V then offers comparative observations between women law professors in Japan and those in the United States. Finally, Part VI concludes with our hopeful contribution to the field of feminist legal theory more generally and provides a road map for future investigations into this important subject.

By our observation, writings in this field, more often than not, simply presume the significance of feminist contributions in the legal academy. The point is—at the very least—an understated premise. However, the comparison with Japan, which is starkly different in its history from the 1960s onward, makes available a clarifying “what if” alternative scenario to consider this question. If there had not been feminist contributions in the U.S.’ legal academy, or a mere fraction of what we have had, then we believe we would have greater lags for the progress of equality for women in U.S. society more generally. The comparison with Japan in this article adds credence to such a claim.

この論文は日本の法学教育における女性に関するデータを世に発表することを目的として執筆されたものである。第二章では、1940 年から 1980 年終わり頃までの、日本女性法学研究者達の歴史

的な背景を簡潔にまとめている。1962年から1970年半ば頃までは、「暗黒時代」といわれており、日本女性がほとんど法学教育に足を踏み入れることがなかった。次に、第三章では、現在の女性法学研究者に関するデータから彼女たちをとりまく現状について考察する。これらのデータは容易にアクセスできるべきであるにも関わらず、実際はデータ収集をするのに困難が伴った。第四章では、女性法学研究者に関するある一定のデータから導き出せる女性研究者達の声について考察している。第五章では日米の女性法学研究者の比較観察結果を提供している。第六章は、より大まかに、私たちのフェミニスト法学理論への希望をもたらすような貢献についてまとめ、また、この重要な題目についてさらなる調査がなされるよう指針を提供してこの論文を締めくくっている。

私たちの観察によって執筆できたことは、典型的な、単にフェミニストたちの法学界への貢献の重要性を推定するにとどまる。ただ私たちの主張として重要なことは少なくとも彼、彼女らの貢献の重要性を理解しようとするにあると言いたい。しかしながら、1960年代以降から全く異なる歴史をもつ日本との比較によって、“もしこうだったとしたら”という別のシナリオを明確にし、この問いについて考えることが可能となったことも述べておきたい。もし米国において、フェミニスト達による法学界への貢献がなかったとしたら、米国社会におけるジェンダー平等が全体的に遅れていたであろうと私たちは考える。日本との比較がこのような主張の根拠を示す証拠となっている。

## I. INTRODUCTION

I call them the “Early Women Law Professors”—who entered the all-male world of law school teaching between 1900 and 1959 and who ultimately became tenured professors of law. What they did was extraordinary, and it opened the way for those of us who followed them into a challenging, difficult, but frequently rewarding profession.<sup>1</sup>

Perhaps because of the rapidity of some of these feminist incursions into legal education and legal scholarship, it is easy to overstate the degree of change that has taken place. Neither the presence of women in law schools nor the existence of feminist legal theory has gone unchallenged.<sup>2</sup>

This work begins with a somewhat obvious lede—in the World Economic Foundation’s most recent annual report on gender equality, Japan comes off looking quite bad. Its 2020 status dropped relatively behind eleven nations to place it as 121st among 153 nations, the worst among the Group of Seven major economies. It is not only behind its closest East Asian counterparts, China and South Korea, but also eighteenth among all twenty nations in East Asia and the Pacific region. Moreover, while 101 of 149 nations improved their absolute scores in this measurement from 2018, Japan was one of just forty-eight nations that presented even worse than it had the year before.<sup>3</sup>

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<sup>1</sup> Herma Hill Kay, *What I Learned about Feminism from the Early Women Law Professors*, 9 ISSUES LEGAL SCHOLARSHIP 1, 1 (2011); see also HERMA HILL KAY, *PAVING THE WAY: THE FIRST AMERICAN WOMEN LAW PROFESSORS* (Patricia A. Cain ed., 2021).

<sup>2</sup> MARTHA CHAMALLAS, INTRODUCTION TO FEMINIST LEGAL THEORY 141 (1999). See also Robin West, *Women in the Legal Academy: A Brief History of Feminist Legal Theory*, 87 FORDHAM L. REV. 977, 993 (2018) and Carrie J. Menkel-Meadow, *Feminist Legal Academics: Changing the Epistemology of American Law Through Conflicts, Controversies and Comparisons*, 3, 11 (UC Irvine Sch. L. Research Paper No. 2017-18), <https://ssrn.com/abstract=2954126>, as key resources for the authors in theory and the background history of the American legal academy relevant herein. In addition, LAW STORIES: REFLECTIONS OF WOMEN IN LEGAL EDUCATION: STORIES FROM FOUR DECADES OF SECTION CHAIRS, 80 U.M.K.C. L. REV. (2012), offering the recollections of twenty-one former chairs of the American Association of Law Schools (“AALS”) Women in Legal Education Section in a symposium law journal issue, has been invaluable in the drafting of this article.

<sup>3</sup> WORLD ECON. F., GLOBAL GENDER GAP REPORT 2020 9, [http://www3.weforum.org/docs/WEF\\_GGGR\\_2020.pdf](http://www3.weforum.org/docs/WEF_GGGR_2020.pdf). Unfortunately, there is reason for further pessimism. In the Spring of 2020, the Government of Japan announced that it would essentially give up on gender equality goals that had been set in 2003, pushing back the

Japan's severe gender gap is a clear cause for concern, especially considering that the gap is widening, unlike most other nations around the world. Thus, if one believes a stark gender equality gap to be undesirable, the nation of Japan has a serious problem on its hands.

Law, of course, is an important part of social structuring—shaped by and shaping nearly every aspect of our lived environment. Legal education systems shape the law through combined impacts of scholarship, teaching by (and correspondingly, learning from) pedagogy, teaching by (and correspondingly, learning from) example, leadership, and service work of women and feminist allies in the legal academy. Indeed, legal education not only develops generations of judges, lawyers, prosecutors, and other legal professionals, but also government leaders, bureaucratic civil servants at all levels, and ordinary citizens.

We strongly believe that having women<sup>4</sup> and feminist allies in the legal academy in both sufficient number and with favorable professional situational circumstances, including tenure, is essential for feminism to advance in a society.<sup>5</sup> Conversely, deficits regarding women and feminist allies in the legal academy invariably impact the overall society's gender circumstances for the worse. And so, it seems imperative to assess these circumstances in Japan, with the idea that gender gap deficits in Japan's

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target for an entire decade. Kazuhiko Hori, *Japan Gov't to Push Back 30% Target for Women in Leadership Positions by Up to 10 Years*, THE MAINICHI (June 26, 2020), <https://mainichi.jp/english/articles/20200626/p2a/00m/0fp/014000c>. See also Fumie Saito, *Women's Empowerment and Gender Equality in Japan*, in CIVIL AND POLITICAL RIGHTS IN JAPAN (Saul Takahashi, ed. 2019); Hiroko Takeda, *Discursive Politics of Gender in Japan*, in ROUTLEDGE HANDBOOK OF CONTEMPORARY JAPAN 154 (Hiroko Takeda and Mark Williams, eds. 2020); Patricia Lambert, *Gender Equality in Japan*, in ROUTLEDGE HANDBOOK OF CONTEMPORARY JAPAN 347 (2020).

<sup>4</sup> Throughout this paper, we use the terms “woman” and “women” with a broad, inclusive intention.

<sup>5</sup> The debate in feminist theory and feminist legal theory as to difference in voice is long standing. We do not pretend to be ready to give definitive answers to all the questions raised, but nevertheless believe that women's voices are distinct and women's substantial representation in all legal institutions is crucial. CAROL GILLIGAN, IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN'S DEVELOPMENT (1982); DEBORAH L. RHODE & STAN. INST. FOR RSCH. ON WOMEN AND GENDER, THEORETICAL PERSPECTIVES ON SEXUAL DIFFERENCE (1990); Clare McGlynn, *Women, Representation and the Legal Academy*, LEGAL STUD. 68–92 (1999); Nancy E. Dowd, Kenneth B. Nunn & Jane E. Pendergast, *Diversity Matters: Race, Gender, and Ethnicity in Legal Education*, 15 U. FLA. J. L. & PUB. POL'Y (2003); West, *supra* note 2. For a comparative perspective in judging, see GENDER AND JUDGING (Ulrike Schulz & Gisela Shaw eds., 2013) and Penelope Edwards, *Pursuing Gender Equality through the Courts: The Role of South Africa's Women Judges* (NYLS Legal Studies Research Paper No. 3614036, 2020), <https://ssrn.com/abstract=3614036> (finding a “distinct way that female judges have framed legal issues.”). For further background on difference in voice and feminist legal scholarship more generally, see *The Generation of Difference (1980s) in* CHAMALLAS, *supra* note 2 at 51–89 and GENDER, POWER, LAW AND LEADERSHIP (Hannah Brenner & Rene Knake eds., 2020).

legal academy must be at least a contributing factor to the nation's profound and distressing gender gap situation more generally.<sup>6</sup>

This article, which the authors believe to be the first extensive investigation into these issues in an English or Japanese language publication,<sup>7,8</sup> compiles and presents important data relating to women professors in legal education in Japan. Part II gives a historical background that introduces pioneer women scholars of Japan's legal academy<sup>9</sup> from the 1940s up to the late-1980s, noting what has been termed a "dark ages" period during which very few women entered the field between 1962 and

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<sup>6</sup> To be clear, this article does not include a study of women in the legal professions of lawyers, prosecutors, and judges. Such work, of course essential, has been widely explored in Japanese and even in English language sources. For Japanese language sources, see Waseda Law School Female Lawyers Project, 参考文献のご案内 [Bibliographic Resources], <https://www.waseda.jp/prj-flp/FLPinfo.html> (last visited Apr. 19, 2022) (listing nearly fifty separate works). For English language sources, see Kyoko Ishida, *Why Female Lawyers Get Less - Multiple Glass Ceiling for Japanese Female Lawyers Symposium Commentary*, 39 HASTINGS INT'L & COMP. L. REV. 411 (2016) and Yuriko Kaminaga & Jörn Westhoff, *Women Lawyers in Japan: Contradictory Factors in Status*, in WOMEN IN THE WORLD'S LEGAL PROFESSIONS 467 (Ulrike Schulz and Gisela Shaw eds., 2003).

The authors would also like to acknowledge the extremely important work being done in Japan both within the Japan Federation of Bar Associations and at Waseda University through its Female Lawyers Project under the outstanding stewardship of Professor Kyoko Ishida. See, e.g., Japan Federation of Bar Associations, *Resolution Aiming at Gender Equality in JFBA Adopted at the 58th JFBA General Meeting* (May 25, 2007), [https://www.nichibenren.or.jp/en/document/statements/20070525\\_2.html](https://www.nichibenren.or.jp/en/document/statements/20070525_2.html); Waseda Law School Female Lawyers Project, 女性法曹輩出促進プロジェクト (FLP) のご紹介 [Introducing the Female Lawyer's Promotion Project], <https://www.waseda.jp/prj-flp/AboutUs.html> (last visited Apr. 19, 2022).

<sup>7</sup> Summaries and data regarding women in legal education in Japan can be found in only two published antecedents to this work in English: Attorney Yoko Hayashi's 1990 report and Professor Eri Osaka's report in 2006. We recognize their good care to lead the way. Yoko Hayashi, *Women in the Legal Profession in Japan*, U.S.-JAPAN WOMEN'S J. ENG. SUPPLEMENT 16, 17 (1992); Eri Osaka, *Women and the New Legal Training System in Japan*, 34 INT'L J. SOCIO. L. 239, 243 (2006).

<sup>8</sup> In Japanese language writings, scholars have reported with regards to students and curricular pedagogy, but we did not find any major reports investigating more introspectively the history and status quo of the professoriate's circumstances. See, e.g., Kiyoko Kinjo & Yukiko Tsunoda, 第1部日本におけるジェンダー法学 [Part I: Gender and Law Education in Japan], Yuriko Kaminaga, Shuhei Ninomiya, Miyoko Tsujimura & Ayumi Michi, 第2部ジェンダー法学教育の現状と課題 [Part II: Issues of Gender Law Education], 1 ジェンダーと法 [GENDER AND LAW] 1, 1-71 (2004); Yoko Hayashi, Hiroko Goto, Shuhei Ninomiya, Kazue Dambayashi & Kayo Minamino, 第1部法科大学院におけるジェンダー法教育 [Symposium I: Gender Law Education in Law Schools], 4 ジェンダーと法 [GENDER AND LAW] 1, 1-52 (2007).

<sup>9</sup> The institutional structure of Japan's legal academy and its professional status and hierarchical categories differs from that of the U.S. This is more generally explained *infra* parts III A and B.

the mid-1970s. Part III seeks to ascertain the current numerical count of women law professors in Japan, data which ought to be easily accessible and well-known, but in fact is neither. Part IV draws upon certain proxies in legal scholarship to assess the voice of women scholars in recent decades, acknowledging that while some progress has been made, there is still much room for improvement. Part V then offers comparative observations between women law professors in Japan and those in the United States. Finally, Part VI concludes with our hopeful contribution to the field of feminist legal theory more generally and provides a road map for future investigations into this important subject.

Before going too far, some preliminary notes, in fact *caveats*, are essential. First, author Levin acknowledges the unavoidable limitations of his investigative capacity and understanding as an outsider and being a privileged individual on essentially every relevant factor of social identity—whether that is race, nationality, sexual orientation, gender identity, or sexual characteristics. Most crucially for this paper looking at women law scholars in Japan, author Levin arrives as a white American cis-gendered male, knowing full well that the U.S. too has persistent detrimental circumstances for women, and especially women of color, in its legal academy and broader society.<sup>10</sup>

Born and raised in Japan, with an undergraduate education as a female law student at an elite private university, author Messersmith has pursued advanced education in the U.S. since 2013. In that respect, Messersmith has not yet experienced advanced legal education or academic training in Japan and therefore, comes to this project with her perspectives somewhat limited in that regard.

The authors believe that Japan does not abjectly fail for all women or for its entire society with respect to gender equality. Rather, the authors write appreciating that there are favorable facets to take note of,<sup>11</sup> and some arguably better than can be seen in the U.S. such as the ubiquity of anti-

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<sup>10</sup> We also take note that U.S. feminist interventions in Japan and elsewhere have sometimes had oppressive and self-serving geopolitical implications. *See, e.g.*, MIRE KOIKARI, *PEDAGOGY OF DEMOCRACY: FEMINISM AND THE COLD WAR IN THE U.S. OCCUPATION OF JAPAN* (2008).

<sup>11</sup> *See, e.g.*, *BEYOND THE GENDER GAP IN JAPAN* 1 (Gill Steel, ed. 2019) (“[D]espite the inequity in a system that places ‘unsustainable burdens on women,’ most Japanese women do not feel that they are ‘struggling’; they do not feel powerless and frustrated.” (citation omitted)).

sexual harassment training in Japan than in the U.S.<sup>12,13</sup> That said, there is always room for improvement anywhere. We hope that our vantage point with experience and expertise as to law and legal education in both the U.S. and Japan may thus offer an opportunity to draw out useful insights, shine light into dark corners, and perhaps lead towards a capacity for us or others who will follow to offer constructive criticism and suggestions.<sup>14</sup>

## II. PAST PRESENCE: THE PIONEERING HERSTORY OF JAPAN'S FIRST WOMEN LAW PROFESSORS<sup>15</sup>

### A. Overview and Methods

While the herstory of Japan's first women lawyers has been written in Japanese, and even somewhat in English, the stories of Japan's pioneers

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<sup>12</sup> In informal conversations with informants in Japan, there was generally confidence as to formal equality being accomplished regarding study circumstances of students and employment circumstances for faculty. In addition, some informants noted their institution's active engagement with programs to prevent sexual harassment on campuses. Under national government sponsorship and leadership, all universities in Japan are also now operating administrative offices for gender equality promotion (“*danjo kyōdō sankaku*” (男女共同参画), a/k/a DKS). However, the phrasing of DKS raises problematic semantic issues in both Japanese and English translation. See AYAKO KANO, JAPANESE FEMINIST DEBATES: A CENTURY OF CONTENTION ON SEX, LOVE, AND LABOR, 140–72 (2016); Tomomi Yamaguchi, “*Gender Free*” *Feminism in Japan: A Story of Mainstreaming and Backlash*, 40 FEMINIST STUD., 541, 545 (2014); Takeda, *supra* note 3.

<sup>13</sup> There is no shortage of writings that document problematic gender circumstances in the U.S. See, e.g., LANI GUINIER, MICHELLE FINE & JANE BALIN, BECOMING GENTLEMEN: WOMEN, LAW SCHOOL, AND INSTITUTIONAL CHANGE (1997); see also Marina Angel, *The Modern University and Its Law School: Hierarchical Bureaucratic Structures Replace Coarchival, Collegial Ones; Women Disappear from Tenure Track and Reemerge as Caregivers: Tenure Disappears or Becomes Unrecognizable*, 38 AKRON L. REV. 789 (2005); MEERA E. DEO, UNEQUAL PROFESSION: RACE AND GENDER IN LEGAL ACADEMIA (2019); Sahar F. Aziz, *Identity Politics Is Failing Women in Legal Academia* (Rutgers L. School Research Paper, 2020), <https://ssrn.com/abstract=3452553>; Christopher Ryan & Meghan Dawe, *Mind the Gap: Gender Pay Disparities in the Legal Academy*, GEORGETOWN J. LEGAL ETHICS (forthcoming) (Roger Williams Univ. Stud. Paper No. 207, 2020), <https://ssrn.com/abstract=3699208>; Jillian Kramer, *The Virus Moved Female Faculty to the Brink. Will Universities Help?*, N.Y. TIMES (Oct. 6, 2020), <https://www.nytimes.com/2020/10/06/science/covid-universities-women.html>.

<sup>14</sup> We appreciate the challenges here, as suggested by Dr. Dana Raigrodski, and the need for caution to avoid traps from either side of essentialism (“unawareness of perspectivity”) and relativism (over caution in framing comparative observations). Dana Raigrodski, *What Can Comparative Legal Studies Learn from Feminist Legal Theories in the Era of Globalization*, 43 U. BALT. L. REV. 349, 366–67 (2014) citing *inter alia* Günter Frankenberg, *Stranger than Paradise: Identity & Politics in Comparative Law*, 1997 UTAH L. REV. 259, 260 (1997).

<sup>15</sup> “History helps those who come after us identify, more quickly, the obstacles placed in their path, and learn how others have overcome similar obstacles. Like all traditions, history creates community—it forms a bond between generations that



in legal scholarship appear to be almost entirely uncovered in English and unassembled in Japanese publications.<sup>16</sup> The authors have researched biographical materials and spoken informally with numerous individuals in the law teaching community in order to be able to list and timeline these remarkable women as a first step.<sup>17</sup> Perhaps more comprehensive accounts will follow the publication of this article that tell the stories of these women law professors even more completely.

