

REFLECTIONS ON TWENTY YEARS OF TEACHING LAW IN ENGLISH IN JAPAN: Experience-Based Comments and Tips on Legal Education in a Foreign Language

Karyn KANDELL

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I. Introduction

More than twenty years have passed since I first commenced teaching law in English at Japanese universities. From the beginning, based on my experiences and observations while living and working in Japan as well as my international experiences for many years prior to that, the need for and usefulness of developing skills in English, the universal language, as well as other foreign languages, especially in this increasingly globalized world, were clearly evi-

dent. From the start, I therefore strived to kill two birds — and even more when teaching about business, culture and other subjects — with one stone, thereby helping students to prepare themselves to enter the real world with practical and useful knowledge and skills.

Over the years this need and usefulness of English skills in addition to knowledge of law and other major subjects have greatly increased and been emphasized. News sources repeatedly report on how Japanese companies are now hiring more foreigners or Japanese with language skills and overseas experience,⁽¹⁾ some Japanese companies have made or plan to make English their official language,⁽²⁾ and many are requiring successful job and in-house promotion applicants to have high TOEIC scores or other evidence of English ability.⁽³⁾ This is hardly surprising as the news also reports, among other similar trends, that more than 87% of Japanese manufacturers are planning to expand their business overseas⁽⁴⁾ in light of the diminishing Japanese market, the record appreciation of the yen, increasing numbers of mergers and acquisitions and the increasing strength of the emerging and developing country markets,

(1) See, e.g., Yasuhiro Honda and Sawa Okabayashi, *Survey: Companies to hire more foreigners in 2013*, THE ASAHI SHIMBUN, (March 19, 2012), <http://ajw.asahi.com/article/economy/AJ201203190090>; *Job-hunting students face new challenges*, DAILY YOMIURI ONLINE, (December 7, 2011), <http://www.yomiuri.co.jp/dy/national/T111206004548.htm>.

(2) For example, Fast Retailing, operator of Uniqlo, and Rakuten. See, e.g., Masataka Maeda, JAPAN CENTER FOR ECONOMIC RESEARCH, (July 15, 2010), <http://www.jcer.or.jp/eng/research/pdf/maeda20100715e.pdf>.

(3) See, e.g., *TOEIC's popularity on the rise*, DAILY YOMIURI ONLINE, (April 15, 2012), <http://www.yomiuri.co.jp/dy/national/T120414003778.htm>; *Takeda to require 730 TOEIC score of new hires*, DAILY YOMIURI ONLINE, (January 25, 2011), <http://www.yomiuri.co.jp/dy/business/T110124004604.htm>.

(4) In the DAILY YOMIURI ONLINE, December 6, 2011, *Looking abroad, 87% of manufacturers plan to expand overseas*, it was reported that, in response to a survey by the Japan Bank for International Cooperation, 87.2 % of Japanese manufacturers said they would strengthen or expand their business overseas over the next three years, a record high since the survey started in 1989. <http://www.yomiuri.co.jp/dy/business/T111205005176.htm>.

especially in Asia.⁽⁵⁾ The worries and challenges caused by the “hollowing out” of Japan and the responsive measures of companies as well as the government frequently feature in the news.⁽⁶⁾

Japanese universities, too, are trying to address these developments, including the emphasis on English and other foreign language skills, in response to the needs of society as well as the particular demands of students hunting for jobs. A recent law faculty meeting I attended spent more than an hour discussing programs and classes in English and other foreign languages and ways to improve the students’ TOEIC scores (which discussion I hope was meant to include improvement in English skills in general and not just a test score). Japanese professors who teach law and political science classes focusing on materials in English and other foreign languages were interested in knowing effective ways to teach such classes.

This article is being written in response to this, as well as a specific request from such a colleague for information and tips based on my experiences teaching law in English. It will also hopefully be relevant and useful not just for language-related points but also because courses like mine based on the need and usefulness of “small classes” addressing “practical” points and helping “students gain skills to enter the working world” are now being increasingly offered, as evidenced by the emphasis on such matters in university promotional literature. All comments contained herein are solely those of the author.

(5) *Japanese companies wrestle with foreign workers overseas*, MAJIROXNEWS, (April 13, 2012), <http://www.majiroxnews.com/2012/04/13/japanese-companies-wrestle-with-foreign-workers-overseas>.

(6) See, e.g., Id; Yoichiro Kagawa and Etsuo Kono, *Rising yen hits companies hard / Analysts fear hollowing out of industries*, DAILY YOMIURI ONLINE, (August 1, 2011), <http://www.yomiuri.co.jp/dy/business/T110731002445.htm>; Research Institute of Economy, Trade and Industry (RIETI), *Overcoming the Hollowing Out of Japan*, (published in the January 6, 2012 edition of the *ALLATANY'S NEWSPAPER GUIDE*), <http://www.rieti.go.jp/en/index.html>.

