I. The attorney system in Japan

Two major features of the Japanese attorney system are the obligation to enroll in the Japan Federation of Bar Associations (JFBA) and the local bar associations in order to practice as an attorney, and the high level of self-governance bestowed to the local bar associations. The following discussions are about the membership of the JFBA, the requirements to become an attorney, the requirements to become a registered foreign lawyer, the self-governance of attorneys and the financial sources of the JFBA.

1. Membership

1) Local Bar Associations

Japan has 52 local bar associations, one for each of the 50 district court jurisdictions with the exception of Tokyo, which for historical reasons has three local bar associations. Local bar associations consist of practicing attorneys, legal profession corporations, and registered foreign lawyers as special members. The local bar associations themselves are members of the JFBA.

Each of the local bar association possesses its own structure and decision-making bodies, and in conjunction with the JFBA examines and registers the qualifications of attorneys, supervises and disciplines attorneys, and conducts a variety of public interest activities such as defense of human rights, legal apprentice training, training of practicing attorneys and legal counseling services.

2) Practicing Attorneys

Any person qualified to practice law in Japan acquires the status of practicing attorney by registration on the roll maintained by the JFBA through the local bar associations which she/he chooses to belong to. This simultaneously makes them members of the local bar association and of the JFBA.

As of May 17 2006, there are 22,040 attorneys in Japan, of whom 2,868 (approximately 13%) are women.

3) Legal Profession Corporations

Since April 2002, attorneys have been able to incorporate legal organizations (legal profession corporations) for the purpose of conducting the business of legal matters. At the time of incorporation, the legal profession corporation becomes a member of the local bar association of the district in which the office is incorporated and, at the same time, a member of the JFBA.

The purpose of the legal profession corporation system is to extend and strengthen the foundations of attorney’s practices by means of incorporation and to enable corporations to adjust themselves to provide legal services in varied and complex fields, thus contributing to greater interests of the general public.

As of May 17 2006, 200 legal profession corporations are registered.

4) Registered Foreign Lawyers (Gaikokuho Jimu Bengoshi)

Registered Foreign Lawyers are those approved to engage in legal practices related to the laws of jurisdictions other than Japan where they are qualified to practice. They are required to have their names registered in the roll maintained by the JFBA with the approval of the Minister of Justice. This system was introduced by the Special Measures Law Concerning the Handling of Legal Business by Foreign Lawyers (came into force in April 1987).

As of May 17 2006, there are 245 registered foreign lawyers.
Other Categories

The JFBA also has, for historical reasons, “quasi-member” and “special member” categories for attorneys practicing in specific fields or geographical areas.

2. Requirements to Become an Attorney

In order to become qualified to practice as an attorney, a judge or a public prosecutor, one must complete the law school curriculum, pass the bar examination, and complete the one-year legal apprenticeship training at the Legal Training and Research Institute of the Supreme Court. In 2011 Japan will institute a “preliminary test” route under which candidates can sit for the bar examination by passing a preliminary test even if they have not completed the law school. The present system which places law schools at the core of legal education and training commenced in April 2004.

Attorneys, judges and public prosecutors are distinct statuses that cannot be held by the same person at the same time, but they receive the same basic education and training, making it possible for judges and prosecutors to become attorneys and vice versa. Japanese citizenship is not required to sit the bar examination or qualify as an attorney, but it is required to serve as a judge or prosecutor.

Once qualified, candidates acquire the status as a practicing attorney by registration on the roll maintained by the JFBA. This simultaneously makes them members of the local bar associations which she/he chooses to belong to and of the JFBA, and places them under the supervision of the JFBA and the local bar association.

3. Qualifications for Foreign Special Members (Gaikokuho Jimu Bengoshi: Registered Foreign Lawyers)

Qualified attorneys from other countries may receive status as “foreign special members (Gaikokuho Jimu Bengoshi)” if approved by the Minister of Justice. Certain requirements must be met, including at least three years of practical experience in their home countries. Once approved by the Minister of Justice, foreign special members need to register with the JFBA in order to practice law as registered foreign lawyers. As such, they are authorized to provide legal services with respect to laws currently or previously in effect in the country in which they have status as attorneys (country of primary qualification) and other countries designated by the Minister of Justice (designated countries). They may also provide legal services with respect to the laws of countries other than country of primary qualification or designated countries provided they receive written advice from persons who meet certain requirements. Finally, registered foreign lawyers may represent clients in international arbitration proceedings.