As explained in the paragraphs that follow, what comes out as most compelling is that the U.S. and Japan's earliest generation of women legal scholars, up through approximately 1960, showed roughly similar numbers, but then their paths diverged dramatically.<sup>18</sup>

The number of women in the two legal academies in the 1950s to about 1960 were not all that different. The data explained here show that both nations counted phenomenally low numbers. The U.S. took an early lead, but not by all that much. Professor Emerita Marina Angel of Temple University's Beasley School of Law's 2012 report in the University of Missouri-Kansas City Law Journal counts five women in tenure track positions in the U.S. in 1950.<sup>19</sup> Former Dean of the University of California Berkeley School of Law, Herma Hill Kay counted fourteen women before her when she entered law teaching in 1960.<sup>20</sup> Meanwhile, our research finds

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encourages the creation of friendships across disciplinary and generational lines. History also creates a sense of solidarity with other women who have made choices and encountered difficulties in the legal academy, and reminds women law professors and deans that we contribute to something larger than our own professional lives or even our own law schools' histories." Marie Failing, *AALS Section on Women in Legal Education Oral History Project*, AALS, <https://www.aals.org/sections/list/women-in-legal-education/aals-section-on-women-in-legal-education-oral-history-project/> (last visited Apr. 19, 2022).

<sup>16</sup> Some Japanese law journals introduce individual women professors' CVs, typically just prior to their retirement, and some women have shared their individual memories in law teaching. But even upon asking colleagues in Japan who would be likely to know, we have found no writing that brings together a timeline and the stories of the women in a single comprehensive report.

<sup>17</sup> In light of the general informality and number of these inquiries with a sizable number of individuals many of whom would prefer to remain anonymous, the several meetings or exchanges from which this data was developed are not particularized with details of correspondents' names, dates, or the like in standard American "Bluebook" formatting. While confident that best efforts were made for accuracy and consistency in the approach, the authors take sole responsibility for the veracity of any unsourced information presented which has not been confirmed by this journal's editorial team.

<sup>18</sup> "And that has made all the difference." ROBERT FROST, *The Road Not Taken*, in *THE ROAD NOT TAKEN AND OTHER POEMS* 2, 2 (2012).

<sup>19</sup> Marina Angel, *Women in Legal Education III*, 80 U.M.K.C. L. REV. 711, 714 (2012).

<sup>20</sup> Kay, *supra* note 1; but see D. Michael Risinger, *Female Law Librarians as*

that Japan could count just five women in law teaching by 1956 and eight women by 1958.<sup>21</sup> Neither fifteen women in the U.S. nor eight women in Japan represented even token counts among the hundreds or thousands of individuals who made up the two countries' legal academy professoriate in those times.<sup>22</sup>

The difference then, is in the years that followed. In the U.S., we crossed a count of 100 women in 1972 which then accelerated to 516 women by 1979,<sup>23</sup> while Japan's count essentially flatlined. From 1958 in Japan, there were no new women entrants for about ten years, where the next uptick in Japan was just six women (repeating, *six*, not a typo) entering the field in the late 1960s through 1974. After a second near hiatus of about eight years, Japan then saw some modest growth to have a total of twenty-three women who had entered law teaching by 1988.<sup>24</sup> Our next found data point is 402 women in 2004.<sup>25</sup>

Although we do not have a precise datum, our informed estimation is 4,000 persons in full-time tenure or tenure-track teaching and scholarly researching positions in Japan's legal academy today. And, as explained in greater detail below, we estimate the proportion of legal scholars who are women at fifteen percent.<sup>26</sup> Fifteen percent of 4,000 persons equates to just

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*Pioneer Women Law Professors: A (Belated) Response to Dean Kay, with Some Suggested Additions to Her Canonical List*, 112 L. LIBR. J. (Jul. 7, 2020), <https://ssrn.com/abstract=3624525> (criticizing Kay's methods for overlooking women's early entry to the field through the doors of librarianship).

<sup>21</sup> See *infra* Section II.B.

<sup>22</sup> We do not have precise data for this assertion. Donna Fossum's count indicated approximately 1,600 tenure or tenure tracked law professors at ABA accredited law schools in the U.S. in 1960. Donna Fossum, *Women Law Professors*, 4 AM. BAR FOUND. RSCH. J. 903, 905 (1980). Meanwhile, Japan had forty-two law faculties in 1960, but we do not know their teaching faculty numbers. Kazuki Okawa, *Taishūka katei ni okeru gakubu settchi dōkō* [Dynamics in the Establishment of University Divisions in Conjunction with Relatives Degrees of Popularization], GAKUSHŪ SHAKAINI OKERU MA-SU KŌTŌ KYŌIKU NO KŌZŌ TO KINŌ NI KAN SURU KENKYŪ [RESEARCH ON STRUCTURES AND FUNCTIONS OF PERVASIVE HIGHER EDUCATION IN AN EDUCATED SOCIETY] 148, Table 1-8-2 (1996). In light of Japan's smaller population but more numerous and larger university law faculties in the Civil Law traditional approach, we estimate the overall number of professors to be about the same in the two nations at the time.

<sup>23</sup> Fossum, *supra* note 22 at 906

<sup>24</sup> See *infra* Sections II.B, II.C, II.D.

<sup>25</sup> This means that as late as 2004, the head count of women in law teaching in Japan did not even match where the U.S. had been thirty years earlier, even though the two professions overall had and have relatively similar overall employment counts. Osaka, *supra* note 7, at 243 (indicating total full-time law professors in Japan at all levels from assistant through full-professor Japan at just under 3,000 individuals).

<sup>26</sup> See *infra* Section III.C.

600 women in Japan's legal academy at present,<sup>27</sup> and this figure stands in stark contrast to that of roughly 2,500 women in full-time tenure or tenure track teaching (plus nearly 500 in senior administration) in AALS member schools in the U.S. in 2013.<sup>28</sup>

The authors later offer several considerations as to how and why the paths of women law professors in the U.S. and Japan differed so greatly. In the following section, the authors wish to begin this project by documenting the names and noting some of the essential career details of Japan's law teaching pioneers, hoping to inspire further research into these remarkable women and their stories.<sup>29</sup>

#### B. *Japan's First Cohort of Women Law Professors, 1944 – 1959*

We have identified eight women pioneers in Japan whom we would label as a first cohort entering the law teaching profession between 1944 and 1960.<sup>30</sup> We have not yet identified much information about these women as this calls for more substantial fieldwork to be carried out in Japan.<sup>31</sup> That said, one common experience shared by these early pioneers, excluding Professor Torii, is having lived through Japan's mid-twentieth century wartime and early post-war years: witnessing as young adults the profound difficulties of those times. One cannot help but imagine this would have had a significant impact on their values and world views.<sup>32</sup>

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<sup>27</sup> See *infra* Section III.C.

<sup>28</sup> AM. BAR ASSOC., *Legal Education and Admissions to the Bar*, ABA, (2013), [https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/statistics/2013\\_law\\_school\\_staff\\_gender\\_ethnicity.xlsx](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/2013_law_school_staff_gender_ethnicity.xlsx). More recent U.S. figures are difficult to ascertain. See Aziz, *supra* note 13 (estimating women to be between thirty-two percent to thirty-eight percent of profoundly different denominators).

<sup>29</sup> We sort the pioneers generally by date of first position in full-time law teaching (*i.e.*, as an Appointed Lecturer, Assistant Professor, or Full Professor). Consequently, this dis-orders them vis-à-vis age in years, university graduation, or otherwise, and, admittedly, leaves room for debate as to the order presented here. See *infra* note 30 (re. Professor Torii).

<sup>30</sup> We include Professors Doi and Torii in this earliest group, while noting that Professor Doi left the field for politics and government in 1969 and Professor Torii did not secure a genuine full-time tenure-track position until 1977. See *infra* text accompanying notes 55–56 and notes 71–75.

<sup>31</sup> We share what we might from available fragments of primarily online sources.

<sup>32</sup> For example, Professor Takako Doi witnessed and escaped from the March 1945 Allied firebombing of her home city Kobe, moving on to study constitutional law under the nation's new constitution with its renunciation of war in Article 9. NIHONKOKU KENPŌ [KENPŌ] [CONSTITUTION], art. 9 (Japan); *Doi Takako*, WIKIPEDIA (last visited Mar. 4, 2022), <https://ja.wikipedia.org/wiki/土井たか子>.

TABLE 1.1: FIRST COHORT 1944 – 1959

Year	Name	Field	First Position	Principal Career Location	Other Notes
1944	Yoshie Tateishi 立石芳枝	Civil Law/ Family Law	Meiji Women's Law Division	Meiji Jr. Women's College	Meiji Jr. Women's College, President; deceased 1973
1954	Shizuko Kimura 木村静子	Criminal Law	Kyoto Univ.	Seikei Univ.	Seikei Univ.; Dean; retired in 1996
1955	Kinko Nakatani 中谷瑾子	Criminal Law	Keio Univ.	Keio Univ.	Kyorin Univ.; Daito Univ.; deceased 2004
1955	Yasuko Hitomi 人見 康子	Civil Law/ Family Law	Keio Univ.	Keio Univ.	Keio Univ.; deceased 1998
1956	Teruko Yonetsu 米津昭子	Commercial Law	Keio Univ.	Keio Univ.	Keio Univ.; deceased 2010
1958	Takako Doi 土井 たか子	Constitutional Law	Doshisha Univ.	Political Career	Speaker of the House of Representatives of Japan; deceased 2014
1959	Kinuko Kubota 久保田きぬ子	Constitutional Law	Rikkyo Univ.	Seikei Univ.	Later Tohoku Gakuin Univ.; deceased 1985
1958 (Grad); 1976	Junko Torii 鳥居淳子	International Law/ International Private Law/ Comparative Law	Aichi Gakuin Univ.	Seijo Univ.	Seijo Univ.; retired in 2006

Japan's first woman employed in law teaching was Yoshie Tateishi, 立石芳枝, a specialist in the family law portions of Japan's Civil Code.<sup>33</sup> The daughter of a Kyoto District Court chief judge born in 1910, Professor

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<sup>33</sup> MINPŌ [MINPŌ] [CIV. C.] Part IV Relatives (親族), Part V Inheritance (相続) (Japan). Japan's Civil Code is one of the fundamental six codes that make up the essential core of Japanese law. Modeled in somewhat hybrid fashion from the French and German Civil Codes, it was first enacted during the Meiji era of modernization in 1898. Viewed from an Anglo-American perspective, the Code covers a vast range of legal matters including torts, contracts, property, family relations, and wills and trusts. COLIN P. A. JONES & FRANK S. RAVITCH, *The Civil Code, Family, Identity and the Civil Law Infrastructure*, in *THE JAPANESE LEGAL SYSTEM* 285 (1st ed. 2018).

Tateishi was in the first graduating class of the women's law division of Meiji University in 1932, together with the three other women who became Japan's first women lawyers and judges.<sup>34</sup> Professor Tateishi continued on to Tokyo Imperial University<sup>35</sup> for graduate studies as the law faculty's first woman graduate student before accepting an Assistant Professorial position back at the Meiji University Law Faculty's women's law division in 1944. Shortly thereafter, the women's law division was spun off into a junior college for women, and Professor Tateishi relocated her employment to continue teaching law there. Professor Tateishi eventually became the president of the Meiji Junior Women's College.<sup>36</sup> She passed away at age seventy-three in 1983.<sup>37</sup>

Roughly ten years passed before Japan increased its count of women law professors in the 1950s. In 1947, Shizuko Kimura, 木村静子, graduated from Japan Women's University in science and began law studies at Kyoto University the same year.<sup>38</sup> In 1948, she passed the national bar exam to begin the two-year training for entry into the legal profession.<sup>39</sup> In 1953,<sup>40</sup> Professor Kimura obtained a judicial appointment as a family law judge and

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<sup>34</sup> Meiji University Faculty of Law established Japan's first program for women to study law in 1929. The earliest class included Ai Kume, Yoshiko Mibuchi, and Nakata Masako, Japan's first licensed attorneys from 1938, who went on to distinguished careers including Mibuchi as one of the first two women to be appointed a judge in Japan. Hayashi, *supra* note 7; Mark Levin, *Gender and Law Scholarship in the Law in Japan Field: Comments for Harvard Law School's East Asian Studies Conference on Japanese Law*, Sept. 28–29, 2018, (Univ. Haw. Rsch. Paper No. 3044898), <https://ssrn.com/abstract=3044898>.

<sup>35</sup> Now, the University of Tokyo, colloquially known as Todai.

<sup>36</sup> No woman became the president of any of Japan's *public* universities until 2013, when Professor Hiroko Hayashi became president of Miyazaki Municipal University in the wake of a sexual harassment scandal. *See infra* note 103 and accompanying text.

<sup>37</sup> *Yoshie Tateishi*, WIKIPEDIA, <https://ja.wikipedia.org/wiki/立石芳枝> (last visited Mar. 4, 2022).

<sup>38</sup> SHIZUKO KIMURA, HANZAIRONSHŪ–HANZAI KŌSEI TO KOI [CRIME THEORY: ELEMENTS AND INTENT] (2016) (author biography page).

<sup>39</sup> *Id.* In Japan until the judicial system reforms of the early 2000s, it was extremely rare for law professors, male or female, to have also passed the national bar exam. The ordinary course was, and still is, through graduate academic studies in law, without professional training or background. Eric A. Feldman, *Mirroring Minds: Recruitment and Promotion in Japan's Law Faculties*, 41 AM. J. COMP. L. 465, 467 (1993) (explaining the ordinary course towards becoming a legal academic in Japan as entirely separate from the Judicial Training and Research Institute); Mark Levin, Stephine Jean Hembree & Catherine A. Taschner, *Whither Legal Scholarship in Japan?* (Feb. 1, 2010), <https://ssrn.com/abstract=1548075> (circumstances subsequent to the millennial reforms).

<sup>40</sup> Training at the Japanese Supreme Court's Judicial Training and Research Institute was a two-year program at the time. JONES & RAVITCH, *supra* note 33, at 211 (from two years in 1998 through successively shorter frames to the current duration of one year). It is unclear to us now why Professor Kimura's next position began five years later.

also accepted a position as an Appointed Lecturer at Kyoto University. One year later, she left the judicial track for an appointment to become an Assistant Professor as Kyoto University's first woman professor *in any department*.<sup>41</sup> She later became a Full Professor of law with a specialty in criminal law at Seikei University.<sup>42</sup> Professor Kimura went on to become the Dean of the law faculty at Seikei, the first woman to serve as a law faculty dean in Japan,<sup>43</sup> and served as a member of several national public policy commissions. She eventually retired with *emerita* status at Seikei University in 1996.<sup>44</sup>

In 1950, Keio University's law department graduated three women who set out on academic careers and ultimately joined the ranks of leading law professors in Japan. This early measure towards gender equity presents the school consistently with the school's position today, as noted below, of Keio's law faculty's gender balance standing above and apart from other Japan universities, being the closest to parity in the nation.<sup>45</sup> All three women graduated together and took on post-graduate research fellow positions to begin their career tracks. Kinko Nakatani appears to have been the first to gain a tenure track appointment in 1956, followed by Yasuko Hitomi in 1957, and Teruko Yonetsu in 1958.<sup>46</sup>

Kinko Nakatani's, 中谷 瑾子, research area was in criminal law, as her *sempai* (senior peer) Shizuko Kimura was doing at Kyoto University. Online information indicates Professor Nakatani's taking on a post-graduate research fellow position upon graduation before obtaining a promotion to a tenure track Assistant Professor position in 1956.<sup>47</sup> She was eventually

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<sup>41</sup> KIMURA, *supra* note 38. Professor Kimura was the only woman in *the entire university's faculty*, at the Assistant or Full Professor level, for eight years until Shizue Yanagishima's appointment into the School of Education in 1962. Kyoto University had no women at the Full Professor level until Professor Yanagishima's promotion to full professor in 1970, by which time Professor Kimura had already moved on to another university. Sono Hotta, データで見る京都大学の歴史：京都大学における女性教員 [Kyoto Univ. History through a Data Lens: Women Professors at Kyoto Univ.], 7 KYOTO UNIV. BUNSHOKAN 4, 5 (2004).

<sup>42</sup> KIMURA, *supra* note 38.

<sup>43</sup> *Id.* She was without peer in that role for decades. *See infra* Section III D.

<sup>44</sup> KIMURA, *supra* note 38.

<sup>45</sup> *See infra* Table 1.4 and accompanying text to Section III.C.II.C

<sup>46</sup> While Keio's appointment of three women in the 1950s was certainly distinctive, the door there closed shut behind them. The next woman appointed to a tenure-track position in Keio's law faculty was Professor Rieko Nishikawa in 1985. *See infra* Table 1.3.

<sup>47</sup> *Kinko Nakatani*, WIKIPEDIA, [https://ja.wikipedia.org/wiki/中谷\\_瑾子](https://ja.wikipedia.org/wiki/中谷_瑾子) (last visited Mar. 4, 2022). We are unsure whether Professor Nakatani skipped over the Appointed Lecturer position with promotion directly to Assistant Professor or if this is simply a gap in our information sources. Given that her colleagues both progressed through Appointed Lecturer slots on their career track, we guess the gap is in the information and

promoted to Full Professor in 1962. In 1987, Professor Nakatani moved to Kyorin University's School of Social Sciences, before returning to a law faculty Full Professor position at Daito University in 1991. Professor Nakatani passed away in 2004.<sup>48</sup>

Yasuko Hitomi, 人見康子, similarly took on a post-graduate research fellow position at Keio University upon graduation, with her specialty, like Professor Tateishi, being in the family law portion of Japan's Civil Code.<sup>49</sup> Professor Hitomi obtained a post as an Appointed Lecturer at Keio in 1955, and was promoted to Assistant Professor in 1962.<sup>50</sup> She continued teaching while earning a Ph.D. in law from Keio in 1962.<sup>51</sup> In 1970, she earned the title of Full Professor, continuing at Keio through to her retirement with *emerita* status in 1992, before passing away in 1998.<sup>52</sup> A prolific scholar, in 1999, her book "Women and Rights," a memoir while addressing a wide range of issues from marriage, to employment, to disability, was published posthumously and remains in print.<sup>53</sup>

Finally, among the three women legal scholars in Keio's class of 1950, is Teruko Yonetsu, 米津昭子, who specialized in corporate and commercial law. Professor Yonetsu's post-graduate research appointment commenced with her graduation, where she was recognized with two successive special national Ministry of Education scholarships. She moved up to an Appointed Lecturer position in 1956, after which she secured an Assistant Professor position in 1962. Keio promoted Professor Yonetsu to Full Professor in 1970, in the same year as Professor Hitomi. Just before her retirement with *emerita* status in 1993, Professor Yonetsu served for one year on Keio University's Governing Committee (評議会). She passed away in 2010.<sup>54</sup>

Takako Doi, 土井たか子, another member of Japan's earliest cohort, did not continue her career in the academy and instead moved to attain success at the highest level of Japan's political world. Professor Doi

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she would have gone up the university's career escalator in the ordinary fashion.

<sup>48</sup> *Id.*

<sup>49</sup> *Hitomi Yasuko sensei tsuitō kiji* [Obituary for Professor Teruko Yonetsu], 71 KEIO UNIV. J. L. POL. & SOCIO., 128, 128 (1998).

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> See generally YASUKO HITOMI, 女性と人権 [WOMEN AND RIGHTS] (1999).