The article first gives some introductory information about the courses I have taught including the typical student composition and general course goals, and then discusses important structural and other considerations prior to and on the first day of class; major specific course characteristics and goals and means of achieving them as well as the use of specific teaching techniques and tips with respect to in-class teaching activities; course materials; grading; feedback and results; and problem areas and ways to address them. As many points are relevant in different sections, especially because certain teaching techniques are used to attain several goals simultaneously, some important matters will be discussed repeatedly. To avoid too much repetition, however, many points including examples are not mentioned in all the sections where they are or may be relevant.

II. Courses Taught; Typical Student Composition of Classes; General Course Goals

A. Courses taught

Over the past twenty years, I have taught the following law courses in English using a class-participation method at two different universities in Kyoto:

Anglo-American Law

International Business Transactions

American Law and Culture

English Law and Culture

Reading Legal English (basic course)

2nd/3rd Year Seminar

4th Year Seminar

GJP (Global Japan Program) Reading Legal English

Drafting Contracts in English (also a graduate course)

B. Typical student composition of classes

As would be expected, the majority of students who choose to take my courses are interested in improving their English skills and/or international matters. Some students specifically take one of my courses to get requisite foreign language law credit for graduation.

As also would be expected, the students who are most motivated tend to achieve better improvement in their language skills and knowledge and receive higher grades. From my experience, motivation is more important than a student's level of English. Many students with weaker English skills but who were motivated and studied very hard received much higher grades than their classmates who did not study hard and who sometimes seemed not to study at all.

Some of my students have been returnees, that is, they lived overseas during childhood due to their parents' work. Many of my students have previously studied English or in an English medium abroad in courses ranging from a few weeks to a year. Others study overseas after taking one or more of my classes. Through my classes they hope to improve their English skills prior to studying abroad. A number of these students have taken additional courses with me after their return to Japan.

In addition to officially-registered students, I have accepted many auditing students into my courses. Some were graduates who wanted to improve their English skills for job purposes or to study overseas, for example, at a law school in the United States. Others were students who could not officially enroll in my courses due to rigid university rules and regulations; for example, they had not previously taken a Seminar course or were enrolled in a faculty other than the Faculty of Law.

In any event, many students take more than one of my courses. This is one of the main reasons I have structured them into different levels.

C. General course goals

The general goals of my courses include the following:

- To provide practical, useful classes during which students can learn about law, as well as business, culture, international matters and other relevant subjects, and improve their English skills at the same time, with the view towards enabling the students to use their acquired knowledge and skills before and after graduation in their jobs, for future studies — especially international studies, or for their lives in general, especially in light of the trend towards globalization and increasing demand for English skills
- To help prepare students for the real world and its demands and challenges
- To promote international student exchanges (coincidentally a goal recently emphasized by the Japanese Ministry of Education, Culture, Sports, Science and Technology [MEXT]) by providing classes in English for international students coming to Japan to study
- To provide classes where Japanese and non-Japanese students can learn from each other and exchange ideas

For some examples of specific course goals, see the sample syllabi in APPENDICES 2A and 2B.

III. Initial Phases (Setting Up the Curriculum; Pre-Course Commencement; First Class and Adjustments)

A. Setting up the curriculum: Structuring courses to promote the best learning environment

For students to succeed, courses must be structured to promote the best learning environment, taking into consideration such matters as the course contents and objectives as well as students' knowledge, skills and other abilities. Unfortunately, instructors often do not have much say in the course structure, such as how many times a week a course will meet, or if several sections of the course will be offered to accommodate students of different language levels. These curriculum and scheduling matters will generally be based on the decisions of curriculum committees or an equivalent authority, which will of course be influenced by student numbers, costs, existence and nature of other course offerings, instructor availability, students' interests and other matters. However, if at all possible, where such structuring is extremely important for the effectiveness of one's course, it is important to do one's best to try to arrange the best structure as possible. To that end, for the students' benefit, I have strongly advocated that my basic courses each meet twice a week in a semester and have structured my courses into various English skill levels.

1. Classes meeting twice, instead of once, a week

As recognized by the recent mandate by MEXT that university courses all be held for at least fifteen weeks, holding more classes is better to ensure that students learn more. Moreover, in particular, it is well known that foreign language acquisition requires exposure and practice. That is why, beginning and elementary foreign language courses at universities in the United States, for example, usually meet 3 to 5 times a week.

For the same reason, I have strongly advocated that my basic courses, Anglo-American Law and International Business Transactions, each meet twice a week during one semester. Over the years, I have taught these and other courses as year-long courses meeting once a week, as two separate one-semester courses meeting once a week (A and B — type courses) where students could choose to take either or both courses during one or more school years, and as one-semester courses meeting twice a week. From my long-term experience, for acquisition of knowledge of law and English, the latter system is most effective and best.

My reasons for this conclusion and comments were stated in a memorandum sent to the university in question in or around 2006 to advocate maintenance of my Anglo-American Law and International Business Transactions courses meeting twice a week during one semester instead of switching to a proposed A Course and B Course system, as reproduced below.