On the other hand, registered foreign lawyers are barred from practicing certain aspects of the law, for example, representing clients in proceedings at Japanese courts or government agencies. When representing clients in cases concerning familial relationships in which a Japanese citizen is included as a concerned party, registered foreign lawyers are required to work jointly with or receive the written advice of a qualified attorney in Japan.

Registered foreign lawyers may operate a joint legal practice with a practicing attorney and may also hire practicing attorneys. However, when operating such legal practices, registered foreign lawyers are prohibited from inappropriate involvement in legal services outside the scope of their qualification.

4. Self Governance

(1) Self Governance of Attorneys

The JFBA and the local bar associations are bestowed a high degree of self-governance. They have self-governance so that they are empowered to examine qualifications of and take disciplinary actions against attorneys, and that the activities of attorneys and their regulations do not fall under the supervision of the courts, public prosecutors or administrative institutions. Bar associations differ from other professional associations in that they are not governed by a regulatory agency, and are financially operated on dues and other revenues collected from members. Self-governance is essential to maintain the independence of the legal profession because the legal services provided by attorneys may at times oppose the authority of the state. Therefore, bar associations are responsible for: 1) screening and registering
qualified attorneys, 2) providing supervision and, when necessary, disciplinary measures for attorneys, in addition, 3) imposing mandatory membership in bar associations lest unregistered attorneys practice law.

(2) Code of Ethics

In November 2004 the JFBA replaced its “Code of Ethics for Practicing Attorneys” with the new “Basic Rules on the Duties of Practicing Attorneys.” These rules took effect in April 2005. It is crucial that attorneys maintain the trust of society and the general public in order to strengthen the self-governance of bar associations, and this requires each and every attorney to maintain high ethical standards and provide high quality legal services. The Basic Rules on the Duties of Practicing Attorneys defines both codes of ethics and of conduct for attorneys, with chapters covering such issues as general basic rules, ethics governing the relationships with clients (such as the duty of confidentiality and prohibitions of conflicts of interest), criminal defense, legal practice within organizations, joint practices, rules for legal profession corporations, and rules governing relationships with other parties, other attorneys and bar associations. In addition, the Basic Rules articulates basic standards for the supervision and discipline of attorneys.

(3) Disciplinary Action against Attorneys

While attorneys in Japan do not fall under the supervision of any external power, they do submit to the disciplinary authority of their own local bar associations and the JFBA. The following actions are subject to disciplinary measures: (1) violations of the Practicing Attorney Law or the Articles of Association of the local bar association or the JFBA, (2) conduct that is prejudicial to the good order of, or the trust reposed in, bar associations and (3) misconduct of a disgraceful nature, whether in the course of or outside professional duties. The said Basic Rules on the Duties of Practicing Attorneys serves as a set of effective guidelines for judging whether attorneys have committed “misconduct of a disgraceful nature.”

Anyone may file a complaint for a disciplinary action against a practicing attorney with the local bar association to which the attorney belongs. When a complaint is filed, the bar association is obligated to initiate disciplinary procedures and have the matter investigated by their Discipline Maintenance Committee. If the Discipline Maintenance Committee finds grounds for the claim, it passes a resolution calling for a formal investigation of the case by the Disciplinary Actions Committee and the bar association is obligated to have the Disciplinary Actions Committee conduct an investigation. Should the Disciplinary Actions Committee agree to deem disciplinary action appropriate, it passes a resolution explicitly stating the extent of the disciplinary sanction to be imposed, and the bar association is obligated to discipline the attorney accordingly. There are four types of disciplinary sanction that can be imposed: (a) disbarment (unilateral deprivation of the status as an practicing attorney and of the qualification for becoming one for a period of three years), (b) order to withdraw from the bar association (unilateral deprivation of membership of the bar association. Resulting in the loss of status as a practicing attorney and inability to practice as an attorney unless readmitted), (c) suspension from the practice of law for up to two years (a prohibition on practice for a specified period; no influence on status or qualifications) and (d) reprimand (an admonition that demands recognition and regret of the misconduct to avoid repetition; no influence on the status or qualifications).

Should the party filing the complaint be dissatisfied with the decision made by the local bar association, including the decision void of any disciplinary sanctions, she/he may appeal to the JFBA, and the JFBA Discipline Maintenance Committee or Disciplinary Actions Committee will initiate an investigation. However, it is not possible to file a complaint directly with the JFBA without first filing it with the local bar association. Should the JFBA Discipline Maintenance Committee and Disciplinary Actions Committee find grounds for the complaint, they may impose their own sanctions on the attorney, order the local bar association to undertake disciplinary procedures in a timely manner or otherwise change the sanctions imposed by the local bar association.