<sup>54</sup> Chikako Suzuki, *Tokubetsu kiji, Yonetsu Teruko sensei tsuitō kiji* [Special Article: Obituary for Professor Teruko Yonetsu], 84 KEIO UNIV. J. L. POL. & SOCIOLOGY, 130–32 (2011); *Yonetsu Teruko: Keio dai meiyō kyōjyū ga shikyo* [Yonetsu Teruko, Emerita Professor of Keio University Passes Away], NIHON KEIZAI SHIMBUN (Nov. 1, 2010), [https://www.nikkei.com/article/DGXNASDG0101R\\_R01C10A1CC0000/](https://www.nikkei.com/article/DGXNASDG0101R_R01C10A1CC0000/).

graduated first in her class from Kyoto Women's University and subsequently matriculated as a third-year law student at Doshisha University's law faculty, graduating from that institution in 1950. She earned a doctorate degree from Doshisha in 1956 specializing in constitutional law, took on an Appointed Lectureship in 1958, teaching constitutional law for nearly ten years, while picking up adjunct lectureships at Kwansei Gakuin University and Seiwa Women's University. Politics eventually captured Professor Doi's attention, and she left teaching after being elected to the National Assembly in 1969, rising to national leadership positions including Speaker of the House of Representatives of Japan from 1993 to 1996. In her capacity as Speaker of the House, Professor Doi was hugely influential in bringing about Japan's ratification of the Convention on the Elimination of All Forms of Discrimination Against Women and in the enactment of the nation's first gender equity law in employment. Like Hillary Clinton,<sup>55</sup> it seems easy to characterize Professor Doi as singularly the most, or at least one of the most, significant and accomplished women in law, governance, and politics from the mid-twentieth century to the present day.<sup>56</sup>

Another remarkable member of Japan's first cohort of women professors is Kinuko Kubota, 久保田きぬ子.<sup>57</sup> Professor Kubota became a specialist in constitutional law, including American constitutional law, which, in light of the American influence in the drafting process for Japan's constitution,<sup>58</sup> was a topic of compelling concern for legal scholars in Japan in the early post-war years. Professor Kubota was born to a local political family on Sado Island in 1913, and graduated from Japan's Women's University in 1934.<sup>59</sup> Experiencing the wartime years led her to choose to return to school for law studies at age thirty-four, and she eventually graduated from the University of Tokyo's undergraduate law faculty in 1949

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<sup>55</sup> Author Levin views Professor Doi as reminiscent of Professor Hillary Rodham (later, Clinton), the Yale Law School graduate of the class of 1973 who had an early career placement in a tenure track position at the University of Arkansas Law School before stepping away to government and politics, where she also earned greater fame.

<sup>56</sup> *Supra* note 32; see generally Doi Takako, *Japanese Politician*, BRITANNICA, <https://www.britannica.com/biography/Doi-Takako> (last visited Mar. 5, 2022).

<sup>57</sup> See generally TOKYO UNIV. AM. STUD. CTR., KUBOTA KINUKO SENSEI NI KIKU [HEARING FROM PROFESSOR KINUKO KUBOTA], (Makoto Saito & Natsuki Ariga, interviewers, Am. Studies in Japan Oral Hist. Series, vol. 13, 1981) [hereinafter, KUBOTA ORAL HIST.].

<sup>58</sup> SHŌICHI KOSEKI, THE BIRTH OF JAPAN'S POSTWAR CONSTITUTION, (Ray A. Moore ed. & trans., 1997) provides a comprehensive and nuanced development of this history. It is reviewed in detail in Mark A. Levin, *Essential Commodities and Racial Justice: Using Constitutional Protection of Japan's Indigenous Ainu People to Inform Understandings of the United States and Japan*, 33 N.Y.U J. INT. L. & P. 419, 474 n. 190 (2001).

<sup>59</sup> KUBOTA ORAL HIST., *supra* note 57, at 40.



at age thirty-seven.<sup>60</sup> Immediately upon graduating from the University of Tokyo, Professor Kubota was appointed to a short-term special researcher position at the university.<sup>61</sup> She obtained a position in Spring 1952 as an adjunct professor at Japan Women's University,<sup>62</sup> taking a leave of absence just a few months after accepting to study at Princeton University for two years, which was all male in its undergraduate enrollment at the time.<sup>63</sup> In 1957, she obtained a post-graduate research fellow position at the University of Tokyo under the tutelage of Japan's foremost constitutional law scholar, Professor Toshiyoshi Miyazawa.<sup>64</sup> By the time Professor Kubota obtained her first tenure-track appointment at Rikkyo University in 1959, leading the school's U.S.-Japan Comparative Constitutional Law field, she had already, *inter alia*, co-authored a treatise on the new constitution with University of Tokyo Professor Kazushi Kojima.<sup>65</sup> She then published a Japanese-language translation of U.S. Supreme Court Justice and former Nuremberg War Crimes Trials Chief Prosecutor Robert Jackson's 1955 work, *The Supreme Court in the American System of*

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<sup>60</sup> *Id.* at 8. We have not documented her as the first woman to graduate from the University of Tokyo's law faculty, but we presume her to be among the first. In any case, she was the first woman graduate of the law faculty to go on to an academic law teaching career.

<sup>61</sup> *Id.* We presume this to have been given to her because she had not formally completed graduate law studies, but in recognition and support of her capacity to carry out sophisticated research work.

<sup>62</sup> *Id.* at 9.

<sup>63</sup> She applied to Princeton aiming to study with Professor Edward S. Corwin under the auspices of the Rockefeller Foundation and unaware of the gender-restricted circumstances. Rockefeller Foundation staff advised her that Princeton might not accept her and recommended to study instead with Professor Thomas I. Emerson at Yale Law School, which accepted women even while Yale College did not. Nevertheless, an acceptance letter from Princeton arrived and she departed soon after. However, her formal status was as a Rockefeller Foundation visiting scholar and not as an enrolled graduate student. *Id.* at 10–11, 14.

<sup>64</sup> *Id.* at 15. Having been deeply involved with the development of Japan's post-war constitution, and in light of his position at the University of Tokyo, Miyazawa had essentially no peer in this standing.

<sup>65</sup> Following Professor Miyazawa in time, the next most significant professor of constitutional law in post-war Japan was Professor Nobuyoshi Ashibe, whose vision and engagements especially as to human rights were unquestionably vital. Professor Ashibe is acknowledged for translation assistance below Professors Kojima and Ms. Kubota in status in the 1956 book project documentation. Without any intention towards disrespecting Professor Ashibe, it nevertheless warrants attention that Ms. Kubota's career course rose more slowly even while her accomplishments were also demonstratively impressive. See generally KAZUSHI KOJIMA & KINUKO KUBOTA, 日本の新憲法 [JAPAN'S NEW CONSTITUTION] (1956).

Government.<sup>66</sup> In 1961 and 1962, Professor Kubota served as a Special Representative for the Government of Japan to the United Nations General Assembly,<sup>67</sup> filling Attorney Ai Kume's post after Ms. Kume had become unavailable.<sup>68</sup> In later years in her career, Professor Kubota lectured in law at Seikei University, Japan Women's University, Waseda University, and Tohoku Gakuin University, while also serving on a number of national councils and commissions.<sup>69</sup> Professor Kubota passed away in 1985.<sup>70</sup>

The youngest member of this first cohort was Junko Torii, 鳥居淳子,<sup>71</sup> who ultimately made her career as a specialist in international and comparative law at Seijo University Law Faculty. Professor Torii was born in 1935 and graduated from the Nagoya University Faculty of Law in 1958. She began her graduate work as a post-graduate research fellow there. In 1961, she moved her graduate research affiliation to Aichi Gakuin University, and then to the University of Tokyo's Law Faculty in 1962. Maintaining her association with the University of Tokyo until 1976,<sup>72</sup> she furthered her studies with overseas research in the Netherlands and France, then taught as an adjunct at Kokugakuin and Dokkyo Universities,<sup>73</sup> before gaining full-time tenure-track appointment at Seijo University as an Assistant Professor in 1976.<sup>74</sup> In 1983, she earned a promotion to Full Professor, and served as Director of Legal Studies—counterpart to the

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<sup>66</sup> ROBERT H. JACKSON, *アメリカの最高裁判所* [THE SUPREME COURT IN THE AMERICAN SYSTEM OF GOVERNMENT] (Kinuko Kubota trans., 1957), <https://ci.nii.ac.jp/ncid/BN06296936>.

<sup>67</sup> In Japanese, 国連総会政府代表代理.

<sup>68</sup> This appointment came by way of the Japanese politician and feminist leader Ichikawa Fusae, though Professor Kubota had not been personally acquainted with her. While anxious about taking on the role, she was encouraged by Professor Miyazawa, who believed she could make a valuable contribution in the developing law of international human rights. KUBOTA ORAL HIST., *supra* note 57, at 16–18.

<sup>69</sup> *Id.* at 41.

<sup>70</sup> *Kinuko Kubota*, WIKIPEDIA, <https://ja.wikipedia.org/wiki/久保田きぬ子> (last visited Apr. 20, 2022).

<sup>71</sup> We have chosen to include Professor Torii in the first cohort in recognition of her completing her schooling in the 1950s and commencing her scholarly career at that time. She does not appear to have secured a tenure-track appointment however until 1976.

<sup>72</sup> *Abridged Resume of Professor Junko Torii*, 75 SEIJO L. REV. 業 197, 197 (2007), [https://www.seijo-law.jp/pdf\\_slr/SLR-075-154.pdf](https://www.seijo-law.jp/pdf_slr/SLR-075-154.pdf).

<sup>73</sup> Also, an appointment as a research assistant at the University of Tokyo's Department of Political Science.

<sup>74</sup> Her first appointment at Seijo University was for one year as an Assistant Professor to the Special Preparatory Measures Committee. This was in conjunction with the establishment of the law faculty which opened its doors in 1977 and her appointment moved to the law faculty upon its opening.

position of Associate Academic Dean at a U.S. law school—for the 1992-1993 academic year.<sup>75</sup> Professor Torii continued teaching at Seijo University even after her retirement with *emerita* status in 2006, while also carrying adjunct positions at Hosei University, International Christian University, and Tsuda Women's University.

*C. The First “Dark Age” and Japan’s Second Cohort of Women Law Professors, 1960 – 1977*

As previously mentioned, just six women entered the legal teaching profession in Japan between 1958 and 1977. As a result, this period in has become known to some as the first “dark age” in women’s professorial history in Japan’s legal academy.<sup>76</sup>

TABLE 1.2: SECOND COHORT 1960 – 1977

Year	Name	Field	First Position	Principal Career Location	Other Notes
Early 1960s	Sayoko Kodera 小寺初世子	International Law, Peace Studies	Hiroshima Womens' Univ. (Humanities Dept.)	Kagoshima Univ.	Osaka Int'l. Univ.; deceased 2001
1969	Mitsuko Akabori Mitsuko Shibuya 赤堀光子 渋谷光子	Corporate Law	Nagoya Univ.	Rikkyo Univ.	Retired in mid-1980s
Late 1960s or Early 1970s	Hatsuyo Suzuki 鈴木ハツヨ	Civil Law/ Family Law	Tohoku Gakuin Univ.	Tohoku Gakuin Univ.	Retired in 2004
1971	Taeko Miki 三木妙子	Common Law (UK)/ Family Law	Waseda Univ. (Comparative Law Research Institution)	Waseda Univ.	Waseda Law Faculty from 1992; retired in 2007
1972	Hiroko Hayashi 林弘子	Labor Law	Kumamoto Univ. of Commerce	Fukuoka Univ.	President Miyazaki Municipal University; deceased 2016

<sup>75</sup> Thanks to Professor Makoto Ibusuki, Seijo University Law Faculty, for confirming these points.

<sup>76</sup> Interview with Noriko Mizuno, Professor of Law, Tohoku Univ. Law Fac., in Sendai, Japan (Dec. 10, 2019).

1974	Michiyo Hamada 浜田道代	Commercial Law	Nagoya Univ.	Nagoya Univ.	Dean, later Japan Fair Trade Commission; retired from teaching in 2009
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There were almost no women entrants into the legal teaching arena in the early 1960s. Only Sayoko Koder, a specialist in international law and peace studies, Mitsuko Shibuya (*née* Akabori), who focused in corporate law, and Hatsuyo Suzuki, a family law specialist, were the first women to embark on legal teaching careers during the first dark age.

Sayoko Koder, 小寺初世子, went into teaching in the 1960s, though we presently have no record for the precise year. She appears in the American Society of International Law's published membership list for 1964<sup>77</sup> with no title, but an affiliation listed to the Humanities Department of Hiroshima Women's University.<sup>78</sup> In 1967, she secured a research grant from Japan's national science foundation (Japan Society for the Promotion of Science, JSPS or "Kaken") on the League of Nations' 1926 Anti-Slavery Convention, listed by then as an Assistant Professor.<sup>79</sup> Professor Koder regularly published in Hiroshima Peace Studies from 1978 onward on the topics of human rights treaties, nuclear weapons, forced labor, and war crimes.<sup>80</sup> The Japanese Annual of International Law identifies her as a Full Professor at Hiroshima Women's Univ. in 1983<sup>81</sup> (a published obituary

<sup>77</sup> *List of Members*, 58 AM. SOC'Y INT'L L. PROC. 259, 284 (1964). One of the U.S. women pioneers in law teaching, Soia Mentchnikoff appears as a participant in discussions. One can wonder whether Professor Koder made the trip to the annual meeting and had the chance to meet and talk with Professor Mentchnikoff then. Soia Mentchnikoff, *Disagreement on Substantive Standards and What to Do about It*, 58 AM. SOC'Y INT'L L. PROC., 129 (1964).

<sup>78</sup> *List of Members*, *supra* note 77. Professor Koder was a remarkable stand-out as a younger Japanese woman scholar in the American Society of International Law. She joined a true "A-List" of leading scholars, diplomats, and practicing lawyers in the organization connected to Japan including the Hon. Kotaru Tanaka (International Court of Justice), Hiroshi Owada (later President, International Court of Justice), Thomas Blakemore, Professor Teruo Doi (Waseda University), Professor Dan Henderson (Univ. of Washington), and Richard Rabinowitz. *Id.* at 259–308.

<sup>79</sup> *Sayoko Koder kakenhi* [JSPS Funding for Sayoko Koder], NIHON NO KENKYU.COM [JAPAN'S RESEARCH.COM], <https://research-er.jp/researchers/view/447335> (last visited Apr. 4, 2022).

<sup>80</sup> *Sayoko Koder*, CII: ARTICLES, <https://ci.nii.ac.jp/nrid/1000010084120> (last visited Apr. 4, 2022).

<sup>81</sup> *List of Members*, 26 JAPANESE ANN. INT'L L. 256, 259 (1983).

notes that she earned *emerita* status at some point),<sup>82</sup> at Kagoshima University's Law Faculty in 1985,<sup>83</sup> and she was later at Osaka International University.<sup>84</sup> She was a prolific researcher and writer in both English and Japanese on many subjects including the rights of Vietnamese "Boat People" under international laws of armed conflict,<sup>85</sup> reparations for Japan's legacy of wartime sexual slavery, and gender discrimination.<sup>86</sup> In addition, Professor Koderá was a Japanese translator of at least one major English legal work in her fields of specialty.<sup>87</sup> She passed away in 2001, at the young age of sixty-nine, in Hyogo Prefecture.<sup>88</sup>

Another woman pioneer in the legal teaching field during this era, Mitsuko Shibuya (*née* Akabori), 赤堀光子/渋谷光子 left law teaching despite early and mid-career success. After graduating from the University of Tokyo, reportedly at the top of her class,<sup>89</sup> she was in a post-graduate research fellowship there in 1968,<sup>90</sup> before becoming an Assistant Professor at Nagoya University.<sup>91</sup> Professor Shibuya published prolifically in the 1970s from Nagoya University and later at Rikkyo University in Tokyo,

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<sup>82</sup> Koderá Sayoko shi shikyo; Osaka Kokusai dai hōseikei gakubu kyōjyū, ō kokusai hō// [Passing of Ms. Sayoko Koderá, Osaka Int'l Univ. of Law, Politics, and Economics, Int'l Law], SHIKOKU NEWS (Aug. 1, 2001), <http://www.shikoku-np.co.jp/national/okuyami/article.aspx?id=20010801000179>.

<sup>83</sup> Sayoko Koderá kakenhi, *supra* note 79.

<sup>84</sup> Koderá Sayoko shi shikyo, *supra* note 82.

<sup>85</sup> Japan Soc'y for Promotion Sci., 戦時国際法(国際人道法)における一般住民の法的地位をめぐる理論と実際 [Theory and Practice Regarding the Legal Status of Civilians in the International Law of Armed Conflict (International Humanitarian Law)], NIHON NO KENKYU.COM [JAPAN'S RESEARCH.COM], <https://research-er.jp/projects/view/705264> (last visited Mar. 22, 2022).

<sup>86</sup> SAYOKO KODERA, 地球のうえの女性—男女平等のススメ [WOMEN IN THE WORLD: RECOMMENDING THE PROMOTION OF GENDER EQUALITY] (1997); **Error! Hyperlink reference not valid.** SAYOKO KODERA, 女性差別をなくすために [FOR THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN] (2000) [hereinafter KODERA, ELIMINATION OF DISCRIMINATION].

<sup>87</sup> THOMAS BUERGENTHAL, KOKUSAI JINKEN HŌ NYŪMON [INTRODUCTION TO INTERNATIONAL HUMAN RIGHTS LAW] (Sayoko Koderá trans., 1999) <https://www.amazon.com/Introduction-international-human-rights-ISBN/dp/4887133308> (last visited, April 4, 2022).

<sup>88</sup> Koderá Sayoko shi shikyo, *supra* note 82.

<sup>89</sup> E-mail from (author's name redacted) (July 10, 2021) (on file with journal).

<sup>90</sup> Mitsuko Akabori, *Torishmariyaku no chūjitsugimu* [Fiduciary Duty of Directors of Business Corporations], 85 HŌGAKUKYŌKAI ZASSHI 529, 529 (1968) (identification at Univ. of Tokyo).

<sup>91</sup> Mitsuko Akabori, *Doitsu yūgen kaisha hō; kaisei hōkokusha sōan oyobi riyūsho ni tsuite* [German Small Capital Corporation Law: Reporting], 505 SHŪKAN SHŌJI HŌMU 2 (1969) (indicating author's employment at Nagoya University).

with her last article being published in 1985.<sup>92</sup> We have found relatively little biographical history on Professor Shibuya aside from bibliographic records associated with her publications, but have heard speculation from one of her contemporaries that she left law teaching after divorcing, as she may have felt pressured by the circumstances of her ex-husband continuing to teach in the same field.<sup>93</sup>

Hatsuyo Suzuki, 鈴木ハツヨ, also appears to have begun law teaching in the late 1960s or early 1970s. By 1970, she was an Assistant Professor of law at Tohoku Gakuin University, as a specialist in the family law portion of Japan's Civil Code, earning awards from the Japan Society for the Promotion of Science in 1970 and 1971.<sup>94</sup> Professor Suzuki spent her entire professorship at Tohoku Gakuin University, ultimately attaining *emerita* status, all while maintaining her own private law practice until her retirement in 2004.<sup>95</sup>

Three later arrivals in this second cohort were Taeko Miki, a family law specialist with a comparative focus towards the common law of the United Kingdom ("U.K.") in 1971, Hiroko Hayashi, a labor law specialist, and Michiyo Hamada, a specialist in corporate governance and commercial law in 1974.