Comments About the Proposed Change in the Course Schedule

Summary of Conclusion — Although I can appreciate the desire to have uniformity in scheduling classes, based on my teaching experience and for the reasons stated below I think it is best from both educational and practical viewpoints to continue teaching both Anglo-American Law and International Business Transactions as one-semester classes that meet twice a week.

Over the years I have taught courses in or covering Anglo-American Law and International Business Transactions in three different styles:

- 1. As a year-long course meeting once a week,**
- 2. As two separate one-semester courses meeting once a week (the present course style at another university where I teach and the**

proposed style for this university), and

3. As a one-semester course meeting twice a week (the present course style at this university).

My classes are taught in English using a class-participation method. Regardless of the course style, I spend a lot of time from the start of the course teaching basic legal vocabulary and concepts, followed by more specific vocabulary and concepts. Of the above teaching styles, I have found Style #3, that is, the present system at this university, to be the most effective.

Problems and Comments Re Teaching a Year-long Course Meeting Once a Week (Style #1)

The biggest problem with this style course is that the students forget a lot over the long summer vacation. At the end of each spring term I gave a midterm exam which I went over as a review when we resumed classes after the summer vacation. Unfortunately, the students usually had forgotten a lot of what we had studied and we needed to spend a long time reviewing the exam answers and concepts. We therefore had less time to continue studying new points. (Note that even using Style #3 with more frequent classes, vocabulary and information points must be constantly repeated since students tend to forget a lot from class-to-class because most tend not to study or review enough as instructed to do because the course is taught in English.)

Problems and Comments Re Teaching Two Separate One-Semester Courses Meeting Once a Week (Style #2)

When teaching using this style, I generally have officially tried to divide the courses into a basic introduction course during the spring

semester and a more specific topics course during the second semester.

However, problems have occurred because the first semester course has not been a prerequisite for the second semester course and I have ended up with some students attending both terms and some students coming only to the second term class. This has resulted in second-semester classes with students with different vocabulary and knowledge levels and in the need for me to spend time repeating basic vocabulary and information lessons during the second semester for the new students, which was not in the best educational interests of the students who had attended the first semester course. Although the students who had attended the first semester course had forgotten a lot over the summer vacation, i.e. the same problem mentioned regarding Style #1 above, such students needed a review whereas the other students needed to learn the information from scratch. I felt that the time of the returning students was sometimes wasted in that they could have been learning new topics instead of going over basic information in detail again.

To avoid the above problem, the first semester course must be made a prerequisite for the second semester course. However, this would cause problems for students who want to concentrate on job hunting or something else during the first semester. They would miss the basic courses for both Anglo-American Law and International Business Transactions and therefore would not be able to take either course.

Problems and Comments Re Teaching a One-Semester Course Meeting Twice a Week (Style #3)

This style allows the students to study more intensively with more frequent review and therefore more effectively. There is no problem of

forgetting over the long summer vacation and needing to spend a long time reviewing. When we review the midterm answers in this style course, we can finish the review in one or two classes. We can then continue studying new points more quickly and therefore can cover much more ground.

This style course also deals with the problem of job-hunting students better. If students want to concentrate on job hunting during the first semester, they can take the second semester course on the other topic.

Therefore, based on my teaching experience, I think the present system, that is Style #3, is best for my courses for students. I have found better results when students study the subjects more intensively at a time.

I do not think such style courses will be incompatible with other similarly-titled courses that are divided over two semesters or will pose a problem for potential students from the Faculty of Law or from other faculties as they are still semester courses. Although one negative aspect of Style #3 is that students must have two periods available during one semester to take the course, there is a similar problem regarding Style #2 where the first semester course is a prerequisite for the second semester course in that students would still have to have the time available to take the first semester course in order to take the second semester course. In addition, enrollment during the second semester might drop if students decided they did not want to study hard.

As for specifically being an obstacle for students in other faculties, I do not see why that would be a problem. In the past and currently, I have had students enrolled in my courses from other faculties. In fact, rather than not have such students in my classes I would like to

encourage more students from other faculties to attend them. I think that students with sufficient English levels who are willing to study hard from the faculties of business, economics, foreign languages and culture would especially benefit from my courses. I would therefore like the university to promote my courses more amongst such students. If you have any suggestions on how that can be done, please let me know.

In fact, if it is possible, I would like to have my Seminar I [now called 2nd/3rd Year Seminar] course opened up to qualified students from other faculties as well. In the past, I have had students from other faculties successfully audit the course because they could not officially enroll.

Therefore, for the above reasons, I think it best that my Anglo-American Law and International Business Transactions courses continue to be taught as one-semester courses that meet twice a week.

2. Structuring courses for different English levels

Over the years I have structured my courses to meet the needs of students with different English levels. My courses are designed to complement each other as well as other courses taught by university colleagues to give students a variety of courses using different levels of English from which to choose in order to best meet their individual needs, desires and interests.