Should the JFBA decide to dismiss the appeal based on a resolution of the Discipline Maintenance Committee, the appellant may seek a review by the JFBA Board of Discipline Review. If the JFBA Board of Discipline Review passes a resolution finding grounds for a disciplinary investigation, the case is referred back to (the Disciplinary Actions Committee of) the local bar association. The decisions of the Board of Discipline Review are not binding.

The Discipline Maintenance Committee and the Disciplinary Actions Committee, at local and Federation levels, are comprised of attorneys and other members chosen from outside the bar association including judges, prosecutors and academic experts. The Discipline Maintenance Committee is comprised of persons with specialized knowledge exclusive of current or past attorneys, judges and prosecutors.
Disciplinary sanctions imposed by local bar associations and the JFBA are published in the JFBA’s monthly journal, “Jiyu to Seigi (Liberty & Justice)” and the official government gazette.

5. JFBA Finances

The principle of autonomy, a cornerstone of the Japanese attorney system, is maintained in the JFBA’s finances as well. As financial independence is an essential element of autonomy, the JFBA meets its expenses from revenue obtained from dues, registration fees, donations and other resources. There is neither public intervention into how the JFBA uses its funds, nor any requirement for outside auditing of the financial statements.

The JFBA has an annual budget of approximately ¥4.77 billion (FY 2006), and at least 80% of its total revenue is accounted for by membership dues (¥14,000 a month per attorney). The JFBA is currently collecting an additional special monthly due of ¥5,700 for the Fund for the Duty Attorney System and the Fund for Correcting Regional Shortages of Attorneys.

II. Recent Reform in the Judicial System

1. Introduction

The government has established a Justice System Reform Council. Since its inception it has met 63 times and in June 2001 issued an opinion paper calling for sweeping reforms in the justice system. The recommendations in the Council’s opinion paper, together with subsequent discussions in the Office for Promotion of Judicial Reform had, by the end of 2004, resulted in the passage of 24 laws related to judicial reform.

These reforms represent the transition from “small scale justice” to “large scale justice.” They seek to extend the rule of law to all facets of society and, within the context of deregulation, to reorient Japan away from “prior regulation” to “after-the-fact relief,” as well as expanding the number of people involved in the judiciary as it takes on a greater role as the institution for providing “after-the-fact relief.”

Specific details of the reforms in the judicial system are introduced as follows: increase in the number of legal professionals (Section 2), reforms in the judge system including appointment and evaluation of judges and establishment of a system in which judges and prosecutors are required to experience practices of attorneys (Section 3), introduction of the lay judges system (Section 4), extension of the public criminal defense system into the investigative stage (Section 5) and establishment of the Japan Legal Support Center (Section 6). Other reforms are also proceeding, including reforms of the administrative litigation system such as expansion of the range of parties qualified to file suits, reforms of the intellectual property system such as establishment of the Intellectual Property High Court, liberalization of profit earning activities of attorneys, deregulation of legal fees, improvement of the disciplinary system, and establishment of the labour adjudication system.

2. Increase in the Number of Legal Professionals

In order to change from the small scale justice to the large scale justice through the reforms in the judicial system, the Judicial Reform Council has specified an increase in the number of legal professionals who are the human resources of the legal system.

One thousand five hundred examinees passed the bar examinations in 2004, and this number should double to 3000 in 2010. As a result, the number of legal professionals should double from fewer than 25,000 in 2005 to around 50,000 in 2018. This represents a significant acceleration in the rate of increase; in the past it took 33 years to double the number.

In accordance with the demand for the increased number of legal professionals, law schools were established in 2004 as specialized legal educational institutions in order to provide solid training and to develop sufficient numbers of trainees while maintaining their quality. (There were 74 law schools with 5,544 students in 2005.) It has been decided that, in principle, only graduates of the law schools are permitted to take the bar examinations. This reform aims for the shift of the focus in legal training from
selection by an event of the bar examination to training through the process of professional legal education at law schools.


(1) Establishment of Justice Appointment Consultation Commission for Inferior Court

Under the recent reforms in the judicial system, the Supreme Court has issued ‘Rules for Justice Appointment Consultation Commission for Inferior Court’ to reflect the views of the civil society in the appointment of judges. This system has been in operation since May 2003.

Before nominating judges, the Supreme Court consults the Justice Appointment Consultation Commission for Inferior Court on new appointments and reappointments. The Commissions have been established at eight locations around Japan and the majority of the commission members are academic experts outside the legal field. The system of the Commission ensures transparency in the process of nominating judges and establishes a mechanism to reflect the views of the civil society. The Commissions themselves collect material and information concerning candidates for judge positions and present their opinions on the suitability of the candidates to the Supreme Court. The Supreme Court must explain the reasons to the Committees if it disagrees with the presented opinions, which ensures that the opinions of the Committees are in fact respected.