Waseda University is well recognized as one of Japan's foremost private universities, and its law faculty has enjoyed similar acclaim. Accordingly, Taeko Miki's, 三木妙子, attainment of professorial status there as an expert in the family law portion of Japan's Civil Code and U.K. family law was a notable achievement. However, equally notable was the remarkable persistence necessary for Professor Miki to succeed there.<sup>96</sup> Graduating from the undergraduate law faculty in 1960 and completing

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<sup>92</sup> Japan's National Diet Library lists twenty-seven works authored as Mitsuko Akabori and fifty-seven works authored as Mitsuko Shibuya between 1966 and 1985. *Kokuritsu Kokkai Toshakan Sa-chi* [National Diet Library Search], NAT'L DIET LIBR., <https://iss.ndl.go.jp/> (search for 赤堀//光子 and 渋谷//光子 in search entry field for author).

<sup>93</sup> E-mail, *supra* note 89.

<sup>94</sup> Japan Soc'y for Promotion Sci., 鈴木ハツヨ [Suzuki Hatsuyo], 日本の研究.COM [JAPAN'S RESEARCH.COM], <https://research-er.jp/researchers/view/391593> (last visited Mar. 22, 2022).

<sup>95</sup> Tohoku Gakuin University Research Group, *Bibliography and Publications of Professor Hatsuyo Suzuki*, 62 TOHOKU GAKUIN UNIV. L. REV. 3 (2004). Professor Suzuki's husband, Rokuya Suzuki, was a noted specialist in the property law portions of Japan's Civil Code and Dean at Tohoku University also in Sendai, a position later held by Professor Noriko Mizuno among the first women law deans in the nation. *Rokuya Suzuki*, WIKIPEDIA, <https://ja.wikipedia.org/wiki/鈴木禄彌> (last visited Mar. 4, 2022).

<sup>96</sup> Waseda Univ. Rsch. Grp., *Bibliography and Publications of Professor Taeko Miki*, 83 WASEDA L. REV. 300, 300–01 (2008); see also Katie Reilly, *Why 'Nevertheless, She Persisted' Is the Theme for This Year's Women's History Month*, TIME (Mar. 1, 2018), <https://time.com/5175901/elizabeth-warren-nevertheless-she-persisted-meaning/>.

graduate studies with two doctoral degrees by 1965,<sup>97</sup> Professor Miki was assigned to the margins with a post-graduate research fellow appointment only the law faculty's affiliated research institute, the Institute for Comparative Law Studies, in 1968.<sup>98</sup> She was promoted *inside the research institute* to Appointed Lecturer status in 1971, and promoted again to Assistant Professor in 1974. Five years later, including three years of study at University College London and the London School of Economics, she was promoted to Full Professor, still within the institute. After nearly twenty-five years as a working scholar and thirty-two years after her university graduation, Professor Miki became Waseda University Law Faculty's first woman teaching in law with a Full Professorship in 1992<sup>99</sup>. She then served as the only woman on the law faculty for almost the entire remainder of her career, until she was finally joined by Professor Mariko Kawano just three years before she retired with *emerita* status in 2007.<sup>100</sup>

While Hiroko Hayashi's life and career were based out of Kyushu in the west of Japan, her influence on the law extended nationwide. Professor Hayashi graduated from Kyushu University's Law Department in 1966, obtained a Master's degree in 1968, and continued on to earn a post-graduate research fellow position there. At the end of her studies, she earned an LL.M. at Tulane University as a Fulbright Exchange Scholar, making her the first of the women professorial pioneers to earn an advanced law degree outside of Japan.<sup>101</sup> Upon returning to Japan, she accepted an Appointed

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<sup>97</sup> Waseda Univ. Rsch. Grp., *supra* note 96. Professor Miki's graduate studies coincided with a historical event of U.S. Attorney General Robert F. Kennedy's visit to the Waseda Campus in 1962. ロバート・ケネディ [Robert Kennedy], WIKIPEDIA, <https://ja.wikipedia.org/wiki/ロバート・ケネディ> (last visited Mar. 4, 2022).

<sup>98</sup> Waseda Univ. Rsch. Grp., *supra* note 96. This position was in an ancillary research entity and it took twenty-five years before Waseda hired her into the main institution of the law faculty (with full voting standing, probably better pay, etc.). *Infra* text accompanying note 99.

<sup>99</sup> Waseda Univ. Rsch. Grp., *supra* note 96. On the one hand, this seems remarkably late in the twentieth century. On the other hand, we can acknowledge Waseda as being ahead of its peers such as the University of Tokyo or Kyoto University which still had *no* women full professors on their law faculties.

<sup>100</sup> *A Brief Biography of Mariko Kawano*, U.N. OFF. LEGAL AFF. (July 24, 2017), [https://legal.un.org/avl/pdf/ls/Kawano\\_bio.pdf](https://legal.un.org/avl/pdf/ls/Kawano_bio.pdf). While Professor Miki retired in 2007, her legacy in the school continues now with her former student Professor Yuki Hashimoto's appointment in family law in 2017. Professor Hashimoto joined two other women already on the Waseda faculty but is said to be the first woman scholar to have come up through the Waseda graduate and junior faculty ranks to a tenure-track position (as is most common for appointments of men), rather than needing to prove herself "in exile" before gaining an invitation to return. Yuki Hashimoto, My Experience in Waseda, Mini-Symposium on Women in Legal Education, William S. Richardson School of Law (Mar. 2, 2020) 4 (Powerpoint slides on file with journal).

<sup>101</sup> This is not meant to overlook non-degree studies and lecture posts that Professors Kubota and Torii had accomplished.

Lecturer position at Kumamoto University of Commerce. After another Fulbright appointment in the U.S. at Yale Law School in 1976, Professor Hayashi was promoted to Full Professor and remained at Kumamoto University of Commerce until 1985,<sup>102</sup> moving then to Fukuoka University Law Department and working there until her retirement from law teaching in 2013.<sup>103</sup>

With such a strong foundation from having studied abroad, Professor Hayashi was ably capable of producing scholarship and teaching in both English<sup>104</sup> and Japanese.<sup>105</sup> However, Professor Hayashi's most noted accomplishment was serving as the intellectual visionary and scholar-advocate as an expert witness for one of the most significant cases in Japanese law affecting women in the workplace—that is, the 1992 case recognizing a justiciable cause of action for damages for sexual harassment under Article 709 of Japan's Civil Code.<sup>106</sup> As noted below, she was the first

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<sup>102</sup> Hiroko Hayashi, Curriculum Vitae 2005 (on file with journal). Also in this time, she spent a year as American Council of Learned Societies Fellow in the New York State School of Industrial and Labor Relations, Cornell University and at Hastings College of the Law of the University of California. *See generally* 林弘子：その七十三年の生涯と活動 [HAYASHI HIROKO: SCHOLAR, LAWYER AND UNIVERSITY PRESIDENT] (Editorial Committee to memorialize Hiroko Hayashi, ed., 2020).

<sup>103</sup> *See infra* note 102.

<sup>104</sup> *See, e.g.,* Alice H. Cook & Hiroko Hayashi, *Working Women in Japan*, in *INSIDE THE JAPANESE SYSTEM: READINGS ON CONTEMPORARY SOCIETY AND POLITICAL ECONOMY* 286 (Daniel I. Okimoto & Thomas P. Rohlen eds., 1988); Hiroko Hayashi, *Sexual Harassment in the Workplace and Equal Employment Legislation*, 69 ST. JOHN'S L. REV. 37 (1995) (paper from a 1994 symposium “Women's Rights as International Human Rights” together with over a dozen leading U.S. practitioners and scholars in this field).

The University of Hawai'i Richardson Law School had the privilege of welcoming Professor Hayashi several times including for a full course teaching Gender and the Law in Japan in 2005. She arrived with companions of two formerly victorious plaintiffs and one leading advocate for workplace gender equality in Japan, giving our students a truly remarkable learning opportunity for each class with such an incredible panel. Other short-term scholarship and teaching posts were at Rutgers Law School and NYU (1993-94), NYU and Columbia Law School (1998), Duke University School of Law and Hong Kong University Faculty of Law (1999). *See generally infra* note 102.

<sup>105</sup> She was also a licensed lawyer with an active law practice from 2004, primarily representing women in employment discrimination cases. *Id.*

<sup>106</sup> MINPŌ [MINPŌ] [CIV. C.] art. 709 (Japan); Fukuoka Chihō Saibansho [Fukuoka Dist. Ct.] Apr. 16, 1992, 783 HANTA 60, 607 HANJI 49, 607 RŌHAN 6 (1992) (Japan); *see* Steven R. Weisman, *Landmark Sex Harassment Case in Japan*, N.Y. TIMES (Apr. 17, 1992); Steven R. Weisman, *Tokyo Journal*; *Sex Harassment: Glare of Light on a Man's World*, N.Y. TIMES (Nov. 13, 1989). *See generally* Leon Wolff, *Eastern Twists on Western Concepts: Equality Jurisprudence and Sexual Harassment in Japan*, 5 PAC. RIM L & POL'Y J. 509 (1996); Chika Shinohara & Christopher Uggen, *Sexual Harassment: The Emergence of Legal Consciousness in Japan and the US*, 7 ASIA-PAC. J.: JAPAN FOCUS, Aug. 3, 2009 (chart showing national newspaper articles including the word “sexual harassment” in



woman to become the president of a public university in Japan before her sudden passing in 2016, at the age of seventy-three.<sup>107</sup>

The daughter of a leading law scholar, Michiyo Hamada, 浜田道代, graduated high school after one year as an American Field Service exchange student in 1966 while in Texas.<sup>108</sup> She later graduated from Nagoya University in 1970, taking a post-graduate research fellow position upon completing her Ph.D. in law in 1972 before becoming an Assistant Professor in 1974.<sup>109</sup> She was promoted to Full Professor in 1985, with the additional distinction of being the first woman to obtain the full professor rank at any of Japan's most prestigious public law faculties, the seven former imperial universities. Before retiring from Nagoya University with *emerita* status, Dean Hamada served one year as the Dean of the university's law school. After retiring from that position, Dean Hamada continued to serve on Japan's Fair Trading Commission, and for some time in the capacity of acting chief. In April 2018, Dean Hamada was awarded the imperial honor of Orders of the Sacred Treasure.<sup>110</sup>

#### D. *The Second "Dark Age" and Japan's Third Cohort of Women Law Professors, 1977 – 1988*

Following the first cohort of eight pioneers and second cohort of six pioneers identified above, eleven women comprising the third cohort entered the male-dominated Japanese legal academy between the late 1970s and 1988, before another slowing for several years.<sup>111</sup> Finally, a steady arrival of women into the profession brought in a new cohort from the early

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Japan's Asahi Shimbun from 1985 and in the New York Times from 1975, with no mention of either "*sekushuaru harasumento* (sexual harassment)" or "*sekuhara*" in the Asahi Shimbun until 1988); Vicki L. Beyer, *Ladies & The Law: The Case That Recognized Hostile Workplace Sexual Harassment: One Woman's Early Battle Against Sexism At The Workplace*, SAVVY TOKYO (Oct. 10, 2018).

<sup>107</sup> Author Levin believes it is not hyperbole to reference Professor Hayashi as Japan's counterpart to Justice Ruth Bader Ginsburg—an influential scholar and advocate whose impact truly reshaped gender equality law inside Japan. The difference, as he has often remarked in public lectures, is that the Japanese government did not have the good sense to appoint Professor Hayashi to their Supreme Court. She would have shined brightly there.

<sup>108</sup> *Hamada Michiyo*, WIKIPEDIA, <https://ja.wikipedia.org/wiki/浜田道代> (last visited Mar. 4, 2022).

<sup>109</sup> At the time, she was just one of four women faculty in the entire university. Michiyo Hamada, *女性が変える大学* [*Women Changed the University*], 2011 IDE No. 10, 16 (2011).

<sup>110</sup> *Hamada Michiyo*, *supra* note 108.

<sup>111</sup> Despite having outstanding credentials, a number of them began their teaching careers in less elite or relatively obscure universities before proving themselves upwards to better-known law faculties. *See infra* Table 1.3.

1990s. We appreciate them too as important leaders and note the growth in the ranks of women in the field that continues to this day.<sup>112</sup>

TABLE 1.3: THIRD COHORT 1977 – 1988

Year	Name	Field	First Position	Principal Career Location	Other Notes
1977	Yoshiko Iwai 岩井宜子	Criminal Law/ Criminal Policy	Kanagawa Jr. College	Kanazawa Univ.	Retired in 2012
1982	Masako Kamiya 紙谷雅子	Anglo-American Law	Hokkaido Univ.	Gakushuin Univ.	Dean 2009 - 2011; currently teaching law
1983	Miyoko Tsujimura 辻村みよ子	Constitutional Law/Gender and Law	Seijo Univ.	Tohoku Univ.	Retired from Meiji University in 2020
1983	Yoshiko Kakishima (Terao) 柿嶋美子	Anglo-American Law	Tokyo Univ.	Tokyo Univ.	Retired in 2019
1983	Kiyoko Kinjo 金城清子	Women in Law/ Bioethics	Tokyo Kasei Univ.	Tsuda Juku Univ.	Ryokoku Univ.; Retired in 2011
1983	Noriko Mizuno 水野紀子	Family Law	Nagoya Univ.	Tohoku Univ.	Dean 2011 - 2013; currently teaching law
1984	Mutsuko Asakura 浅倉むつ子	Labor Law/ Gender and Law	Tokyo Metro Univ.	Waseda Univ.	Retired in 2019
1985	Yukiko Hasebe 長谷部由起子	Civil Procedure/ Alternative Dispute Resolution	Seikei Univ.	Gakushuin Univ.	Currently teaching law
1985	Kiyoe Kado 角紀代恵	Civil Law (Trusts and Property Law)	Toyama Univ.	Rikkyo Univ.	Retired in 2020

<sup>112</sup> *Infra* Section III.C.

1985	Rieko Nishikawa 西川理恵子	Common Law/ International Transaction/ International Private Law	Keio Univ.	Keio Univ.	Retired in 2021
1987	Yuriko Kaminaga 神長百合子	Gender and Law	Toho Gakuen School of Music. Jr. College	Senshu Univ.	Retired in 2014
1988	Hiroko Goto 後藤弘子	Gender, Juvenile Law/ Domestic Violence/ Criminal Law	Fuji Jr. College Economics Dept.	Chiba Univ.	Current Dean and teaching law

Leaving further biographical presentation to future authors, the individuals comprising this third cohort of late 1970s to early 1980s women entrants into the law teaching community in Japan generally held more progressive feminist perspectives and were not afraid to directly engage with gender and law contemporaries around the world. Indeed, these women broke new ground in the profession courageously, and opened paths that hundreds of women and male allies follow as their students and academic protégés.<sup>113</sup>

There is no plainly-marked boundary between the pioneers and their successors, but the late 1980s and early 1990s appear to represent that pivotal point in time. As the immediately preceding sections revealed, prior to 1988, there were only twenty-six women who had entered the law teaching profession in Japan. Most of these women law professors were the only ones teaching at their respective universities, in their city or region, and/or in their area of expertise.<sup>114</sup> This is not to dismiss or diminish the many significant contributions made by women law professors who came after them—many of whom were also often singular in their faculties and fields and faced significant gender barriers in their career efforts. However, by the early 1990s, the presence of women teaching law in Japan was

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<sup>113</sup> All have remarkable legacies through their work, and several continue with active scholarly engagements today. Their admirers are numerous, as was evident from Levin's opportunities to hear many appreciative stories in 2018 and 2019.

<sup>114</sup> The recent Pixar short animation *Purl* cleverly presents one knitting ball's (!) experience as the first and only female in an old-boy style office and promotes the values of diversity and equality benefitting both men and women. We do not suggest the story is inevitable or universal, but it at least seems to be a plausible portrayal of what has been real for many. Pixar, *Purl* | *Pixar SparkShorts*, YOUTUBE (Feb. 4, 2019), <https://www.youtube.com/watch?v=B6uulHpFkuo>.

becoming much more accepted and their status in the profession at least relatively more secure.<sup>115</sup>

### III. PRESENCE: COUNTING WOMEN LAW SCHOLARS IN JAPAN TODAY

#### A. *Background*

In the U.S., even when over-simplifying gender to a male/female binary, it is surprisingly difficult to count women's representation in the legal academy. The last carefully detailed survey by the American Association of Law Schools was published in 2013.<sup>116</sup> More recent surveys elide and confound categories making the task more difficult.<sup>117</sup> This is in part because American law schools vary tremendously in their faculty status categories—with positions that include so-called doctrinal or podium teachers, clinicians, legal research and writing teachers, librarians, specialists, and administrators. Positions may be tenured, tenure-tracked, or neither. They may be full or part-time. They may draw upon the most common ranks of assistant, associate, and full professor, or add in others such as adjuncts, lecturers, and another range of visiting positions some of which come close to replicating entry-level (or just pre-entry-level) standing.

These challenges increase exponentially when looking at Japan. To begin with, Japan teaches law in a wide range of environments. The vast majority of students studying law, and individuals teaching law, do so in undergraduate faculties with the core of the institution's program centered around law in a relatively classic manner from the civil law tradition. Often, but not always, law faculties are combined with their university's political science, public administration, and/or international relations faculties. These will be referenced to as *undergraduate law faculties*. However, law is also taught and studied in more broadly cross-disciplinary programs with law not at the center, such as law teaching in schools with larger economics, business, social science, or humanities programming foci. Though the term is not used in Japan, the closest analog might be undergraduate legal studies

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<sup>115</sup> To be clear, the transition in the U.S. for women in legal education from “tokenism to normalcy” some years earlier also had many challenges and difficulties. Marilyn J. Ireland, *Women's Entry Into the Law Teaching Profession: Cracking the Door Open*, 80 U.M.K.C. L. REV. 695, 695 (2012). Further, “normalcy” itself is not the end goal, but an intermediate step towards parity. In between, one may find “‘a critical mass’ (somewhere over thirty percent of a particular workplace) [to be] truly ‘heard’”. Menkel-Meadow, *supra* note 2, at 44, n. 170 provides multiple citations from studies of business organizations as well.

<sup>116</sup> AM. BAR ASSOC., LEGAL EDUCATION AND ADMISSIONS TO THE BAR (2013), [https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/statistics/2013\\_law\\_school\\_staff\\_gender\\_ethnicity.xlsx](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/2013_law_school_staff_gender_ethnicity.xlsx).

<sup>117</sup> See, e.g., DEO, *supra* note 13; Aziz, *supra* note 13; Ryan & Dawe, *supra* note 13.

programs in the U.S., and while there is not a precise term in Japanese, we will reference these as *law-and departments*.<sup>118</sup>

Japan also has vital graduate level studies for law in Japan—here with at least two key variants. First, typically affiliated closely with the larger law faculties, are academic *graduate law programs*, producing the next cadre of law professors with masters and doctorates in law. The faculties of Japan’s graduate law programs are invariably associated with a law faculty and typically overlap almost precisely. Secondly, Japan has established approximately thirty-five *law schools* since 2004, which focus on professional training for aspiring legal professionals—lawyers, prosecutors, and judges—aiming to take Japan’s challenging and competitive bar examination.<sup>119</sup> Sometimes referred to as “American-style” law programs, these may or may not be associated with a university’s law faculty or have overlapping faculty memberships.<sup>120</sup> They also ordinarily include adjuncts and clinicians, hired to teach from current or prior professional experience as lawyers, prosecutors, and judges.<sup>121</sup>

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<sup>118</sup> For instance, at Fukushima University, law is taught within the university’s Faculty of Administration and Social Sciences. *Faculty of Administration and Social Sciences*, FUKUSHIMA UNIV., <http://english.adb.fukushima-u.ac.jp/academics/ads.html> (last visited Mar. 3, 2022).