To my knowledge, there is a limited number of other law courses that are taught in English by other instructors in the law faculties, so it is not possible to construct a comprehensive program of many courses taught at different English levels as exists in the foreign language faculties so that students could enroll in courses with the same subject matter that best match their language skills.

Since language progression is important to attain fluency and to ensure that all students who wish to study law in English have a course in which they can

enroll and succeed, I have structured my courses at various language levels. This system also allows me to teach the basic information about a subject in the easier courses and then deal with more specific issues in higher level ones.

In short, ranging from easiest to hardest, my undergraduate courses would generally be ranked as follows:

Anglo-American Law, International Business Transactions, American Law and Culture (and Reading Legal English when it is taught as a basic course)

2nd/3rd Year Seminar

4th Year Seminar

GJP (Global Japan Program) Reading Legal English

Drafting Contracts in English (also a graduate course)

As for my Graduate American Law courses and my Law School American Law course, the language level and difficulty of the course content will be chosen taking into consideration the English-language levels and prior knowledge of the enrolled students.

These two factors are also taken into consideration in my undergraduate courses when the enrolled students' English and knowledge levels are relatively high or low. That is, the level at which I teach is flexible and will be adjusted for the students' benefit if deemed necessary after an evaluation of their language and knowledge levels. They are also the reason I teach my GJP Reading Legal English course as a very high level course in response to the requests of foreign exchange students I taught in the past who desired more challenging courses more in keeping with the ones they were used to at their home institutions.

The level at which I teach a given course is also heavily influenced by the subject matter and course requirements. Therefore, my Seminar courses that

require a presentation report to be written by the students necessitate a higher English level than my basic courses, which emphasize key vocabulary and basic concepts, and my Drafting Contracts in English course is my highest level course due to the need for students to be able to understand intricate and complicated contract terms in English.

In sum, it is important to meet the students' needs. By having courses of different English levels available, students can start with basics — both as to language and knowledge — and then continue to study more complicated subject matter using higher-level language skills as they develop and improve their linguistic abilities.

B. Pre-course commencement

1. Important preliminary considerations

With respect to elective courses as opposed to required ones, it is important to ensure that the students who take a course are the students who are capable of successfully doing so and will best benefit from it. All courses are not suitable for all students, either because they lack such essential characteristics as necessary prerequisite knowledge, adequate language skills, or adequate study motivation. It is therefore essential that instructors take steps prior to and at the beginning of a course to attract enrollment of students who are willing to and can handle the work, to ensure a good learning environment for all. To do this, instructors should structure courses in ways that will promote the best learning environment, prepare a syllabus that sufficiently describes the course contents, requirements and challenges and, where the language level and/or motivation required in the course are relatively high, weed out inappropriate students through a written evaluation and/or a face-to-face interview, as well as by a detailed explanation in the first class of what is expected of students.

2. Pre-course commencement: Steps to be taken

— Use of measures to assist students in choosing appropriate courses

As stated above, a particular course may not be right for a particular student at a particular time, and for the benefit of both the student as well as other potential course members, it is essential to assist students in choosing the most appropriate courses through detailed information and cautions written in the syllabus, as well as student interviews and exams for higher level (contents and/or language) courses.

a. Syllabi

Because my courses are taught in English and require a high level of class participation as well as preparation, to make it clear to students what to expect and what obligations they will have, I include very conspicuous cautions in all my syllabi such as:

CLASSES WILL BE CONDUCTED IN ENGLISH USING A CLASS-PARTICIPATION METHOD.

THE COURSE IS RECOMMENDED ONLY FOR THOSE STUDENTS WHO HAVE VERY GOOD ENGLISH-LANGUAGE SKILLS AND WHO ARE WILLING TO STUDY VERY HARD.

ATTENDANCE IS ESSENTIAL AND REQUIRED.

PREPARATION FOR EACH CLASS IS ESSENTIAL.

THIS COURSE REQUIRES A LOT OF WRITTEN WORK.

The exact cautions included in a particular course syllabus depend on the course contents and the course level, taking into consideration both the contents and minimum language skills required, with higher level courses includ-

ing stronger cautions. To compare the cautions concerning a basic course with those of a high-level course, see the sample syllabi in APPENDICES 2A and 2B.

In addition to making these cautions very clear in a course syllabus, it is essential that the same cautions be emphasized in class on the first day of the course and, where necessary if one or more students are not meeting the expected standards as to preparation, active participation or attendance, again later in the term so as to help students improve their study habits and be able to learn and obtain credit for the course.

Of course, as discussed in more detail in the problem section below, an instructor's efforts to provide these numerous cautions will be in vain if a student does not read the syllabus prior to enrolling in a course and will not be as effective in cases where a university holds course registration prior to the actual commencement of classes, as is the case of one university where I teach.

b. Student interviews and reading comprehension exams

Although my basic courses are designed so that all typical Japanese college students who have studied English for a minimum of six years in junior high school and high school can succeed provided they come to class and study hard, my higher level courses require better English skills as well as higher motivation levels because more extensive written assignments are required. Moreover, as the class sizes tend to be relatively small it is essential that there not be too wide a gap in the students' language and motivation levels which would impede class dynamics, make students feel uncomfortable or prevent students from learning effectively.