(2) Transparent Evaluation of Judges

Under the recent reforms in the judicial system, the Supreme Court has issued ‘Rules for the Evaluation of Judges’ to ensure transparency and objectivity in the evaluation of judges. These rules have been in operation since April 2004.

The Rules (1) clarify the mechanism of the evaluation of judges, (2) specify the consideration to be given to the information that are collected outside the courts concerning evaluations, (3) establish procedures for interviews with judges after they have submitted statements relating to the work they perform, as a means of taking account of the views of the judges themselves, (4) establish a system of disclosure of the documents containing evaluations of the judges to themselves and (5) establish a system of filing complaints.

(3) Establishment of a System for Judges and Prosecutors to Experience Practices of Attorneys

Under the recent reforms in the judicial system, the Act on Experience of the Attorney Profession for Assistant Judges and Prosecutors came into effect in June 2004. The Act is designed to provide assistant judges and public prosecutors with opportunities to gain experience as practicing attorneys and to enable them to make use of the experience in their subsequent duties in court or in investigations, and to vitalize judiciary for the sake of the civil society.

This system had its origins in the June 2001 opinion paper of Judicial Reform Council, which identified the importance of ‘equipping individual judges with wide and diverse knowledge and experience as jurists’, established “more varied and diverse sources of judges as a vital element of judicial reform, promoted appointment of attorneys as judges, and introduced a system to provide leave for assistant judges to gain experience of legal practices of attorneys.

The system of appointing attorneys as judges was initiated in 1991 and was reformed in December 2001. The system of appointing attorneys as extraordinary civil and domestic conciliators was established in August 2002.

4. Lay Judge (Saiban-in) System

The recent reforms in the judicial system introduced the Lay Judge (Saiban-in) system. The system is intended to enhance the trust of the community in the justice system through participation and firsthand experience by its members in criminal trials.
Japanese trials have been conducted by professional judges except for the period between 1928 and 1943 when a jury system was implemented. The Law for Implementation of the Saiban-in System in Criminal Court Procedures, which came into force in May 2004, provided the introduction of a lay judge system by May 2009. Under this system, six lay judges selected from the general public will serve alongside three professional judges in examining cases involving certain serious crimes. Those are (1) crimes carrying the statutory penalty of death penalty or indefinite penal servitude/imprisonment, and (2) crimes carrying statutory penalties of short-term imprisonment of one year or more, which is legally prohibited to be tried by judicial panels consisting of a single judge, and cases in which victims have died through deliberate criminal acts. Lay judges will be involved in criminal proceedings, determine facts and decide sentences with the basically equivalent authority to that of professional judges with essentially the same authority as judges. They will contribute to criminal trial procedures in that they determine facts and assess cases.

The system is similar to that of a jury system in which lay judges will be chosen at random from voter lists and assigned to serve on specific cases. It also resembles a lay judge system in the sense that citizens will participate in trials alongside professional judges.

Japanese criminal courts had always examined large numbers of written statements produced by investigators and prosecutors based on the interview of the suspects and parties concerned during the investigative phase. The smooth and effective operation of the lay judge system, however, requires more easily understandable examination of evidence, with the focus on questioning of witnesses before the court, and deliberations in which lay judges are able to actively and effectively voice their opinions.

The Code of Criminal Procedure was amended in May 2004 to prepare for the introduction of the Lay Judge system as part of the reforms in the judicial system. The amendments provided for (1) enactment into a law of the principle of continuous court sittings, (2) extension of the disclosure of evidence, (3) establishment of the pre-trial procedures that will enable the full processing of evidence and contested matters prior to the first hearing day, (4) establishment of summary judgement procedures for rapid and simple trials for simple and uncontested cases and (5) entrenchment of the principles of directness and oral argument.

5. Public Criminal Defense System at the Investigative Stage

Until now in Japan, court-appointed attorneys have only been appointed after indictment.

The local bar associations created the duty attorney system, which has been maintained and operated up until now, in order to effectively guarantee the right of suspects to attorneys. When requested by a suspect, the duty attorney promptly visits the place at which the suspect is under arrest or detention and interviews him/her, regardless of nationality or visa status. If the suspect is a foreign national, an interpreter accompanies. The first consultation with a duty attorney and interpretation fee is free of charge. The attorney may charge if is requested to continue to represent the suspect after the first consultation. However, if the suspect is in financial difficulty, though qualifications vary among local bar associations, either if the suspect is a juvenile, or if the suspect denies the charge and the matter is serious, the suspect may also apply for a legal aid.