<sup>119</sup> Japan has even yet another educational setting for law teaching, which is that of the Supreme Court’s Judicial Training and Research Institute, a required pathway for all aspiring legal professionals after having passed the national bar examination. Its faculty is made up judges and other practicing legal professionals on temporary assignment. See Makoto Nakamura, SUPREME COURT OF JAPAN GENERAL SECRETARIAT LISTING, 司法研修所教官名簿(令和2年4月10日現在) [JTTRI faculty directory as of April 10, 2020], <https://yamanaka-bengoshi.jp/wp-content/uploads/2020/07/司法研修所教官名簿（令和2年4月10日現在）.pdf> (relative gender balances among professional categories). While some do choose to publish scholarly writings in legal journals, we have not included these individuals in our counting owing to the fact that their postings are transitory, rather than career placements as teachers and scholars.

<sup>120</sup> One can contrast Hokkaido University’s law program where the faculties of its law school and law department (within its Graduate School of Law) are substantially overlapping, with Keio University where the law faculty and law school are fundamentally segregated. *Compare Faculty Members of Hokkaido University Graduate School of Law and School of Law*, HOKKAIDO UNIV., <https://www.juris.hokudai.ac.jp/en/faculty-members/> (last updated May 17, 2018), with *Keio University Faculty of Law*, KEIO UNIV., <https://www.law.keio.ac.jp/en/staff/> (last visited Mar. 3, 2022), and *Keio University Law School*, KEIO UNIV., <https://www.ls.keio.ac.jp/en/faculty.html> (last visited Mar. 3, 2022). Undergraduate students in Keio University’s law faculty are instructed for their first two years at an entirely separate campus from the location of upper-level instruction and the law school, roughly one hour apart by public transit. *About Faculty of Law, Keio University*, KEIO UNIV., <https://www.law.keio.ac.jp/about/#ct05> (last visited Mar. 3, 2022).

<sup>121</sup> For example, Keio University Law School’s faculty listing of fifty-eight members which includes a diverse slate of career scholars together with current or former lawyers, judges, and public prosecutors. See *id.*

As to employment status and hierarchy, the most common categories in Japan today are a progression from graduate studies in law, to research fellow and assistant positions, which are typically not tenure-tracked, to lecturer, associate, and full-professor positions, which are generally either tenure-tracked or with academic tenure, and finally to a senior cadre of professorial faculty who relocate or are re-hired at their career-based university on contract upon the attainment of specified mandatory retirement age limits.<sup>122</sup>

Combined, and then with non-law programming filtered out, we consider these programs to represent the whole of *the legal academy in Japan*. This larger ecosystem includes the individuals who teach, study, and write scholarship about law in Japan, in the above-described diverse range of environments, a group we label as the legal academy's *professoriate*.

### B. Methodology

Recognizing that there is a necessary degree of arbitrariness and imprecision, we have tried to assess the gender balance of Japan's legal professoriate today, *i.e.*, the cadre of persons making academic careers in university level legal education as doctrinal law teachers and productive research scholars, viewing this group as the nearest counterpart to the ranks of doctrinal law teachers in the U.S. Our counting method was as follows:

We have inquired as to faculty members in any program of law teaching at higher education levels, though our primary attention has been to the larger law faculties and law schools which constitute the main site of law teaching and scholarly endeavors in Japan.<sup>123</sup>

We do not include teachers at the Supreme Court's Judicial Training and Research Institute.<sup>124</sup>

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<sup>122</sup> Another facet of the puzzle here pertains to recruiting and hiring processes for Japan's professoriate as well as consideration of differences from comparable modalities in the U.S. We will set that exploration aside for purposes of this paper, noting however that these situations are deeply problematic and dynamic. As to Japan, *see, e.g.*, Makoto Ibusuki, 日本における法学研究者養成をめぐる現状と課題 [*Circumstances and Issues concerning the Development of Law Scholars in Japan*], 87 SEIJO L. REV. 49 (2020), [https://www.seijo-law.jp/pdf\\_slr/SLR-087-049.pdf](https://www.seijo-law.jp/pdf_slr/SLR-087-049.pdf); Mark Levin, Stephine Jean Hembree & Catherine A. Taschner, *Whither Legal Scholarship in Japan?* (Feb. 1, 2010), <https://ssrn.com/abstract=1548075>. As to the U.S., *see, e.g.*, *Barriers to Entry*, in DEO, *supra* note 13, at 12–34.

<sup>123</sup> We appreciate this in and of itself involves a degree of comparison between apples and oranges of one system that teaches mainly to undergraduates and another at the professional level. Our rationale here is in a search for who teaches law and what scholarship are they creating in the respective locations. This however points to the potential for study that takes in other locations with particular attention to more similarly structured educational environments such as in continental Europe. Thanks to Professor Giorgio Columbo of Nagoya University for his important suggestion here.

<sup>124</sup> We did, however, for comparison purposes, quickly assess the gender balance

We include tenured and tenure-track faculty for primary attention, taking note when possible to count at more junior levels of faculty status (*i.e.*, research fellows, lecturers, and assistants), as bellwether indicators with regards to the future.

We exclude faculty in law faculties and “law-and” departments teaching political science, economics, international relations, public administration, and the like, but include faculty teaching legal history, legal philosophy, law and society, and comparative and international law.<sup>125</sup>

We have generally excluded faculty who teach as adjuncts or clinicians hired to teach from current or prior professional experience as lawyers, prosecutors, and judges, but have included those individuals who have apparently moved into the professoriate, mainly as evidenced by scholarly research productivity.<sup>126</sup>

We note that we have over-simplified our accounting to a male/female binary, though we are not aware of any persons in the legal academy’s professoriate who publicly identify as gender non-binary.

We carried out this accounting by employing two methods. For the most part, we inquired to persons known to us at these schools and worked through the counting in face-to-face or online conversations or e-mail exchanges to maximize clarity in our communications and maintain consistency as best as possible. Additionally, we have drawn from online faculty directories, trying to resolve male/female gender from what we believed to be obviously gender-indicative first names, photographs online, or if ultimately unsure, inquiry with friends and acquaintances.<sup>127</sup>

All the tabulations were done as to faculty in either the 2019-2020 or 2020-2021 academic year. Because this information is apparently not documented in anyone’s ordinary course of business, our sample is a pure

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of the JTRI’s current teaching staff. Of 80 teaching staff and directors, 13 (16.25%) are women. Broken down by profession, neither of the two judge/directors (0%), 7 of 30 judges (23.33%), 1 of 16 prosecutors (6.25%), and 5 of 32 lawyers (15.63%) are women. Thus, the figures for judges and lawyers roughly comport to the percentage of women in those two professions (26.2% and 18.4% women respectively), while reflecting the seniority of the instructors who are mainly with about 20 years of practice experience. But the data skews poorly for prosecutors whose ranks are in fact around 23.5% women. Nakamura, *supra* note 119.

<sup>125</sup> Here too, we acknowledge a degree of arbitrariness in the division, but maintain that this is the best line drawing for the comparison we are seeking to accomplish with attention to teaching and scholarship about law.

<sup>126</sup> We limit the pool in this manner in light of the fact that individuals we have included generally have longer tenures in teaching, are the principal generators of published scholarship, and have the most active influential roles in faculty governance of the institutions.

<sup>127</sup> See *supra* note 17. At the same time, the authors encourage further investigation to replicate or test our studies and go further to include a broader range of schools in Japan and beyond for international comparisons.

convenience sample of larger schools where we had access to a faculty member whom we could impose upon during this very busy and challenging academic season, though we have tried to be somewhat representative as to geography and public/private university status.

### C. Results<sup>128</sup>

TABLE 1.4: WOMEN FACULTY % AT JAPANESE LAW FACULTIES, 2019 – 2020

Law Faculty	Public/Private * (former imperial university)	Women Faculty %
Keio Univ. Faculty of Law	Private	29.63%
Tohoku Univ. Faculty of Law	Public*	22.64%
Osaka Univ. Faculty of Law	Public*	19.05%
Kyoto Univ. Faculty of Law	Public*	18.87%
Nagoya Univ. Faculty of Law	Public*	17.50%
Seijo Univ. Faculty of Law	Private	15.00%
Hokkaido Univ. Faculty of Law	Public*	12.50%
Fukuoka Univ. Faculty of Law	Private	12.12%
Waseda Univ. Faculty of Law	Private	8.89%
Univ. of Tokyo Faculty of Law	Public*	5.45% <sup>129</sup>
<b>AVERAGE</b>		<b>15.80%</b>

The current male/female balance of law scholars teaching and writing in Japan appears to be roughly fifteen percent women and eighty-

<sup>128</sup> This is not to overlook the fact that quantitative circumstances represent only part of the lived experiences for women in legal education. *See, e.g.,* Menkel-Meadow, *supra* note 2, at 44 n. 171 (“Measuring diversity in legal education includes both this ‘counting’ of numbers, (faculty, students, administrators) called ‘structural diversity,’ as well as trying to assess more ‘interactional diversity’”); *see also id. citing* M. Torchia, A. Calabro & M. Huse, *Women Directors on Corporate Boards: From Tokenism to Critical Mass*, 102 J. BUS. ETHICS 299 (2011).

<sup>129</sup> We include Professor Masami Okino in this tally. She has continued to teach a full load of courses, while also serving in prominent senior administrative positions. E-mails from Daniel Foote, Professor of Law, Univ. of Tokyo Fac. of Law (Aug. 17, 2020 & Apr. 4, 2022) (on file with author).



five percent men.<sup>130</sup> The current typical norm appears to be between ten and twenty percent women, though outliers are evident at both ends of the spectrum. Depending on how one chooses to assess it, this perhaps shows modest progress in the past two decades when, in a look back to 2004, we can estimate the corresponding number would have been about eight to ten percent.<sup>131</sup>

Keio University, a private university, appears to take the prize at the top with nearly thirty percent of its law faculty being women and Tohoku University, a public university, comes in second place at twenty-three percent. It is worth noting that Tohoku's number increases to twenty-five percent with its non-tenured-tracked junior faculty counted in, so perhaps the future there will be brighter.

At the other end are two schools that are among the nation's most prestigious in public and private education. Certainly, no one questions the University of Tokyo's status as Japan's most elite educational institution in terms of the development of the nation's governmental, political, and economic elites. After two female hires in April 2020 and counting Professor Masami Okino during her current service in administration, only three of fifty-five faculty members are women there.<sup>132</sup> Meanwhile, private

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<sup>130</sup> U.S. law faculty data is also somewhat difficult to resolve, but our best estimate for a comparator is in the low or mid-40s. The last comprehensive ABA survey disaggregating across lines of tenure status, teaching role, race and ethnicity, etc. was completed in 2013. AM. BAR ASSOC., *supra* note 28. With 2018 data for all full-time faculty at 203 U.S. law schools, the mean gender balance came in with 45.9% women. The range presented from City University of New York with 72.5% of its faculty being women, to Appalachian School of Law with just 16.3% of its faculty being women. The modal decile was 40 – 49.9% women representing, while 88% of all schools had 30 – 59.9% women on their full-time faculty. “Top 25” schools tended towards greater male dominance numerically. None had a majority of women faculty; 23 of them came in below the US average, and, of these 11 are among lowest rank with full-time female faculty less than 40%.

On this calculation, the University of Hawai'i's balance was precisely 50 / 50. We know, however, that this masks over status differences. As with many U.S. schools, UH demonstrates somewhat of a pink ghetto. A June 2020 review by Levin found the overall balance as 42% women, with “doctrinal” faculty (32% women) counterbalanced against a greater number of women among our law librarians and faculty specialists (56%). Concerns regarding such pink ghettos in U.S. law schools have been carefully presented as early as 2005 in Angel, *supra* note 3.

<sup>131</sup> Comparison here is again challenging. Osaka provides data for all full-time faculty (from professors through to assistants) at 13.5% and then full professors at 6.7%. See Osaka, *supra* note 7 and accompanying text.

<sup>132</sup> This chart is calculated for both numerators and denominators as of Spring 2020. In April 2019, following the retirement of Professor Yoshiko Kakishima, Professor Okino became the only tenured female faculty member in law at the University of Tokyo. She has been serving in senior administrative positions for the past few years, with a full load of ongoing teaching responsibilities. Accordingly, we had the count as one until two new hires arrived in the Spring of 2020. Even more recently, the University of Tokyo Law

Waseda University's law teaching staff, combining its law faculty and law school, is more than double the size of the University of Tokyo, but comes out with just six tenure or tenure-tracked women professors among approximately ninety persons, equating to below seven percent.<sup>133</sup>

In light of this, it seems fair to view Japanese law schools and law faculties in the framework of three tiers.

Japan's law schools and law faculties with twenty percent women or more are at the top of the program. Although they may still be a long way from gender parity, these schools surely deserve credit for being at the front and leading the way progressively in Japan. Indeed, some may find value in looking to their models for insights into how this manner of gender equity can be accomplished in the Japanese setting.

Schools and faculties with ten to twenty percent women representation can perhaps take comfort that their circumstances appear to place them squarely among the norm for law teaching and scholarship in Japan today. We would assign a yellow flag for caution that being in the center does not mean being in the right place *per se*. We would worry if the male-dominated faculties and administrations at these schools see their being in the mode as suggesting the circumstances are adequate and that women's representation currently suffices.<sup>134</sup>

Most importantly, we hope that that schools having ten percent women or fewer of their academic faculty will assiduously reconsider the current gender inequality and energetically engage towards reform.<sup>135</sup>

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Faculty increased its number of women scholars with three further hires, including Professor Carol Lawson, who brings diversity as a non-native Japanese as well. E-mails from Daniel Foote, Professor of Law, Univ. of Tokyo Fac. of Law (Oct. 31, 2019, Aug. 17, 2020, & Apr. 4, 2022) (on file with author). Cf. Motoko Rich, *At Japan's Most Elite University, Just 1 in 5 Students Is a Woman*, N.Y. TIMES (Dec. 8, 2019), <https://www.nytimes.com/2019/12/08/world/asia/tokyo-university-women-japan.html> (noting the persisting gender imbalance among Univ. of Tokyo students); Daniel Foote, *Ma no tayōsei to wa [Defining Genuine Diversity]*, TOKYO DAIGAKU SHIMBUN [UNIV. OF TOKYO NEWS] 1, Aug. 8, 2019 (advocating for increased diversity at Univ. of Tokyo as to gender in the student make-up and with regards to pedagogy in legal education in Japan, not only diversity as to career and academic backgrounds).

<sup>133</sup> Here though it is vital to recognize the work being done at Waseda Law School, led by Professor Kyoko Ishida, in developing and sustaining the Female Lawyers Project. See *supra* note 6. It may also be noted that the University of Tokyo has helped provide graduate school and post-doctoral level training opportunities for aspiring women scholars who then moved on to careers in the legal academy elsewhere in Japan.

<sup>134</sup> The fact of modest change in the gender balance since 2004, as noted above, is reassuring. Many, if not most, of our informants also expressed optimism for how things have improved in recent decades and seem to be moving in a positive direction.

<sup>135</sup> We appreciate the challenges here. Legal education does not operate in a vacuum, but rather exists inside a complicated web of political, economic, and cultural social dynamics and attitudes. Such external circumstances may impede the capacity of well-intended individuals and institutions trying to address gender imbalances in hiring and

Regardless of what may have precipitated the imbalance, presumably a mix of individual, institutional, and structural factors implicating both explicit and implicit biases,<sup>136</sup> the status quo is unfortunate. We believe it does not serve men or women law students well, or Japan as a whole for that matter.<sup>137</sup>

Moreover, all of Japan's law schools and faculties ought to be systematically gathering this data and sharing it transparently with the public. We encourage this manner of data collection and sharing, perhaps with other measures of diversity and inclusivity relating to race, nationality, and sexual orientation, gender identity and expression, and sexual characteristics ("SOGIESC")<sup>138</sup> for openly identifying persons, to be incorporated into the work of the Ministry of Education's oversight and the Japan Association of Law Schools' programming.<sup>139</sup>

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faculty retention. See Lambert, *supra* note 3; Rich, *supra* note 92 (quoting famed Japanese gender studies scholar Chizuko Ueno's observation that Univ. of Tokyo's gender imbalance is a "symptom of inequality that extended beyond higher education.") (emphasis added). That said, there must also be a limit as to how much excuse should be allowed by claiming a limited pool of talent as a defense. Cf. *Wells Fargo CEO Apologizes for Comments About Finding Qualified Black Applicant*, PBS NEWS HOUR, (Sept. 23, 2020 1:15 PM), <https://www.pbs.org/newshour/nation/wells-fargo-ceo-apologizes-for-comments-about-finding-qualified-black-applicants> (noting how the comments lead to "an intense backlash in Washington and on social media.").

<sup>136</sup> See DEO, *supra* note 12, at 193 n. 30 (2019) ("[I]nstitutional discrimination refers to bias within particular institutions embedded in society, whereas *structural discrimination* refers to the collection of these various institutions and the broader structure that encompasses them." (emphasis in original), citing Fred. L. Pincus, *Discrimination Comes in Many Forms: Individual, Institutional, and Structural*, in READINGS FOR DIVERSITY AND SOCIAL JUSTICE 31 (Adams et. Al. eds. 2000)).

<sup>137</sup> See Rich, *supra* note 132; Foote, *supra* note 92.

<sup>138</sup> SOGIESC is the preferred term in international human rights discourse. ARC INTERNATIONAL, INTERNATIONAL BAR ASSOCIATION & THE INTERNATIONAL LESBIAN, GAY, BISEXUAL, TRANS AND INTERSEX ASSOCIATION (ILGA), SEXUAL ORIENTATION, GENDER IDENTITY AND EXPRESSION, AND SEX CHARACTERISTICS AT THE UNIVERSAL PERIODIC REVIEW 138 (2016), [https://ilga.org/downloads/SOGIESC\\_at\\_UPR\\_report.pdf](https://ilga.org/downloads/SOGIESC_at_UPR_report.pdf). See generally David Brown, *Student Note -- Making Room for Sexual Orientation and Gender Identity in International Human Rights Law: An Introduction to the Yogyakarta Principles*, 31 MICH. J. INT. LAW 821, 821–80 (2009).

<sup>139</sup> While we appreciate the vital importance of intersectionality in consideration of gendered circumstances in Japan's legal academy, we will skip over an exploration of the situation presently. To be clear, we know that multiplicity of marginalizing forces will often have an exponentially detrimental impact on the individuals involved, but in Japan, the situation is either one of very few persons and missing data (in the cases of race, ethnicity, caste, indigeneity, disability, and nationality), or deep closets (sometimes in the cases mentioned above, and in the cases of sexual orientation, gender identity and expression, and sexual characteristics), that investigation becomes too challenging for us to take on here. As to U.S. writings considering these matters, see, e.g., Pauli Murray and Mary O. Eastwood, *Jane Crow and the Law: Sex Discrimination and Title VII*, 34 GEO.

D. *Another Aspect of Presence: Women in Administrative Leadership Positions*

Perhaps not surprisingly, women have also been, and remain, profoundly under-represented in senior positions within law faculties and at higher levels of university administration.