I therefore generally hold interviews and a reading comprehension exam prior to course registration for my Seminar courses, my Drafting Contracts in English course and my high-level GJP Reading Legal English course, to screen out students who would have difficulty keeping up with other students and succeeding in a particular course. By giving a reading comprehension exam

that consists of reading a newspaper article and answering questions, I can evaluate a student's English level and a student can better understand what will be expected in terms of coursework. I use the interview to evaluate the student's oral communication ability while at the same time emphasizing to the student what will be required with respect to motivation, coursework and attendance and to make sure that the student understands and accepts such requirements.

C. First class: Steps to be taken

1. Advice to students on the first day

In the initial class in each course, students are handed out a sheet detailing "Advice to Students", which gives tips on how to succeed in the course and how to study, as well as providing contact information for me. The contents of the sheet, which emphasize the need for active class participation, preparation, attendance, and studying hard, as well as the importance of asking questions and encouragement for the students to feel free to contact me, are gone over in detail in the class. See APPENDIX 1 for a copy of the "Advice to Students" sheet.

Related to the "Advice to Students", grading in the course is also explained in the first class.

When applicable, the advice is later repeated during subsequent classes to remind students of their study and attendance obligations, as well as to encourage students not to worry about mistakes.

The sheet is also generally given to students and its contents discussed during pre-registration interviews to show prospective students what to expect.

2. Evaluation of students' language and knowledge levels

In addition to screening potential students for high-level courses prior to course registration and commencement where feasible, in the first class of all

my courses I have the students make self-introductions and ask and answer questions, which I use to evaluate their English and, to the extent possible, basic knowledge levels regarding suitability for a particular course.

Students can also use these activities to make a self-determination that the course is not a good fit for them, a godsend for the students who have failed to read the course syllabus in advance and do not know that the course is a high-level one taught in English that requires students to study hard.

In particular, these activities give the students themselves a chance to decide if they feel comfortable in the course alongside the other students who have shown up. Because there is no division of courses into specific English levels such as beginner, elementary, intermediate and advanced and no specific level check tests, each semester's course is quite different as to students' knowledge, English and motivation levels, especially in the basic courses where I do not screen students. In some years, the students' levels are relatively high and in others, relatively low. Therefore, in some years a particular student might not think a course too difficult, whereas in others it might be, despite my efforts to help students' overcome differences in levels. As discussed below, one of the biggest teaching challenges I face is when there is a huge gap between student levels — whether in language skills, knowledge or motivation — in a given course.

D. Adjustments

Whether my evaluation is based on a pre-registration interview or exam or a student's skills as demonstrated in the first class, if I believe that a particular course would be too difficult for a student at a given time, especially because other students have more advanced skills and knowledge, I encourage the student to take an easier course first and then take the more difficult course later. This situation has arisen a number of times with respect to my 2nd/3rd Year Seminar course when a student who has never studied with me applies to

enter a course that will be attended by students who have already studied one or two courses with me. If the student's English skills are such that I think they could catch up by studying very hard, I will tell that to the student but warn them of the potential challenges and recommend that they take one or more of my basic courses at the same time as the Seminar course if they decide to take the Seminar course that year.

In a few cases over the years where there were extremely large gaps in English and knowledge levels between students in a particular course, I flexibly made some adjustments where possible. For example, at one university where I was teaching two courses with the same name, American Culture and Law, in back-to-back periods and the student's schedule allowed, I asked one of the two students in the third period course who was a returnee who had studied at schools in England for eight years if he wanted to study in the fourth period course. Although the other students' English levels in the latter course were still not as high as his, they were significantly higher than the level of the other student in the former course. After the student starting attending the fourth period course, I could concentrate on teaching the remaining third period student at his own level. The change was therefore beneficial to both students and was possible because I could still officially give the student who had moved a grade in the third period course.

IV. Teaching: Major Specific Course Characteristics and Goals and Means of Achieving Them

A. Use of a class-participation teaching method to enable students to learn about law, international business and other subjects while simultaneously improving their English skills

Even when not specifically labeled as such, all of the courses are taught as seminars with a "use English" class-participation method. To benefit from

them, students are required to attend classes and expected to actively participate and work together to learn.

Both law-teaching and language-teaching techniques are used to aid students in learning the subjects. Basic terms and concepts are generally taught at the beginning of each course and these terms and concepts are later reused and reinforced to help the students learn and remember them. Diagrams and props are often used.

Because the courses are taught in English, students receive relevant materials in advance which they are required to study before class.

B. Generally small classes that aim and are adapted to address the needs and desires of the students as a group as well as the specific needs and desires of individual students

By using a class-participation method, the students' comprehension and progress are constantly monitored. If students have difficulties with certain points, such points can be explained again.