Whereas the duty attorney system has hitherto been operated by the private sector, the Code of Criminal Procedure amended in May 2005 as part of the recent reforms in the judicial system brought forth the public criminal defense system funded by government and available for certain suspects. In the first stage starting in October 2006, public defense attorneys will be appointed at the pre-indictment detention stage in the case of certain serious crimes (crimes being provided the death penalty, indefinite or minimum one-year penal servitude/imprisonment such as murder, bodily harm resulting in death, rape and robbery). In the second stage that embarks in May 2009, the scope of the national defense attorney system will be extended to cases being provided penal servitude/imprisonment for maximum three years or more (in addition to the serious cases designated in the first stage, theft, bodily harm, negligence leading to death, fraud, blackmail, etc).

6. Establishment of the Japan Legal Support Center

The Comprehensive Legal Support Law was promulgated in 2004. This Law articulates the basic principle of “realizing a society where the information and services required for the resolution of legal disputes can be accessed throughout the country.” The Japan Legal Support Center was established in 2006
as an independent administrative institution based on this law. The Center will open offices in all areas where district courts are located across the country, as well as in areas suffering from shortage of attorneys, so that to provide a wide range of legal services to the citizens. Its main activities are as follows:

(1) Information and Liaison Services
The Center has a consultation office and provides free information to people in trouble by telephone and over the Internet. For example, it maintains a database of contacts information for bar associations, judicial scrivener associations, local government agencies and other institutions providing consultations throughout the country and refers users to the one most suited to their situation.

(2) Civil Legal Aid Services
The Japan Legal Support Center now provides the civil legal aid services that were formerly provided by the Japan Legal Aid Association and provides free legal consultations and loans for attorney fees etc. for people who require the assistance of legal experts but for economic reasons are unable to pay for attorneys and court costs.

(3) Services for Communities Suffering from Shortages of Attorneys
In communities where shortages of attorneys make it difficult for sufficient legal services to be provided, the JFBA has set up so-called “public law offices” to which it dispatches attorneys. The Japan Legal Support Center works in coordination with local bar associations to establish law offices and assign attorneys to areas suffering from shortages across the country to provide them with legal services.

(4) Provision of Court-appointed Attorneys for Defendants and Suspects
While the JFBA has requested the expansion of the court-appointed attorney system to cover suspects as well as defendants as part of its judicial reform campaign, it has also created a “duty attorney” (toban bengoshi) system to provide additional legal services for suspects. Under the Comprehensive Legal Service Law and the Japan Legal Support Center, the court-appointed attorney for the suspect is realized and thus the consistent public defense system is ensured.

(5) Victim Support Services
The Japan Legal Support Center works in coordination with a number of other support organizations to refer victims to lawyers and consultation services with expertise in victim support.

The Japan Legal Support Center is expected to materialize the guiding principles of judicial reform, “realization of a judicial system based on respect for the individual and the sovereignty of the people, as articulated in the Constitution of Japan.” In order to ensure that the Center will be deemed by the general public to realize “justice for the people”, for which the JFBA and local bar associations have long worked, attorneys and bar associations, as the main players in legal assistance, continue to work to fulfill their responsibilities to the society.

III. Activities of the JFBA

1. Activities of the Committees
The JFBA has engaged in a number of issues through various committees working on the specific issues, including: 1) attainment of children’s rights, including issues of child abuse and prevention of delinquency, 2) realization of a gender-equal society in which both men and women can participate fully, and dealing with various issues concerning equality of men and women in areas of labor, education, welfare, etc., 3) realization of the rights of the elderly and the disabled, 4) assistance for crime victims, 5) preservation of the natural environment, such measures as prevention of global warming, waste management and antipollution aimed at the achievement of a resource-recycling society and 6) precautions and remedies for consumer victimization and consumer protection against dishonest business practices or large-scale cases of consumer victimization.

The Human Rights Protection Committee of the JFBA categorizes human rights issues into seven areas and conducts study and research in each area. It also provides specific and individual relief services when requests are received from the general public. Under the human rights relief system (1) victims and relevant
parties may file requests for human rights relief with the Human Rights Protection Committee when human rights have been infringed or when there is the threat of infringement. (2) Upon receiving the request, the Committee establishes a case committee and charges it with investigating the facts of the specific case as necessary and determining whether there is any human rights violation. (3) If this committee finds that an infringement of human rights has in fact taken place, it refers the matter to the Board for decision and the JFBA issues a warning, recommendation or request in its own name to the infringing institution or organization to seek the elimination and rectification of the infringement.