We have previously noted a report indicating Professor Shizuko Kimura as having served as the Dean of Seikei University Law Faculty, though the date and details are unclear for us.<sup>140</sup> Given that she retired in 1996, her appointment would certainly have predated that year and thus, made her the first woman in Japan to hold such a position. It appears that it was not then until 2008 when Professor Michiyo Hamada served just one year as the Dean of the Law School at Nagoya University before retirement, and in 2009 when Professor Masako Kamiya became the Dean at Gakushuin University's Law Faculty for two years, that any other women achieved this ranking.<sup>141</sup>

Since 2009, a few other women have become deans of law faculties and law schools, but suffice it to say, that most have never had a woman dean serve for the school in their entire histories. Professor Noriko Mizuno became Dean of Tohoku University's law faculty just weeks after the triple disaster of March 11, 2011 devastated the city and impacted the lives of nearly all of the students, faculty, and staff.<sup>142</sup> A 2019 list of Deans of Japan's thirty-five professional law schools include just four women: Dean Hiroko Goto at Chiba University, Dean Emiko Kubono at Tohoku University, Dean Hiromi Mine at Tokyo Metropolitan University, and Dean

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WASH. L. REV. 232 (1965), and Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139; DEO *supra* note 12.

<sup>140</sup> KIMURA, *supra* note 38 and accompanying text.

<sup>141</sup> Though not the dean *per se*, Professor Junko Torii served two years as Director of Legal Studies (法律学科 主任) from 1990 at Seijo University's law faculty. This is a well-regarded post comparable to the Associate Dean for Academic Affairs at many U.S. law schools.

<sup>142</sup> While no lives were lost among the law faculty or law school's students, faculty, and staff, many had losses among family and friends. In any case, the disruption from the disaster was enormous. Interview with Noriko Mizuno, *supra* note 79.

Miki Sato at Kanazawa University.<sup>143</sup> This calculates to eleven percent of the total number of deans.<sup>144</sup>

Meanwhile, few women have attained the ranks of University President at any of Japan's universities or colleges, though we have identified at least three law scholars to have done so. Professor Yoshie Tateishi, Japan's first woman law professor, became president of Meiji University Junior College, a women's college that emerged from Meiji's Women's division and operated from 1950 to 2007.<sup>145</sup> Professor Hiroko Hayashi left Fukuoka University in 2013 to become President of Miyazaki Municipal University, notably becoming the first woman to become president of any public mixed-gender university in Japan.<sup>146</sup> Finally, Professor Itsuko Nakai, a specialist in international public law and formerly Dean of Konan University's Law School, now serves as that university's President.<sup>147</sup>

#### IV. VOICE: WOMEN'S REPRESENTATION IN LEGAL SCHOLARSHIP PUBLICATIONS

##### A. Background

Japan's legal academy supports a substantial base of scholarly research and publications in academic law journals sponsored by both individual law faculties and private for-profit publishing. While the nation's

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<sup>143</sup> Tokyo University Law School would have had Dean Masami Okino listed here, but her two-year term was interrupted by her exemplary promotion to the post of Vice Dean for the overall Graduate Schools for Law and Politics. In the University of Tokyo's hierarchy, this position ranks higher than the dean of the Law School. Thanks to Professor Daniel Foote, Tokyo University Law Faculty, for confirming these and related points.

<sup>144</sup> Corresponding to thirty-six percent women law deans in the U.S. in June 2019. James Rosenblatt, *Deans Database*, MISS. COLL. L., <https://law.mc.edu/deans-database> (last visited June 28, 2019). Differences in selection processes may be impactful here and we hope that will be studied further in subsequent work.

<sup>145</sup> Meiji University, 女子同窓会のご案内（短期大学卒業の方） [*Information for Girls' Reunion (For Those Who Graduated from Junior College)*], MEIJI UNIV., <https://www.meiji.ac.jp/meitan/angel.html> (last visited Aug. 16, 2020).

<sup>146</sup> E-mail from Hiroko Hayashi, Professor of Law, Fukuoka Univ. Fac. L., to author (Nov. 20, 2012) (on file with author). At the time, there were nearly 200 national and locally administered public universities. 文部統計要覧令和2年\_大学.xls [*Reiwa 2 Overall Statistics on Education: Universities*] (E-mail from Kyoko Ishida, Professor of Law, Waseda Univ. L. School, to author (Jul. 18, 2020) (on file with author)).

<sup>147</sup> Itsuko Nakai, *A Message from the President*, KONAN UNIV., <https://www.konan-u.ac.jp/info/president/> (last visited Aug. 16, 2020). President Nakai also currently serves as a member of the United Nation's Human Rights Advisory Council. *Membership*, UN HUM. RIGHTS COUNCIL, **Error! Hyperlink reference not valid.** <https://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/Members.aspx> (last visited Mar. 3, 2022).

professorial numbers in the legal academy are roughly the same as they are in the U.S., publication venues and materials are fewer. In contrast to the circumstances here, Japan has virtually no student-run law journals and few specialty journals.<sup>148</sup> There is also a clear status hierarchy for Japan's leading law journals,<sup>149</sup> with the top tier being comprised of just a handful of journals produced in for-profit endeavors and sold nationwide in both general and specialized/academic bookstores. Having one's work appear in one of these journals, or being invited to serve in a more significant capacity, such as being a forum moderator a panelist, serving on the editorial board, or authoring one of the lead articles in a journal issue conveys a standing of even higher rank and accomplishment.

Even among the five academic law journals—*Jurist*, *Hōritsu Jihō*, *Hanrei Jihō*, *Hanrei Times*, and *Jurist's* sibling publication since 2012, *Ronkyū Jurist*—there is a well-acknowledged hierarchy that exists. Though reasonable minds may differ, we posit that the *Jurist*,<sup>150</sup> as the most widely read and important for both academics and practitioners, has the highest status position. Next, *Hōritsu Jihō* is the most prestigious journal for more purely academic reports. *Ronkyū Jurist*, the newest player in the lineup, also aims to present academic materials, but is geared toward a much younger demographic of students and recent graduates.<sup>151</sup>

Anecdotally, we have taken particular note of two recent publications that provide insights into gender circumstances in Japan's legal academy. The first, a celebratory issue of *Jurist's* 1,500th edition in December 2016, presented over 100 pages in a special cover feature on “The

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<sup>148</sup> For example, Hokkaido University a leading national law faculty where Levin formerly taught publishes four journals—one for faculty and professorial works, one for faculty-selected excellence in graduate student papers, and two specialized in global law and IP. 法学研究科 [*Graduate School of Law*], HOKKAIDO UNIV. COLLECTION SCH. ACAD. PAPERS (HUSCAP), <https://eprints.lib.hokudai.ac.jp/dspace/bulletin.jsp> (Graduate School of Law) (last visited Apr. 4, 2022). It is hard to assign a precise peer school in the U.S., but if one looks for example at UCLA Law School, the school's web page lists its flagship journal, *UCLA Law Review*, and *fourteen* different specialty journals all produced by student-led editorial boards and staffing. *Law Reviews and Journals*, UCLA LAW, <https://law.ucla.edu/academics/journals> (last visited Apr. 4, 2022).

<sup>149</sup> As Zoom became a standard for workplace group conferencing in the 2020 COVID-19 public health crisis, some in the Japanese business community reportedly asked the company to produce a version of the application that would visually present status hierarchy. Honma Web Productions (@hirohom2), TWITTER (Jul. 1, 2020, 3:58 PM), <https://twitter.com/hirohom2/status/1278508298455539712>; Natsuko Ide, *Zoom の上座下座と入退室ルール* [*Rules for Room Entry and Exit and Placement showing Senior and Junior Status in Zoom*], <https://ameblo.jp/natsukoide/entry-12605120686.html>.

<sup>150</sup> Yuhikaku Publishing Company, *Jurist*, <http://www.yuhikaku.co.jp/static/ad.html> (last visited Mar. 22, 2022).

<sup>151</sup> See *infra* note 173.

Future of Law Practice” これからの法律実務.<sup>152</sup> This panel of fifteen academics, lawyers, and other leaders in the legal world from legal specializations in the business realm who each essayed on “the future of” their particular fields. This future, however, is resolved through a profoundly male gaze. Just one woman, Ms. Shione Kinoshita, a specialist in labor and employment law, was invited to participate.<sup>153</sup> The accompanying imagery is equally telling. In the two full-page color photo panel that constitutes the table of contents for the special feature materials, twelve men appear in equally sized head shots. Ms. Kinoshita’s photo, however, is relegated to a corner in a reduced size picture alongside two other men.<sup>154</sup> Thus, Japan’s most important law journal presents an evocative portrait of the legal world’s future—that is, ninety-three percent male with a graphic display of gender tokenism.

More recently, *Hōritsu Jihō* offers a similar representation that is even more explicitly focused on the state of the nation’s legal academy. Its August 2019 issue is a special edition titled “Law Studies in the Heisei Era” 平成の法学 as a look-back report with ten feature articles on law in Japan coinciding with the nation’s imperial era change as a referential time marker.<sup>155</sup> Here, nine of the ten pieces are written by male authors, with the sole exception of Professor Tomoyo Matsui’s article on corporate governance (“Corporate Law in the Heisei Era”).<sup>156</sup> Then, the featured materials conclude with the transcript of an assembled *manel*<sup>157</sup> discussion<sup>158</sup> titled “Legal Education in the Heisei Era, with a focus on civil law” 座談会：平成の法学教育、民法分野を中心として gathering five

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<sup>152</sup> Special Issue, *Korekara no hōritsu jitsumu* [The Future of Law Practice], JURIST, Dec. 2016.

<sup>153</sup> *Id.* at x - xi.

<sup>154</sup> *Id.*

<sup>155</sup> Special Issue, *Heisei no Hōgaku* [Legal Education in the Heisei Era], HŌRITSU JIHŌ, Aug. 2019.

<sup>156</sup> Tomoyo Matsui, *Heisei no Kaisha Hō* [Corporate Law in the Heisei Era], HŌRITSU JIHŌ, Aug. 2019 at 30.

<sup>157</sup> “Manel” is a neologism describing panels made up of only men. *Manel*, MACMILLAN DICTIONARY, <https://www.macmillandictionary.com/dictionary/british/manel>. It has recent gained use in Japan as well. Florentyna Leow, *SpeakHer Wants to End the All-Male Panel and Bring Women's Voices into a Range of Discussions*, SPEAKHER (Sept. 28, 2020), <https://www.japantimes.co.jp/community/2020/09/28/issues/speakher-manels-women/>; see also *SpeakHer: Your Online Resource for Finding Female Speakers in Japan*, SPEAKHER, <https://speakher.jp/> (last visited Mar. 22, 2022).

<sup>158</sup> Known in Japanese as *zadankai* articles, transcripts of panel discussions are very commonly included in Japan’s law journals. Presumably, these are easier to produce and present than full-length/more technical writing. They are ordinarily presented with photographs of the individuals involved in the discussion, rendering visibly the gender imbalances towards men’s voices.

additional scholars, all of which were men.<sup>159</sup> In short, here too the ratio comes out to ninety-three percent male, and offers another snapshot of gender tokenism at the top of the nation's academic world today.<sup>160</sup>

In search of other numerical proxies to measure women's voice in Japan's academic law world, we conducted two surveys of materials looking at publications in Japan's *Jurist* and *Ronkyū Jurist*. The first is longitudinal over a thirty-year time span with easily identified comparators. The second looks to resolve the status quo in 2019 with comparison between *Jurist* and *Ronkyū Jurist*. While neither identifies satisfactory circumstances, both measures suggest some indication of positive trends that bring some hope for the future of gender equality in Japan's law community.

#### B. *Jurist Jyūyō Hanrei Kaisetsu*, 重要判例解説, 1989 – 2019

##### 1. Background and Methods

Since 1966, *Jurist* has published a highly regarded annual report of important judicial decisions from the previous year. The structure of each annual special issue has been essentially unchanged for decades. Within a standardized list of subject areas, a leading scholar is selected by the journal's editorial staff to oversee the production of a set of eight-to-twelve two print page case notes regarding these decisions.<sup>161</sup> The moderator has the authority to select the cases from the prior year warranting attention and then will nominate authorship positions to colleagues in the subject area.<sup>162</sup> The final product for each subject area accumulates the case note reports with an overview written by the moderator that typically runs between six and ten print pages.<sup>163</sup>

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<sup>159</sup> *Heisei no Hōgaku* [Legal Education in the Heisei Era], *supra* note 155. Moreover substantively, gender-oriented issues are outside the contemplation of the report entirely. Author Messersmith's survey of the text of the entire feature issue found no content with a gender-oriented purview. *Hōritsu Jihō* showed similar disregard for the significance of gender and law when it dropped the Japan Association of Gender and Law from its well-read and important annual report of Japan's academic organizations activities in 2016.

<sup>160</sup> *Id.*

<sup>161</sup> The Japanese guideline for case note authors is approximately 5,000 characters. Because the journal uses a very small print font and the Japanese language writing system consolidates conceptual syllabus into singular *kanji* characters, these two-page case notes give the content that would be in five to six print pages of a typical U.S. law journal. Zoom Conversation with Teruki Tsunemoto, Professor of Law, Sapporo Univ. L. Fac. (Aug. 18, 2020) (recording/notes on file with author).

<sup>162</sup> The logistics of these tasks are carried out by journal staff in consultation also with judicial officials at the Supreme Court of Japan, but the final decision-making authority rests with the moderator for each topical section. Moderators also often nominate their successor to the editorial board of the journal. *Id.*

<sup>163</sup> See, e.g., Teruki Tsunemoto, Asami Miyazawa & Angela Thompson,



*Jyūyō Hanrei Kaisetsu* offers two comparators that can be quickly resolved across a lengthy time frame. We accessed the 1989,<sup>164</sup> 1999,<sup>165</sup> 2009,<sup>166</sup> and 2019<sup>167</sup> editions, and counted out the number of women in the prestigious position of subject area moderator, as well as the number of women authors of the shorter case notes.

## 2. Results

The results of this study are summarized in the table below. Two points are especially apparent: one raises concern, and the other, hope.

TABLE 1.5: Jurist Jyūyō Hanrei Kaisetsu, 1989 – 2019<sup>168</sup>

Year	Total Moderators	Women Moderators	Total Authors	Women Authors	% Women Authors
1989	11	0	99	5	5%
1999	12	0	106	10	9%
2009	12	0	113	15	13%
2019	13	0	100	24	24%

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*Commentary on Important Legal Precedents for 2006: Trends in Constitutional Law Cases*, 9 ASIAN-PAC. L. & POL'Y J. 2 (2008) (roughly 5,600 words without translation notes).

<sup>164</sup> Special Issue, *Jyūyō Hanrei Kaisetsu* [Commentary on Leading Cases], JURIST, Apr. 1989.

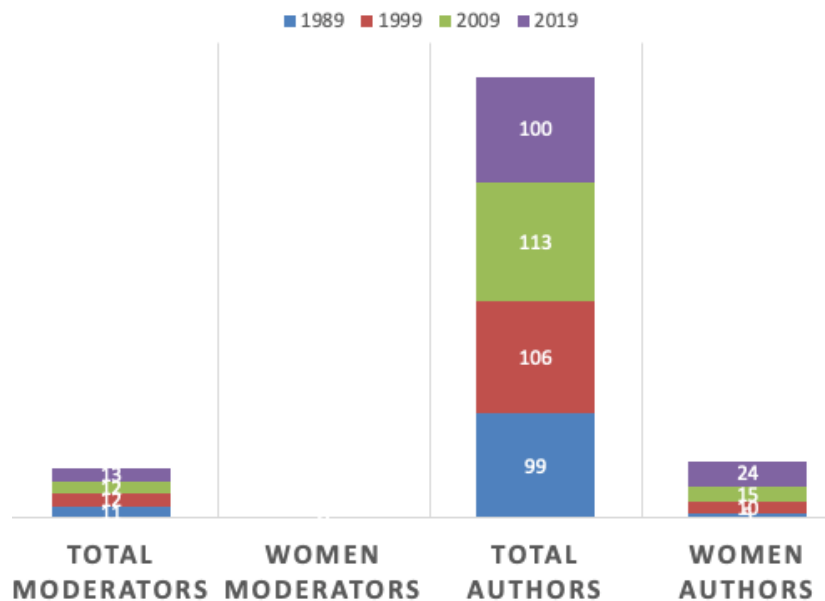
<sup>165</sup> Special Issue, *Jyūyō Hanrei Kaisetsu* [Commentary on Leading Cases], JURIST, Apr. 1999.

<sup>166</sup> Special Issue, *Jyūyō Hanrei Kaisetsu* [Commentary on Leading Cases], JURIST, Apr. 2009.

<sup>167</sup> Special Issue, *Jyūyō Hanrei Kaisetsu* [Commentary on Leading Cases], JURIST, Apr. 2019.

<sup>168</sup> Information here and in text and tables following, *supra* notes 165-169.

CHART 1.1: Jurist Jyūyō Hanrei Kaisetsu, 1989 – 2019



First, not even one *Jyūyō Hanrei Kaisetsu* issue has ever included a woman moderator<sup>169</sup> for any of the subject area sections. Indeed, the tally is a shocking *zero* among forty-eight slots.<sup>170</sup>

This is an important datum because the *Jyūyō Hanrei Kaisetsu* moderator positions have significant prestige, power, and authority in Japan's legal academy. These individuals determine which cases should be given attention, and therefore have the power to decide, for example, whether cases relating to gender law ought to be included or excluded from an issue.<sup>171</sup> They further take the lead for determining who will author the

<sup>169</sup> It is possible that a woman moderator served in a year in between our snapshots but given that the moderator roles are typically held by individuals for a number of years, this seems unlikely. One informant shared an offhand / off-record remark: “the moderators are almost always from *Todai* [The University of Tokyo] or *Kyodai* [Kyoto University], and so [since both have had nearly no female professors], of course they have always been men.”

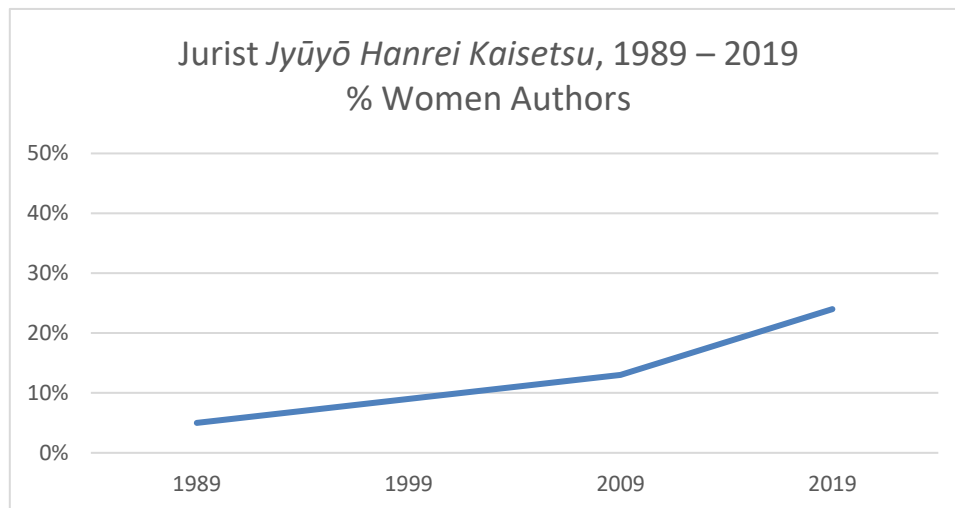
<sup>170</sup> Though the study here is longitudinally framed in decades, we have looked at both the 2020 and 2021 editions. Regarding authorship, 2020 showed a slight decline from the prior year to 23.4% women and again no women moderators. In contrast, 2021 showed a bump up to approximately 26% women, and remarkably for the first time as best as we are able to determine, a women serving as a section moderator (国際法 (international law section)). Special Issue, *Jyūyō Hanrei Kaisetsu* [Commentary on Leading Cases], JURIST, Apr. 2020; Special Issue, *Jyūyō Hanrei Kaisetsu* [Commentary on Leading Cases], JURIST, Apr. 2021.