The small class sizes allow for extensive individual student attention and involvement.

The classes are adapted to the students' needs, both with respect to language and knowledge. Classes which have students with higher-level English skills or other background knowledge are taught at a higher level. International students particularly benefit from this. The contents and level of my Reading Legal English course were modified a few years ago to provide a course on Topical Issues in Japanese Law to international students as well as Japanese students with a high English level as part of the university's Global Japan Program.

In many of the courses, students can choose the specific topics that are studied based on their interests. This usually results in students being more interested and studying harder.

Courses are also adapted in response to the feedback from students in anonymous questionnaires as well as direct questioning.

In general, take-home exams are given due to differences in English levels to ensure that any weakness in a particular student's English skills will not prevent the student from passing a course.

C. Teaching practical and relevant skills and how to think and express ideas and opinions

All of the courses emphasize the teaching of practical and relevant skills and how to think and express ideas and opinions to prepare students for the working world and life after graduation. For example, some of the questions posed to students are:

“You have graduated and now work for the legal department of a Japanese company. Your boss has asked you to draft an international sales agreement. What points do you need to consider and include in the agreement?”

“What are the different factors a company must consider when deciding which type of international business activity to undertake?”

“What are the different factors a person needs to think about when deciding whether or not to sue someone who has committed a wrong against him?”

“What contract(s) have you entered into today?”

Even in courses that do not emphasize a research component, students are given at least one assignment where they have to research an answer by themselves on the Internet in order to teach them the research skills they will need after graduation when there will be no teacher available to supply information.

In cases where a student does not act as a responsible adult would, for example, by repeatedly coming to class unprepared having not studied or

brought the assigned materials, the student is asked what would happen if the same thing occurred when he or she were working, that is, what would his or her boss do. This enables students to learn and acquire habits that are expected in the real world and to learn the consequences of non-performance or non-compliance.

D. Use of comparative analyses to enable students to learn about American and other international law and situations as well as to better understand Japanese law and situations

In all of the courses comparative analyses are used so that students can potentially apply the knowledge they gain to their own lives and situations.

E. Examinations and other assignments used as learning tools as well as for grading students

The answers to examinations and other assignments are reviewed so that students can learn from them.

In courses that meet twice a week, in year-long courses and in courses where students are having difficulties, often due to inadequate studying, mid-term examinations, and perhaps quizzes or short assignments, as well as final examinations are given so that students can better understand the subjects and be more likely to receive credit for the courses.

F. Requirement that students study and actively participate in class to obtain credit

To encourage learning and to ensure that a degree from the university is not devalued, students cannot receive credit for the courses unless they regularly study and actively participate. In cases where students are not performing as they should be, repeated warnings are made and extra opportunities are given in an effort to help the students pass the courses.

G. Extensive support and encouragement for students

As mentioned above, part of the first class day is devoted to giving advice to the students on how to study, learn and succeed in the class. Students are repeatedly encouraged not to worry about English or other mistakes.

Extensive assistance is offered to students when they write English-language presentations and reports involving many reviews and advice on rewriting.

I am extremely accessible to students of my courses as well as other students through office hours and e-mail correspondence. Students are encouraged to contact me to arrange meetings at times other than office hours if more convenient for them.

The small classes allow special assistance to be given and adjustments made when a student's particular situation so demands, e.g., if a student is very sick or suffers a loss in the family.

H. Constant effort to improve classes

Even before the introduction of student questionnaires by the universities, I have distributed anonymous questionnaires as well as asked the students directly for feedback about the courses in order to improve them and meet the students' needs and desires.

For a copy of the Questionnaire, see APPENDIX 3.

V. Use of Specific Teaching Techniques and Tips

Below are some teaching techniques and tips for teaching law in a foreign language, gleaned from my experience of teaching law in English for more than twenty years as well as general English prior to that. Due to relevance and importance, some of these points are also mentioned in other sections of this article. The techniques and tips can generally also be used in courses taught in

the native language of the students, and the examples given are also relevant for other purposes as well.

A. Start with basic vocabulary and concepts which are later repeated

In my classes, this is especially important where major differences exist between Japanese and American law and legal systems, e.g., federalism and common law, and the students may not be familiar with such differences.

B. Adapt the course for different student requirements

1. Adjust the course level as necessary (as to English, law or other contents depending on students' English and knowledge [re law, business, etc.] levels).
2. Have students change to more appropriate classes when necessary, if possible, especially if they can do so prior to course registration.
3. Group students according to their abilities (e.g., introduction of higher level classes for foreign students and Japanese students with higher English levels).

C. Choose topics based on students' interests to motivate them and encourage interest and studying

This is done particularly in the Seminar courses, Reading Legal English courses and Graduate American Law courses.