Another important activity of the Human Rights Protection Committee is the relief of people declared guilty through faulty court proceedings when they are in fact innocent. The Retrial Committee, working under the Human Rights Protection Committee, seeks relief in these miscarriages of justice and has indeed won innocence in more than ten retrials.

2. Activities to Enhance Access to Justice

(1) Establishment and Operation of “Public Practices” (“Himawari” Law Offices Supported by the JFBA or Local Bar Associations)

There are some areas of Japan where the number of practicing attorneys is extremely low in comparison with the population under the jurisdiction of the court. Since issuing its “Declaration on Judicial Reform” in 1990, the JFBA has endeavored to make the judicial system more accessible and open to the general public, and one of its goals has been to create a system that would ensure that attorneys are available and nearby throughout the country so that the public can quickly and appropriately seek protection of its rights. It has therefore declared its commitment to alleviating the regional discrepancies in the numbers of attorneys available.

As part of the commitment, the JFBA has established law offices called “Himawari” to alleviate regional shortages. These offices are in fact operated by individual attorneys, but are provided with assistance to cover their opening and operational costs by the JFBA, local bar association and local bar association federation on condition that they provide a certain level of public services in the form of taking court-appointed cases and providing legal aid. These costs are supplied by the fund to which a certain percentage of bar association member dues is allocated. Some bar associations have also opened urban “public practices” to train attorneys and candidates for judgeships in areas suffering from shortages of attorneys. These practices provide a certain level of public services and make legal representation more accessible to urban dwellers.

(2) Establishment and Operation of Legal Counseling Centers

Local bar associations and the Legal Aid Association have established legal counseling centers so as to provide all citizens with access to attorney consultations. The types of consultations provided and consultation fees differ from center to center, and many bar associations go beyond ordinary consultations (ordinary civil and criminal matters) to include issues such as credit and financing problems, family problems and other specialties. Some also provide nighttime consultation services. The JFBA supports the establishment and operation of legal counseling centers as part of its program to alleviate shortages of attorneys. As a result of these efforts on the part of the JFBA and local bar associations to provide services in line with community needs, more than 250 new legal counseling centers have been established over the last 10 years, with a total of 294 operating around Japan as of May 2006. The JFBA continues to encourage the establishment of legal counseling centers and is also planning to implement measures to improve the quality of the legal counsel including such measures to introduce videoconference system, to improve specialty consultations and to provide better schemes for dealing with complaints.

3. Criminal Justice Reform

(1) Interrogations in Japan, Audio/Visual Recordings of Interrogations Conducted by the Police and Prosecutors

Criminal investigations in Japan focus on obtaining a confession from the suspect. The investigative method of arresting and detaining the suspect in order to obtain a confession, then of collecting corroborative evidence is considered to be the best way to discover the truth. The suspects, however, are usually detained in police detention cells (daiyo kangoku), instead of the detention houses under the control of the Ministry of Justice for up to 20 days per particular case until they are indicted. In this way, detention of the suspects is used as a method of obtaining confessions, and many suspects provide false confessions.
after being detained in the police detention cells, prevented from contact with their families etc. and subject to extended interrogations over long periods of time. This is the chief reason why false accusations are brought to court.

The JFBA has long been critical of these investigative methods and has requested introduction of audio/visual recordings of interrogations. The Ministry of Justice and the Supreme Public Prosecutors Office have opposed to the introduction of audio/visual recordings of interrogations insisting that this would prevent the accused from confessing, which would obstruct the discovery of the truth. Nevertheless, the Ministry of Justice and the Supreme Public Prosecutors Office announced on May 9, 2006, that audio/visual recordings are introduced in certain parts of the interrogations conducted by public prosecutors in cases that is to appear before lay judges, notwithstanding the recordings are done on a attempt basis and at the discretion of the public prosecutors. The JFBA maintains that in cases of which recordings are introduced, whole interrogations be recorded especially including those conducted by the police.

(2) Penal System Reform

The JFBA has long advocated reforms in the penal system and the amendment of the Prison Law in order to meet the international human rights standards. In 2001 and 2002, two inmates died and another was seriously injured at the Nagoya Prison due to brutal violence inflicted by guards in the name of maintaining discipline and order.

This incident triggered amendments to the Prison Law in 2005, which for all practical purposes had not been revised since 1908. The amendments created a system by which inmates can file complaints and a new committee to provide civilian supervision of penal institutions. The second round of reform of the Prison Law was launched in 2006, relating to the unconvicted suspects and prisoners on whom death sentences have been confirmed. Reforms in detention houses and police detention cells include the alleviation of the censorship of correspondence with attorneys, the introduction of an appeals system, and the establishment of the Facilities Inspection Committee. Nevertheless, many issues remain to be solved: most notably, the retention of the police detention cell system.