<sup>171</sup> Even if there was no explicit bias against women, it seems fair to presume that implicit bias as to what counts as “important” may be significant here. See, e.g.,

shorter case notes, which in turn gives them the capacity to sway the people and perspectives to be brought forward. Participation as a case note author in the annual special issue is a prestigious badge that furthers career standing for the authors and is especially vital for newer and more junior scholars, so the moderators' authority to nominate case note authors is significant. And finally, the moderators are themselves distinguished for recognition as high-level leaders in their particular field by virtue of having been selected to the position, demonstrating in a highly visible national forum a degree of recognition they have attained.

The point here is simple: women have been entirely excluded from these positions of power in past decades and essentially even to the present day. This should be a matter of substantial concern for anyone's assessment of gender equality in the Japanese legal academy.

CHART 1.2: Jurist Jyūyō Hanrei Kaisetsu, 1989 – 2019



On the other hand, the number of women offered case note writing opportunities increased steadily from 1989 through 2009, and the rate of change increased significantly between 2009 and 2019. We consider this evidence of progress towards closing the vast gender gap. Given our estimate that women represent approximately fifteen percent of individuals in the legal professoriate in Japan, then the 2019 datum of twenty-four percent indicates advancement beyond their numerical representation in the

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CHAMALLAS, *supra* note 2, at 9 (“[M]ale-centered standards derive their force from being uncritically accepted as universal in nature. Challenging them is particularly difficult once they have gained legitimacy as an ‘objective’ way of categorizing people and organizing people’s activities and work.”); DEO, *supra* note 13, at 9 (“Implicit bias shapes the experience of legal academics as well.... *It also colors outcomes and experiences for promotion, tenure, leadership, and even everyday interactions among faculty.*” (emphasis added)).

community and draws the number closer to parity for presenting women scholars' voices here.

### C. *Lead Articles: Jurist and Ronkyū Jurist*

#### 1. Methods

Our second measure of the voice of women in Japan's legal academy also draws from *Jurist* as well as its sibling publication, *Ronkyū Jurist*. While *Jurist* has published over 1,500 issues to date, in 2012, the Yuhikaku publishing house decided to divide the brand of its leading publication into two separate pieces. *Jurist* continues to be a monthly publication containing premier scholarship and public commentary on the law in Japan. *Ronkyū Jurist* (literally translated as "Analytic Inquiry *Jurist*") was introduced as quarterly journal intended for graduate law students and others (presumably many of them, aiming to sit for the national bar exam), and therefore has a more doctrinal theory focus.<sup>172</sup>

A typical issue of either journal will have any number of written pieces including transcribed dialogs and panels (or too often *manels*), full length lead articles on featured topics, other lead articles, shorter analyses of cases or foreign law, and book reviews.

We reviewed all recent issues of both journals up to April/Spring 2019 assessing the writings that might be characterized as leading or featured, mainly from the manner the works were portrayed on the journal covers and table of contents. We took ten issues of the quarterly *Ronkyū* beginning from Winter 2017 and thirteen issues of the monthly *Jurist* (not including the *Jyūyō Hanrei Kaisetsu* special issue),<sup>173</sup> and counted the number of men and women authors of the leading and featured pieces. For articles written by multiple authors, all contributing authors were included in the counting for purposes of this study. Moderators were also included in accounting for panels.<sup>174</sup>

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<sup>172</sup> The publisher's advertising page reveals much about the market segmentation for the respective audiences. While advertising rates for the two journals are on a single common fare schedule, *Jurist*'s audience is represented as nearly sixty-five percent in business, law, and government, twenty percent academic, and a small remainder of others including students in graduate law programs and law schools. Greater than fifty percent of its audience is age forty or over. In contrast, *Ronkyū*'s target audience is much younger. Roughly thirty percent of the readership are students. More tellingly, fifty percent of readers are in their twenties, and just twenty-one percent of readers are age forty or over. Yuhikaku, *Juristo* (ジュリスト), Yuhikaku, <http://www.yuhikaku.co.jp/static/ad.html> (last visited Aug. 16, 2020).

<sup>173</sup> Several dozen journal issues being plainly identified in the following text and tables, all easily found for future research, footnote citations have been omitted.

<sup>174</sup> As above, we determined M/F gender from obviously gender-indicative first names, photographs online, or if we were still unsure, inquiry with friends and acquaintances and recognize the inherent problems in presenting either sex or gender as binary.

In this instance, because the data was also easily available, we made a similar accounting as to the authorship of lead articles in the Harvard Law Review, Stanford Law Review, and Yale Law Journal in the same April 2018 to April 2019 time frame.

## 2. Results

TABLE 1.6: Lead Articles in JURIST, April 2018 – April 2019;  
Avg. 12% Women Authors

Issue	Lead Articles	By Men	By Women	Percent of Women
April	7	7	0	0%
May	6	4	2	33%
June	6	6	0	0%
July	8	7	1	13%
August	9	8	1	11%
September	4	3	1	25%
October	7	6	1	14%
November	7	5	2	29%
December	7	6	1	14%
January	8	7	1	13%
February	7	7	0	0%
March	6	6	0	0%
April	8	7	1	13%
<b>TOTAL</b>	<b>90</b>	<b>79</b>	<b>11</b>	<b>12%</b>

Jurist, Japan's premier law journal, demonstrated the largest gender gap among the authors of its feature and lead articles. Over the course of April 2018 to April 2019, we counted ninety authors of whom just eleven individuals (twelve percent) were women. Four issues included no women authors at all in the feature and lead pieces. Conversely, women had more substantial representation at twenty-five percent or higher in three of these issues. The highest point in the data set in May 2018 still reflected a low number, with two of six authors being women, amounting to just thirty-three percent of the total.

TABLE 1.6: Lead Articles in RONKYŪ JURIST, Winter 2017 – April 2019;  
Avg. 21% Women Authors

Issue (vol)	Lead Articles	By Men	By Women	Percent Women
Winter 2017 (20)	15	9	6	40.00%
Spring 2017 (21)	13	11	2	15.38%
Summer 2017 (22)	13	9	4	30.77%
Autumn 2017 (23)	16	13	3	18.75%
Winter 2018 (24)	26	24 */**	2	7.69%
Spring 2018 (25)	13	9 **	4	30.77%
Summer 2018 (26)	16	14 */**	2	12.50%
Autumn 2018 (27)	14	8	6	42.86%
Winter 2019 (28)	16	13 **	3	18.75%
Spring 2019 (29)	15	14	1	6.67%
<b>TOTAL</b>	<b>157</b>	<b>124</b>	<b>33</b>	<b>21%</b>

\* indicates all-male authored special feature section

\*\* indicates *manel* discussion forum (“*zadankai*”)

*Ronkyū Jurist*, the newer journal targeted to a much younger audience, revealed somewhat higher numbers as to women’s participation as authors, but still some troubling aspects were apparent. In the ten issues we reviewed, we counted 157 authors and panelists, among whom just thirty-three authors were women (twenty-one percent.) Here again, the publishers appear to have no shame in issues that entirely, or nearly entirely exclude women. In four of the ten issues, only one or two authors were women. This includes the most recent issue we reviewed, Spring 2019, which had fifteen authors, of whom just one was a woman. *Manels* were also disappointingly common. Six specially featured transcribed group conversations in the ten issues had such all-male panels.

As noted above, this study was easily carried over for the three academic law journals that might be viewed together as the most prestigious in the U.S.<sup>175</sup> These journals typically distinguish between “articles” by

<sup>175</sup> While views may differ on the relatively ranking among these three, their reputational ranking as the top three journals in the U.S. appears to be unquestionable. See Paul Caron, *2020 Meta-Ranking of Flagship U.S. Law Reviews*, TAXPROF BLOG (July 20, 2020), [https://taxprof.typepad.com/taxprof\\_blog/2020/07/2020-meta-ranking-of-flagship-us-law-reviews.html](https://taxprof.typepad.com/taxprof_blog/2020/07/2020-meta-ranking-of-flagship-us-law-reviews.html).

professional scholars and independent authors and “notes” and “comments” by matriculated students. Thus, for our review, we counted only articles, once again including all authors in multi-authored pieces, and worked with the 2018 – 2019 academic year.

TABLE 1.7: Yale, Stanford, and Harvard Law Journals (U.S.),  
2018 – 2019 Academic Year; Avg. 44% Women Authors

Issue	Lead Articles	By Men	By Women	Percent Women
Yale Law Journal	27	12	15	56%
Stanford Law Review	20	12	8	40%
Harvard Law Review	38	24	14	37%
<b>Total</b>	<b>85</b>	<b>48</b>	<b>37</b>	<b>44%</b>

The combined figures for the three U.S. law journals showed eighty-five authors of whom thirty-seven were women, or forty-four percent. This result, near to parity, may even be close enough to being acceptable, though we will understand that reasonable minds may differ on that judgment. In addition, the numbers were not evenly distributed. The Yale Law Journal’s majority count (fifty-six percent) of women authors in the time frame stands apart, while Stanford Law Review had the middle ground at forty percent, and near to the bottom return of the Harvard Law Review at thirty-seven percent.

Again, given our estimate that women represent approximately fifteen percent of individuals in the legal professoriate in Japan, Jurist’s twelve percent women authorship of lead articles is probably below Japan’s proportion of women in the field, while *Ronkyū* Jurist’s twenty-one percent women authorship is probably above. This finding may reflect the relative prestige and difficulty of being published in Jurist: more senior scholars will appear there often, and the ranks of women among those senior scholars in Japan are substantially less than in the younger generation.

#### V. PATHWAYS: DIVERGENT HISTORIES WITH DIVERGENT RESULTS

The foregoing sections indicate striking differences between the historical stories as well as the current circumstances in the U. S. and Japan with regards to our studies here. This begs the question of why these differences can be seen. That inquiry is even more compelling when we consider the two nations were at roughly similar starting points as of 1960.<sup>176</sup>

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<sup>176</sup> See text *supra* note 20.

We do not profess knowing the answers, but we have some thoughts as to the underlying dynamics that may have been at least influential, if not dispositive, in creating such a fork in the road.

To be sure, one major difference between the U.S. and Japan, which predates the 1960 timeline marker, is our respective differences in legal tradition and how that is reflected in the institutions and processes involved with legal education. Notwithstanding the major American-influenced reforms in Japan's legal system following the end of World War II, Japan retained its fundamental pre-war framework based primarily in the Continental European legal tradition of French and German law with antecedent neo-Confucian roots.<sup>177</sup> This was just as true for legal education systems in Japan as it was for the provisions of the Civil Code.<sup>178</sup> Law continued as an undergraduate area of student, with graduate study available as a means to an academic career, while an extremely restrictive national bar examination served as the means for taking persons forward into the legal professions of lawyering, judging, and the procuracy.<sup>179</sup>

Accordingly, and again while recognizing and giving credit for positive changes in recent decades, Japan's undergraduate law faculties in particular have been slower to give up the old-European<sup>180</sup> / neo-

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<sup>177</sup> Setsuo Miyazawa & Hiroshi Otsuka, *Legal Education and the Reproduction of Elites in Japan*, 1 ASIAN-PAC. L. POL'Y J. 1 (2000); Hiroshi Fukurai, *Legal Education and the Reproduction of Statist Elites*, in 宮澤節生先生古稀記念論文集 現代日本の法過程 [THE LEGAL PROCESS IN CONTEMPORARY JAPAN: A Festschrift in Honor of Professor Setsuo Miyazawa's 70th Birthday] 321, 330–35 (2017).

<sup>178</sup> Substantive rules changed in many areas, most notably constitutional law, family law, criminal procedure, labor law, and corporate governance. On the other hand, Japan continued forward with the vast majority of its laws and legal structures from the pre-war legal system established in the late 1800s and early 20th Century. JOHN OWEN HALEY, *AUTHORITY WITHOUT POWER* ch. 3 (1991) (Meiji-era history); ALFRED C. OPPLER, *LEGAL REFORM IN OCCUPIED JAPAN* (1976) (post-war reforms).

<sup>179</sup> Mark Levin, *Legal Education for the Next Generation: Ideas from America*, 1 ASIAN-PAC. L. POL'Y J. 1 (2000). For more regarding legal education in the Civil Law Tradition more drawing on the Italian example, see John W. Head, *GREAT LEGAL TRADITIONS*, 187–99 (2011). This changed significantly with the institution of graduate professional law schools in Japan beginning in 2004, though the Continental model was preserved side-by-side with the so-called “American-style” graduate law schools and the attitudes and structures of the Continental model remains predominant. Setsuo Miyazawa, *The Politics of Judicial Reform in Japan: The Rule of Law at Last?*, ASIAN-PAC. L. POL'Y J. 89 (2001); Mayumi Saegusa, *Why the Japanese Law School System was Established*, 34 L. SOC'Y INQUIRY 365 (2009).

<sup>180</sup> By phrasing this as “old-European,” we suggest that circumstances may have changed towards greater gender equity in Europe while Japanese approaches have remotely continued the legacy of earlier modes and manners. See Barbara Havelková & Mathias Möschel, *Abstract: Introduction Anti-Discrimination Law's Fit into Civil Law Jurisdictions and the Factors Influencing it* (Nov. 11, 2019), <https://ssrn.com/abstract=3478662> (“[W]hile anti-discrimination law is still seen as a



Confucian<sup>181</sup> cultural flavor of the academy with regards to pyramidal structures of senior faculty as powerful mentors and junior scholars as their semi-dependent protégés, informal and opaque recruitment and hiring processes, and similar dynamics in law faculties and scholarly organizations that can functionally sustain patriarchy on the basis of both explicit and implicit biases.<sup>182</sup>

Meanwhile, we note two other, inter-connected, dynamics of major social pressures that can be seen in the U.S. in the 1960s and 1970s, but not in Japan. The first was the *pull* of federal law and policy in higher education, driven by feminist activism and engagement with notable contributions from two too-often overlooked phenomenal women of color: Patsy Mink and Pauli Murray.<sup>183</sup> The other was the *push* of feminist activism and engagements of students and scholars, which aligned with interest-convergence from historically patriarchic institutions to fill seats being left vacant by men called away by the draft to the Vietnam War.<sup>184</sup> Over time, these forces combined via resonant voices of law students, law students who became academics, and law students who took on many other vital and influential roles in U.S. society after graduating from law school with new modes of thinking. These dynamics present substantial path-dependent

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foreign transplant and a legal irritant in many [civil law jurisdictions of Europe] , it does not uniformly fare poorly. Its success varies and appears to depend not only on the country, but also the area of law, the actors involved, a particular concept or ground of discrimination, and has often evolved over time.”); ANTI-DISCRIMINATION LAW IN CIVIL LAW JURISDICTIONS (Barbara Havelková & Mathias Möschel, eds. 2020).

<sup>181</sup> See Miyazawa, *supra* note 118, at 4–6 (legal education’s roots for providing administrators in service of the state); Fukurai, *supra* note 118, at 330 (referencing this as “quasi-Confucian”).

<sup>182</sup> Though circumstances may have changed in some respects especially for hiring in less elite institutions, Eric Feldman’s 1993 report provides an extensive description of these processes regarding senior mentors and junior protégés that substantially remains true today. Feldman, *supra* note 39.

<sup>183</sup> Pauli Murray’s private struggle with gender non-conformity is now well known, even though the specific term had not yet entered the lexicon. Hence our reference to them here as a woman of color lacks nuance in that regard. As noted in the recently released documentary film “My Name is Pauli Murray,” it is becoming more common to write about them using non-binary gender pronouns. We choose to follow that path, though also as noted in the film, it is unclear what their self-referential pronouns would be today. MY NAME IS PAULI MURRAY (Amazon Studios and Participant 2021).

<sup>184</sup> The interest convergence principle emerges from Critical Race Theory and postulates that beneficial change for racial minorities only arises when the majority’s interests will also be advanced. This derives from Professor Derrick Bell’s hypothesis, later confirmed by legal historian Professor Mary Dudziak, that the results in *Brown v. Board of Education* reflected Cold War imperatives for white elites in the U.S. It must surely be extent as well when male patriarchy yields ground to feminist demands. See Derrick A. Bell, Jr., *Brown v. Board of Education and the Interest – Convergence Dilemma*, 93 HARV. L. REV. 518 (1980); Mary L. Dudziak, *Desegregation as a Cold War Imperative*, 41 STAN. L. REV. 61 (1988).

divergence between the U.S. and Japan that is surely significant today, not just in the legal academy, but all throughout society.

We abbreviate history in the telling that follows, but in 1964, during the midst of the civil rights movement's substantial pressure on government leaders for change relating to race discrimination in the U.S., voters in the relatively new state of Hawai'i elected Patsy Takemoto Mink as the first woman of color to be elected to the U.S. Congress. Representative Mink was already distinguished by an accomplished record in fighting for gender equality among other goals in the territorial, and later state, legislature, and it was clear she would continue that work in Congress. In 1965, shortly after Representative Mink arrived in Washington D.C., Pauli Murray and Mary Eastman published a ground breaking piece of legal scholarship titled "Jane Crow and the Law" that called out against issues relating to gender discrimination in the intersection with racism and racial discrimination at the heart of the civil rights movement.<sup>185</sup> Together with others in an emerging second-wave feminist movement centered around the National Organization for Women,<sup>186</sup> Patsy Mink and Pauli Murray's vision and voices were hugely significant in causing President Lyndon Johnson's momentous action to address gender discrimination in higher education by signing Executive Order 11,375 in 1967 which banned gender discrimination in institutions of higher education in the U.S. that received any sort of federal funding.<sup>187</sup>

Executive Order 11,375 thus launched a trajectory whereby U.S. universities, came under financial pressure to address gender discrimination, including in the hiring and employment of women in their law schools. Just five years later, with Patsy Mink as the initial author and a key proponent of the law, along with Pauli Murray continuing to produce leading scholarship demonstrating the necessity for such legislation,<sup>188</sup> Congress passed and President Richard Nixon signed Title IX of the Civil Rights Act

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<sup>185</sup> Murray & Eastwood, *supra* note 139.

<sup>186</sup> Vicki Schultz, *Taking Sex Discrimination Seriously*, 91 DENV. U. L. REV. 995, 1038 (2015); *see generally* SERENA MAYERI, REASONING FROM RACE: FEMINISM, LAW AND THE CIVIL RIGHTS REVOLUTION (2014).