D. Use language-teaching as well as law-teaching, business-teaching and other relevant teaching techniques

1. Have students repeat terms out loud for memory and pronunciation.
2. Where it is best to ensure or check comprehension, use Japanese. For example, where the majority of students in class are Japanese, check comprehension of important and difficult vocabulary by asking students

to translate it into Japanese, with the other students acting as the *Nihongo no sensei*. For very difficult concepts or vocabulary, such as consideration in common law contract law, after first teaching the concept in English using English-language materials, have one student read the dictionary definition from a Japanese–English law, business or other appropriate dictionary out loud to the class.

3. Include activities for students to develop and practice the four language skills — reading, listening, speaking, and writing — with writing emphasized more in higher-level classes.
4. When a student does not understand an expression, have the student try to make an educated guess of the meaning of the expression from its context before resorting to checking it in a dictionary (as emphasized in my “Advice to Students” and in class thereafter).
5. Be visual; the students will generally remember better. Use the whiteboard or blackboard to write down key vocabulary. Use drawings and props. For example, when demonstrating the difference between a wrongful death action and a survival action I use a toy car and dolls.⁽⁷⁾ Where useful, such as in larger classes, use power-point presentations.

(7) Wrongful death and survival actions are statutory tort causes of action to recover damages after a person’s wrongful death. A wrongful death action benefits the interests of the deceased’s surviving immediate family members and covers their losses caused by the wrongful death of the deceased, such as loss of financial support and loss of companionship (including loss of consortium, or sexual companionship). On the other hand, a survival action benefits the interests of the deceased and covers his or her losses up until the time of death, such as medical expenses, lost wages and pain and suffering. If a person dies instantaneously, a survival action is generally not available. Note that sometimes the term “wrongful death action” is used broadly to include a survival action and the exact rights and details of such actions vary from state to state and are statute-specific. I use a doll family, consisting of a father, mother and two children, along with a toy car for the students to visualize better an accident scenario and the use of the two different causes of action and the plaintiffs and losses usually covered.

6. Have students role play where possible to make a situation more realistic.

Example — Have the students act out the participants' roles when a letter of credit is used (e.g., the account party [buyer], the beneficiary [seller], the issuing bank, the confirming bank, and the carrier).

E. Ask and encourage many questions

Frequently ask the students questions to check their comprehension as well as ask the students if they have any questions. This is very important because, from my experience, many Japanese students are often reluctant to ask questions.

F. Use activities that require students to think for and provide answers by themselves

For example,

1. Use a class-participation method whereby students are asked questions and must generate answers. Give hints where necessary. For example, when asking students to think of a vocabulary expression, give the first letter, play the game Hangman,⁽⁸⁾ etc.
2. Have students correct inaccuracies and other errors with respect to either language or content. If a student makes an error or a text is not exactly accurate, especially concerning a point already taught, ask students what the problem is and how to correct it (e.g., mixing up civil and criminal law vocabulary).

(8) Hangman is a word game whereby the players try to guess a word by first guessing which letters it contains. The number of letters contained in the word is indicated by writing blanks and a scaffold figure is also drawn. If a player guesses a letter that is in the word, that letter is written in the appropriate blank(s). However, if the letter does not appear in the word, then a body part of a stick figure man is drawn. The goal is to try to guess the word before the entire stick figure consisting of 6 parts (the head, the body, 2 arms and 2 legs) is drawn and the man is effectively hung. A popular television game show, Wheel of Fortune, is similar to this game.

G. *Choose and use written materials to help the students learn*

1. Choose materials taking into consideration the levels of the course and students' language skills. If any student has problems, provide easier supplementary materials. If a student has a higher-than-average level, provide the student with additional, more challenging materials if the student so desires.
2. As students' reading ability is often better than their speaking ability, use the materials as a "cheat sheet" that the students can rely on for answering the instructor's questions, in other words, ask reading comprehension questions. Adhere to the materials more closely with classes of students with lower English levels. Closely following the materials also helps to reduce problems due to gaps in English levels as all the students are in a position to study the materials and check the vocabulary in advance. Moreover, focusing on the reading materials also helps students whose reading comprehension is weak to improve their skills.

H. *Require students to prepare before class so they can fully participate and follow the lesson, including checking all unknown vocabulary in a legal dictionary, business dictionary or other appropriate dictionary (including online dictionaries)*

I. *Have students use what they already know to help them learn and reduce any anxiety about learning in English*

This also reinforces and helps them better understand their current knowledge.

For example, ask about comparative law. Ask the students what the comparable law would be in Japan or their own country.

J. *Have students use their strong points to help themselves and each other*

1. Emphasize both group and individual work — e.g., group work — the students can study as a group at the beginning of each class.
2. Class participation — show students they can learn from each other, not just the teacher, and give them opportunities to do so. For example, if a student makes an error, ask that student and the other students what the problem is in a non-judgmental manner. I often do this when students mix up civil law and criminal law vocabulary.

K. *Strive in different ways to make the classes interesting*

1. For example, tell jokes, funny stories and anecdotes to help students remember words and other information — e.g., Singapore is a “fine” city.
2. Use games such as Hangman and buzzer-like game-show scenarios to get students interested and more eager to participate.