(3) Relief for Crime Victims

Local bar associations offer victim consultation services in order to expand the legal assistance to crime victims. They also train attorneys specialized in victim assistance. Bar associations propose creation of a new publicly-funded system to provide attorneys for crime victims, and make a research on the potential of crime victims’ participation in criminal procedures.

(4) Suspension of Executions

Japan has the death penalty. In 2002, the Board of Governors of the JFBA adopted a recommendation calling for “full public debate concerning the death penalty and passage of a time-limited law to suspend the execution of prisoners for a set period of time until improvements in the execution system can be made (Law on Death Penalty Moratorium).” In 2005, the JFBA drafted and published the “Bill on Death Penalty Moratorium” and invited opinions from all facets of society.

4. Activities Related to the Practice of Law

(1) Legal Practice Reforms

Acknowledging the need to expand, strengthen and reform the practice of law, the JFBA has embarked on a program to research, study and review the legal practice in order to envisage its ideal model in the 21st century and to draft proposals for the new systems.

In the past several years, the JFBA has played its role on legal practice reforms in the form of valued studies and publications of resolutions and opinions in the fields of liberalization of profit earning activities of attorneys, lifting of Rules Concerning Attorney’s Fee, institutionalization of incorporation of law offices, relaxation of advertisement restrictions, introduction of attorney liability insurance and research on financial standing of attorneys.

With the expectation that judicial system reforms will result in significant and rapid increases in the number of practicing attorneys, the JFBA has also begun to examine programs to strengthen legal specialties and extend practices of law into new fields. In addition, the JFBA is active in identifying new demand for legal services in areas such as legislation, government administration and corporations.
(2) Alternative Dispute Resolution (ADR)

In Japan there exists a wide range of forms of non-litigious dispute resolution procedures, including arbitration and mediation conducted by various bodies such as the court, government agencies and the private sector. These procedures are characterized by the capacity to settle disputes flexibly at low cost according to the circumstances of each case. The “Law concerning Promotion of Alternative Dispute Resolution” was enacted as a product of the endeavor to expand and vitalize ADR, which is one of the issues of judicial reform in Japan.

The JFBA believes that practicing attorneys who are experts in legal practice and in the forefront of dispute resolution should play an active and central role in ADR so that it is both trusted by and accessible to the general public, and has engaged in the following programs and projects: 1) establishment of the JFBA Traffic Accident Consultation Center in 1967 in order to quickly and appropriately resolve damage compensation issues caused by traffic accidents, 2) establishment of the Japan Intellectual Property Arbitration Center in conjunction with the Japan Patent Attorneys Association in 1998 in order to resolve intellectual property disputes, 3) operation of the International Arbitration Liaison Consultative Council in order to publish and disseminate information on the recruiting and training of international arbitrators and to conduct other activities to promote the use of international arbitration, 4) establishment of the ADR Center in order to discuss and research ADR-related issues, formulate and implement plans for the expansion of ADR, exchange opinions with various ADR-related groups and study and recommend improvements in ADR systems and practices, and 5) operation of an ADR portal site jointly with other domestic, private-sector ADR institutions.

In addition, local bar associations around Japan have established Housing Dispute Examination Associations and some also have dispute resolution centers.

The JFBA also provides support for the Japan Association of Arbitrators, which was established for the purpose of researching practices and laws, training people with an interest in ADR and holding seminars and classes on the subject.

5. Activities to Improve the Legal System

Section 2, Article 1 of the Practicing Attorney Law stipulates that ‘a practicing attorney shall endeavor to maintain the social order and to improve the legal system’. Since its inception, the JFBA has conducted research and study on a wide range of legal systems and formulated opinions and issued recommendations to the government to take necessary measures to improve the legal systems including the civil law, the criminal law, the procedural law, the civil execution law, the bankruptcy law, the arbitration law, the detention law, the administrative law, the anti-monopoly law and the labor law.

In recent years, JFBA activities have resulted in amendments to the Administrative Procedure Code, and the establishment of the suspect defense system, the lay judge (saiban-in) system, the labor examination system and the part-time judge system.

The research and study on the legal system are ordinarily undertaken by committees comprised of members with a high degree of interest and expertise in the areas concerned.

6. Professional Legal Training and Education

In order to train well-rounded legal professionals of the quality and in the numbers required to support the justice system in the twenty-first century, the JFBA has taken up a wide range of issues involved in the three core areas of professional legal training and education, such as the law schools, bar examinations and legal training.