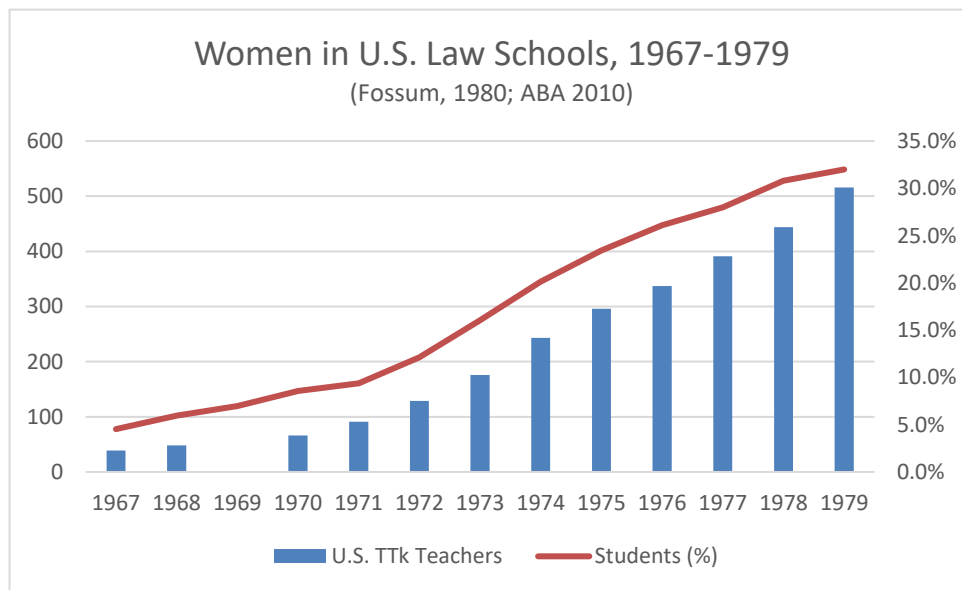
<sup>187</sup> Exec. Order 11,375, 3 C.F.R. § 406 (Supp. 1969), *reprinted as amended* in 42 U.S.C. § 2000e (Supp. IV, 1969). Of course, Mink and Murray were not the only individuals working towards these changes. For example, the National Organization of Women, with Pauli Murray among its founders, came together to advocate for changes in the law, continuing from the work of the President's Commission on the Status of Women, inaugurated in 1961. Murray & Eastwood, *supra* note 139 at 232. They however earned and deserve recognition as being among the most influential in this story, though for decades it seems, their roles have been woefully underrepresented in the telling. MAYERI, *supra* note 128.

<sup>188</sup> *See, e.g.,* Pauli Murray, *Economic and Educational Inequality Based on Sex: An Overview*, 5 VAL. U. L. REV. 237 (1971) (giving ample background to the work that led up to the 1972 turning point).

of 1964, now known as the Patsy Mink Equal Opportunity in Education Act.<sup>189</sup> As evidenced in the chart below, Title IX was transformational for American legal education.

All this then, points to administrative and legislative changes in the U.S. in the 1960s and 1970s (and continuing after) that had no counterpart for women in higher education in Japan. If their universities wished to received federal funding, U.S. law schools were fiscally pressured and then legally mandated to eliminate sex and gender discrimination in hiring and employment. It thus seems quite understandable that the number of women teaching law in the U.S., below 100 in 1967, would have steadily increased, breaking a barrier of 500 women by 1979.<sup>190</sup>

Chart 1.3: Women in U.S. Law Schools 1967-1979  
Tenure-track faculty number and total student enrollment by percent<sup>191</sup>



Another powerful force we label as *push* in these times reference the impact of calls from students and faculty at U.S. law schools to ameliorate patriarchal structures in faculty hiring, student recruitment and retention, curriculum and pedagogy, programming, academic scholarship, and the like. Though a small cohort of truly remarkable women had joined the faculties

<sup>189</sup> Title IX of the Education Amendments of 1972, 20 U.S.C.A § 1681 et. seq. (“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”)

<sup>190</sup> This figure of 500 women in the U.S. corresponds to just twelve women in law teaching in Japan at that time. Fossum, *supra* note 22 at 906.

<sup>191</sup> *Id.*; ABA, *supra* note 28.

of U.S. law schools in the 1960s,<sup>192</sup> reports from U.S. women pioneers of the time generally attribute to students the role of being the principal driving force for gender-impactful change.<sup>193</sup>

Again, in a demonstration of interest-convergence between feminist efforts and historically patriarchic institutional necessities, the shifting gender balance between men and women law students appears to have been driven substantially by the U.S.'s war in Viet Nam.<sup>194</sup> Between 1964 and 1973, male-only conscription for military service diverted the life choices of over 2.2 million young men in the United States, many of who might well have instead attended law school and filled seats that had been understood as being for men.<sup>195</sup> U.S. law school administrators in the late 1960s facing the risk of dwindling enrollments and accordingly declining tuition revenues began accepting more women into their entering classes. Thus, while women students had made up less than five percent of law students in 1967, their proportional ranks had tripled by the end of the Viet Nam War

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<sup>192</sup> See, e.g., Kay, *supra* note 1; Ruth Bader Ginsburg, *Treatment of Women by the Law: Awakening Consciousness in Law Schools*, 5 VAL. U. L. REV. 480 (1971).

<sup>193</sup> See, e.g., Elizabeth F. DeFeis, *Women in Legal Education Section*, 80 U.M.K.C. L. REV. 679, 680 ("At many of the Law Schools, it was the activist law students of that era who advocated for and were instrumental in the curriculum changes then being implemented. Moreover, the first major law school conferences on Women and the Law were organized by the student organizations."); Menkel-Meadow, *supra* note 2, at 15 ("[F]irst law students, and then feminist law teachers, began to offer courses in 'Women in the Law' or 'Sex Discrimination' to study all the categories of law in which the equality principle required legal revision." (Emphasis added)).

<sup>194</sup> See, e.g., Ireland, *supra* note 82, at 696 ("Soon [after 1969] a flood of women enrolled in the nation's law schools, in part due to awareness springing from the women's movement and in part due to the Vietnam War and the associated decrease in male applicants since draft boards were no longer granting student deferments for graduate students. The dean at my law school candidly lamented, 'Women and cripples, women and cripples, that is all we will get next year—women and cripples!'").

<sup>195</sup> Tom Valentine, *Vietnam War Draft*, VIETNAM WAR, <https://thevietnamwar.info/vietnam-war-draft/> (last updated May 9, 2016); Ruth Bader Ginsburg, *Women at the Bar - A Generation of Change*, 80 U.M.K.C. L. REV. 665, 668 ("When women entered law schools in the 1950s, some of our classmates, our teachers, even our deans, asked what we were doing in law school occupying a seat that could be held by a man."). Justice Ginsburg's recollection here described the 1950s but seems perfectly valid within the 1960s as well. Thus, in the same writing, she next recalls the pedagogy as it was presented in the late 1960s: "Textbooks gave such handy advice as 'land, like woman, was meant to be possessed.'" *Id.* citing CURTIS J. BERGER, LAND OWNERSHIP AND USE 139 (1968). See also Nancy S. Erickson, *The Other One: Life as a Feminist / Female Law Professor, 1975-1987*, 80 U.M.K.C. L. REV. 683, 684 ("In 1970, when I entered law school, . . . [w]e had to fight overt sexism every day.") For an even worse account, see Ireland, *supra* note 82, at 697 (recalling a brilliant woman committed by her father to a psychiatric institution for wishing to go to law school in the mid-1970s. The institution however recognized her capacity and released her in time to begin her studies. Adding to the horror in this story, her father "was a law professor at a well-known and respected law school.").

in 1973, and with further progress pushed by Title IX and feminist social movements within and outside the academy,<sup>196</sup> represented over thirty percent of enrolled law students at ABA accredited law schools by 1978.<sup>197</sup>

Participants look back and attribute much change in U.S. law schools to the “genie being let out of the bottle” by the arrival of women students in greater numbers amidst the fervent backdrop environment of flourishing second-wave feminism at the time.<sup>198</sup> In contrast, while feminism in Japan was also surging in social significance and voices for change in the 1960s and 1970s,<sup>199</sup> the force vector of women entering law studies in Japan was severely throttled by comparison. Japanese law schools could *and did* continue to employ few women as faculty and enroll comparatively few women as students.<sup>200</sup> Meanwhile, for reasons that we will defer from exploring in this article, but surely fueled by degrees of backlash and retribution that would await women speaking out more forcefully, it further appears that many women who did arrive to study in Japan’s law faculties, particularly students rationally assessing their personal career and marriage prospects, took relatively less aggressive stances in advocating for change within their institutional homes.<sup>201</sup>

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<sup>196</sup> See, e.g., DeFeis, *supra* note 4, at 679 (“The tumultuous 60’s and the emergence of the Woodstock generation ushered in dramatic changes in legal education.... It was partly in response to the climate created by these events that the law school environment became more welcoming to diversity and curriculum reform. Women entered law school in ever increasing numbers both as students and faculty.”).

<sup>197</sup> Assn’ of Am. L. Sch., *Legal Educ. at a Glance: 2018*, <https://www.aals.org/wp-content/uploads/2019/02/1901LegalEducationataGlance.pdf> (last viewed June 28, 2019) (women comprised a majority of fifty-two percent of American law students in 2018).

<sup>198</sup> See generally LAW STORIES, *supra* note 2.

<sup>199</sup> VERA MACKIE, *FEMINISM IN MODERN JAPAN*, ch. 7, ch. 8 (2003). In the U.S. as well, there were risks in being involved in seeking change. Myrna S. Raeder, *Reflections About Who We Were when Joining Conveyed a Message*, 80 U.M.K.C. L. REV. 703 (2012) (In the early 1980s, “[e]ven being identified as an active [AALS Women in Legal Education] Section member conveyed an implicit message to deans and more traditional male colleagues that this was a potential troublemaker.”).

<sup>200</sup> In 1980, Japan’s women law student proportion was still only 7.7 percent of the total. Hayashi, *supra* note 7, at 19. Instead, the U.S. 1978 datum of 30.8 percent corresponds to Japan’s representation of women students in the early 2000s. Osaka *supra* note 7, at 248; Masako Kamiya, *Structural and Institutional Arrangements of Legal Education: Japan*, 24 WIS. INT’L L.J. 153, 168 n. 74, 76 (2006) (30.2 percent, but gender balance figures said to range between about 50 percent women to just over 20 percent depending on the program; schools affiliated all-women feeder schools have the higher proportions of women).

<sup>201</sup> See Kano, *supra* note 11; Yamaguchi, *supra* note 11; Takeda, *supra* note 3. See also Miyazawa and Otsuka *supra* note 118; Fukurai, *supra* note 118 (noting numerous dynamics in Japan’s legal education system that work to inhibit persons from challenging statist interests.). But perhaps there is grounds for optimism here as well. See e.g., Aya Takino, *Gender Equality in Japan Gets a Push from Young Activists*, JAPAN TIMES (Sept.

Thus, our principal point is that both these push and pull forces were and remain relatively less in Japan by comparison with the U.S. in terms of changing the gendered landscape of legal education. When we circle back to the question that opened this section—why was there such a difference in the pace and results of change in gender equity in legal education in Japan and the U.S. between 1960 and the 1990s—we see differences relating to legal education structures and external circumstances of legal and demographic change that must surely have been significant amid more general differences in the two societies and attitudes towards gender and sex. This historical explanation does not bar critical voices from calling for further changes to improve inequitable gendered circumstances in legal education still present in either setting. However, recognizing the divergent paths may at least make it less surprising that we find the two nations at very different places today.

#### VI. CONTEMPLATIONS TOWARDS THEORY AND PRACTICE

The notion that feminism, including feminist engagements with the law, creates forces for social change that can help reduce patriarchy in a society seems axiomatic.<sup>202</sup> Successful feminist movement engagements should cause detrimental gender gaps to narrow. Yet while such ideas may seem common sensical, the related arguments have greater promise if they can be established empirically.

Thus, this article demonstrates at least the *coincidence* of a relative lag in the history and status quo of women in legal education and Japan's lagging gender gap.<sup>203</sup> Moreover, we posit there being a degree of meaningful *correlation* between these circumstances.

Particularly owing to the impacts of Executive Order 11,375 and Title IX,<sup>204</sup> the quantitative and qualitative circumstances for women in legal education in the United States made great forward strides from the late 1960s onwards while Japan's progress in the standing of women in its legal professoriate lagged for roughly thirty years. As feminism and feminist engagements in legal education are bound to impact the law and lawyers, Japan's relative weakness in such dynamics subtracted out a vital force for

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27, 2020), <https://www.japantimes.co.jp/community/2020/09/27/general/gender-equality-young-activists-japan/>; *Japanese Students Push for End to Sexual Harassment of Job Hunters*, JAPAN TIMES (Dec. 2, 2019), <https://www.japantimes.co.jp/news/2019/12/03/national/japanese-students-push-end-sexual-harassment-job-hunters/>; *Students Take Stand Against Rising Number of Sexual Violence Cases at Japan's Universities*, JAPAN TIMES (Aug. 7, 2019), <https://www.japantimes.co.jp/news/2019/08/07/national/social-issues/students-take-stand-rising-number-sexual-violence-cases-japans-universities/>.

<sup>202</sup> We make and stand by a normative judgment to view patriarchy as undesirable and the reduction of patriarchy as a positive improvement of society overall.

<sup>203</sup> See *supra* note 5 and accompanying text.

<sup>204</sup> See *supra* notes 187 and 189 and accompanying text.

positive change that could otherwise have helped the nation and its society progress further towards gender equality and gendered justice.<sup>205</sup>

And thus we believe that the comparison here provides reliable evidence that progress for women in legal education as well as scholarship and pedagogy in feminist legal theory generate salient and favorable change. These differences are not just in having more women present with meaningful opportunities in the campus setting, but more broadly shaping society for the better.

We understand that there are many confounding factors, but the mechanisms underlying these circumstances seem easy to recognize with a simple *what if* counter-factual revision of history. So let us imagine a time machine switching back U.S. history and then have there be only twenty-six full-time women law professors in the American legal academy from 1960 through to 1990....<sup>206</sup>

The multiplier effects implicated by such a revision would be tremendous. Our re-creation reduces a hypothetical census by *hundreds* of women professors teaching at both elite and non-elite schools. The same re-write of history evaporates *tens of thousands* of papers, articles, and books in legal scholarship relating to gender and the law<sup>207</sup>—with coincident lags in the development of theory, production of empirical evidence, and promotion of recommendations to ameliorate gender-related problems.<sup>208</sup> Moreover, one imagines a difference in both the explicit learning and the implicit vision<sup>209</sup> of *hundreds of thousands* of law students graduating into

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<sup>205</sup> Professor Robin West, the 2020 winner of the American Association of Law School's Ruth Bader Ginsberg Lifetime Achievement Award, demonstrates the importance of such ideas throughout her pathbreaking 1997 work *Caring for Justice*. ROBIN WEST, *CARING FOR JUSTICE* (1997); see also *AALS Announces 2020 Section Award Winners*, ASS'N AM. L. SCHS. (Nov. 25, 2019), <https://www.aals.org/aals-newsroom/aals-announces-2020-section-award-winners/>.

<sup>206</sup> As this paper was nearing completion in draft, the passing of Justice Ruth Bader Ginsberg made sadly clear the centrality of the discussion for the nation and the world. In fact, we might do a “what-if” analysis only as to her. RBG, the person, became an iconic figure for her remarkable life and career, portrayed in documentary and dramatic historical cinema through to her being the first woman to lie in state in the United States Capitol building. But while she may be most famously remembered as a justice of the U.S. Supreme Court and a civil rights lawyer, many forget that her career began as an educator—a law professor, at a time when there were few women in law school, and far fewer women in law teaching.

<sup>207</sup> And more recently blog posts, podcast productions, and vigorous social media discourse.

<sup>208</sup> See Menkel-Meadow, *supra* note 2, at 36–42 (overview presentation of how feminist legal memes have become mainstreamed into general legal theories and doctrines with examples from constitutional law, contracts, property, administrative law, corporate governance, and other contributions “too numerous to mention.”).

<sup>209</sup> The impact of women and feminist allies teaching is not limited to the content

society to become legal professionals, legislators, political and business leaders, and involved in all aspects of American society through the past sixty years. Surely the legacy of patriarchy, still woefully strong in the U.S., would be much stronger in this rewound story of the U.S. legal professoriate.

We can refresh our counter-factual revision and posit a level of proportional inclusion of women and engagement with gender and the law in Japan's legal academy comparable to the U.S.'s from 1960 through to the present. We might simplify that hypothetical even more to look only at the Japan's most elite and predominantly male faculties. As noted recently by New York Times Bureau Chief Motoko Rich, the University of Tokyo produces a disproportionate number of Japan's economic and political leaders.<sup>210</sup> What if the proportion of women as students there over the past sixty years had been double and, throughout those years, those graduates would have routinely seen an abundance of women among their professors garnering the highest degree of respect, honor, and privilege in the legal world? Would today's generation of senior executives, senior bureaucrats, elected officials, and judges in Japan have a different understanding and vision for gender equality and gender-oriented justice? We are firmly convinced that the answer is yes.

While we appreciate that some differ with us in terms of whether or where fault may be fairly assigned, our friends and correspondents in Japan have found little surprising in the factual circumstances we have described concerning Japan's legal academy today. The most common reaction was the Japanese word "*yappari*," which loosely translates to "*well, that's just what would have been expected*."<sup>211</sup> But despite that much of the information reported here is relatively easily gathered for a Japanese language reader, it seems many of the underlying questions are generally not even being asked. We are unsure whether the circumstances come from complacency, acquiescence while too many other problems beg to be attended to first, or caution against expressing views too outspokenly.<sup>212</sup> As well, some individuals of good intent prefer to first praise the progress that has been made in recent decades and express comfort with the status quo.<sup>213</sup> But among others who are deeply concerned with these issues, there seems

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of the materials covered. Differences will certainly arise too with regards to methods of teaching and presentation in the classroom setting. Menkel-Meadow, *supra* note 2, at 9 ("[M]ore participatory and experiential methods of teaching (drawing from the women's liberation movement method of "consciousness raising").

<sup>210</sup> Rich, *supra* note 92.

<sup>211</sup> Some instead responded "*mochiron*," meaning "of course."

<sup>212</sup> Or, more likely, all of these in varying degrees by individual and setting.

<sup>213</sup> Noting here, for example, the rising numbers of women in law teaching in Japan and their vital scholarship. We are further informed of increasing numbers of women in leadership positions in scholarly societies and journal editorial boards. *See also supra* note 11 (positive institutional policies being implemented).



to be a degree of resignation to the challenges inherent in changing Japanese legal education. In this regard, a patriarchy may still be alive and well.

We propose that our findings offer empirical evidence in support of feminist theory and yield important implications for feminist praxis. We further believe strongly that the points raised in this paper regarding Japan's legal academy indicate an overlooked element in the prevailing sociolegal analytical approaches to Japan's gender gap that warrants greater attention for the future. Then with work initially looking at the single social environment of the legal academy, synthesis with studies looking at Japan's lagging gender equality in the workplace more generally and elsewhere throughout the life cycles of individuals in Japanese society should richly follow.

We should not overlook progress accomplished in Japan in recent decades nor positive indications for the future. We also again remind our readers that our purpose is not the assignation of fault as much as it is for the identification of beneficial directions to be traveled. But knowledge generates power and we believe that data such as these investigations develop represent the foundation for such knowledge. We hope therefore that this work will serve as a beginning and look forward to seeing what will follow.