As noted earlier, the law schools, established under the recent reforms in the judicial system, employs many attorneys to provide training as practitioners. The JFBA established the Committee on Law School in December 2000 (called the Law School Establishment and Operation Cooperation Center until April 2004), and established the Office for Legal Education in April 2003 to undertake 1) examinations of curricula and educational methods of the law schools, 2) creation of a list and network of practitioner teachers, 3) implementation of various systems (standards for the establishment of schools, criteria for the third party assessments, financial support systems, and the new bar examination system, etc.) and 4) appropriate placement of law schools.
The JFBA organizes symposiums jointly with the Japan Law Foundation in order to monitor and make recommendations on the new bar examination whether it appropriately reflects the education in the law schools and to provide proposals.

Most legal apprenticeships are provided by the courts, public prosecutor’s offices and local bar associations (legal offices), and the JFBA Legal Apprentice Training Committee is in the process of preparing more apprenticeship opportunities as the number of candidates doubles.

7. International Activities

(1) International Human Rights Activities

The JFBA engages in the research and study of international human rights treaties and other international human rights standards and endeavors to improve the human rights situation within Japan. Specific activities include submitting alternative reports to bodies on the international human rights treaties that Japan has ratified (“International Covenant on Civil and Political Rights”, “International Covenant on Economic, Social and Cultural Rights”, “Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”, “International Convention on the Elimination of All Forms of Racial Discrimination”, “Convention on the Elimination of All Forms of Discrimination against Women” and “Convention on the Rights of the Child”). The JFBA maintains an international human rights library on its website and endeavors to enhance domestic understanding and awareness of international human rights issues. In addition, the JFBA was accredited to the NGO consultative status with the UN Economic and Social Council in 1999 and has attended the UN Commission on Human Rights and Sub-Commission on the Promotion, Protection of Human Rights and other UN bodies in that capacity.

(2) Membership in International Organizations

The JFBA presently has membership in the following three international organizations.

- IBA (International Bar Association)
  The JFBA joined the IBA in 1951 and has participated in the IBA meetings as a member organization, delegated councilors and alternate councilors as well as nominated its members to the committees on various issues.
- LAWASIA (Law Association of Asia and the Pacific)
  The LAWASIA, established in 1966, is an organization for groups and individuals in the legal profession in the Asia/Pacific region. The JFBA joined in 2002. Its delegate councilor has served on the executive committee (Exco).
- ICB (International Criminal Bar)
  The ICB was established in Hague, Netherlands in June 2002 to represent attorneys who practice before the International Criminal Court. The JFBA joined the ICB in August 2003 and has delegated one councilor since.

(3) Exchanges with Overseas Bar Associations and Legal Professionals

The Conference of the Presidents of Law Associations in Asia (POLA) renders an opportunity for the leaders of bar associations in the Asia-Pacific region to get together, exchange views and enhance their mutual understanding. The JFBA operates the information center that provides information to POLA member organizations.

The JFBA signed memorandums on strengthening legal exchanges and friendly mutual cooperation with the Law Council of Australia in 1999, the Bar Association of the Kingdom of Cambodia in 2000 and the Korean Bar Association in 2004, with which it has held annual meetings since 1987.

The JFBA receives visits from legal organizations around the world for the purpose of research, training and study tour and sends its own missions in turn to interact and exchange information with bar associations in other regions.

In addition, the Committee on International Relations sponsors an annual international exchange seminar as part of the ongoing program of international exchange activities.

(4) International Cooperation
The JFBA started international cooperation activities in 1994. The Committee on International Relations has taken the lead in this area. It has sent lecturers to seminars held by various organizations in Japan that invite trainees from overseas. It has also dispatched experts to countries such as Vietnam, Laos and Indonesia. In 1999 the JFBA established a system to register the attorneys interested in international legal aid activities to enhance its international cooperation activities and promote participation of its members in those activities.

In 2001 the JFBA applied to the partnership development program of the Japan International Cooperation Agency and had provided assistance for the establishment and operation of the Lawyers Training Center in Cambodia and for establishment of the legal aid system in that country for a three-year period from September 2002 to August 2005.

(5) Translation of Japanese Laws into Foreign Languages

Given the fact that translation of Japanese laws into foreign languages in the past was insufficient, the JFBA has long argued that the government should take responsibility for the translation project in order to internationalize Japanese judicial system. This argument has found a wide domestic support and the government has come to take the initiative to translate Japanese laws into foreign languages. The JFBA has participated in the government project to lay the groundwork for advancing these works.