L. *Emphasize real-life situations to show students the practical application of what they are learning and motivate them to study information that can be useful for them*

1. Use real-life examples to which students can relate or see immediate importance, e.g., up-to-date news items, and teach information that is not just academic but also practical and useful.
2. Have students participate in activities that relate to real life.

Example a — Tell students they now work in a legal department and their boss asks them to draft a sales agreement. Ask them to list what points should be included in the agreement.

Example b — Ask students what questions are decided by decision makers in court cases, an especially relevant topic since the recent introduction of the *saiban-in* (lay judge) system.

M. *Prepare students for the demands and challenges of the real world*

1. Ask students about problems in actual situations.

Example — Ask students what will happen at work if they do not prepare adequately and what their boss will say.

2. Relate things to real life — help the students learn using what they already know, and demonstrate the importance of developing skills and learning information.
3. Do activities that develop and emphasize important life skills, e.g., research skills.

Example — Assign students to do Internet research to update information in handouts — e.g., to find out the O.J. Simpson civil trial outcome which was not specified in the article studied.

4. Teach basic frameworks so that students can help themselves find answers.
5. Teach broad frameworks, not just specific laws. Use specific laws as examples but point out to students that laws will change.

N. *Get and respond to feedback from students*

1. Use anonymous questionnaires to get feedback from students (personal ones as well as ones provided by the university).
2. In addition, encourage the students to talk to you directly if there is a problem.
3. Use such feedback to improve your classes where feasible.

O. *Emphasize in person (including office hours) and e-mail contact*

P. *Use exams to fairly evaluate students' knowledge and progress and help them learn*

1. Use take-home exams which students must complete within approximately two weeks so students are not disadvantaged based on lower

English levels, job-hunting activities, illness on a test day, etc., thereby providing less pressure and a more accurate assessment of whether a student has learned the information.

2. Such take-home exams also mean that if students cannot receive a passing grade their failure in the course is generally clearly justified.
3. Review the exam answers, and especially in 4-credit classes, give a mid-term exam for review and to show the students their weak areas.

In addition to teaching and assisting students in my courses, I also assist my own and other students outside of class, especially international students and Japanese students who plan to study abroad.

VI. Course Materials

The materials for each course are carefully selected based on the subjects and students' English levels. Materials usually include selections from books, especially business law books and other law books that have definitions in the margins, newspapers and the Internet. Students may also receive some materials specially written by me.

As the course progresses, additional materials may be provided in cases such as those where students would like further information or have trouble understanding a concept.

Especially in cases with difficult subject matter or otherwise where students have a hard time understanding the information in English, materials in Japanese on the same subject are provided or suggestions about where they can be obtained (e.g., the Internet or the library) are given.

Some additional materials will be distributed or references in class made with respect to up-to-date news developments that are relevant to the topics we have been discussing in the course.

In courses with research or presentation components such as the Seminar and Reading Legal English courses, students are also expected to find and provide their own relevant materials but extensive assistance is provided as necessary by me.

As for recommendations regarding useful sources of course materials, as mentioned above, one very good one, especially for students whose English language skills are not very high, is sections of English-language business law textbooks. These books are written for undergraduate students and graduate students who are studying business and contain short chapters on the most important areas of law relating to business, as well as an introduction to the legal systems in the home country and usually some references to the law and legal systems in some other countries. The passages are written in relatively easy English and there are usually definitions of the key terms written in the margins as well as many diagrams, graphs and tables to assist students.

Another good source for course materials on law written in relatively simple English is consumer education pamphlets prepared by bar associations. For example, the State Bar of California has prepared pamphlets such as ‘What Should I Do If I Have An Auto Accident?’, ‘What Should I Know About Divorce and Custody?’, ‘What Can I Do If I Can’t Pay My Debts’, ‘What Should I Do If I Am A Crime Victim’, ‘What Are My Rights As An Employee?’, ‘What Should I Know About Serving on a Jury’ and ‘Guide to Legal Literacy’, all of which I have used in my classes. These pamphlets are generally available in print as well as on the Internet.⁽⁹⁾

There are many other Internet materials on law directed at laypeople and therefore written in simple language and suitable for use as course material. For instance, nolo.com has a great deal of information to help people help themselves regarding everyday legal matters; Nolo Press also prints many

(9) <http://www.calbar.ca.gov/Public/Pamphlets.aspx> <last visited on April 17, 2012>.

self-help books. In addition, attorneys seeking clients also have many web pages with information about various aspects of law. Government agencies as well provide materials in easy English explaining people’s rights and steps to take if they have a problem.⁽¹⁰⁾

Newspaper articles are also useful for studying up-to-date topics that the students can quickly relate to and can find information about in Japanese. By using such articles an instructor can show the students that they are learning about real life events that can impact their lives and that the vocabulary and concepts being learned are not difficult, technical legal terms and concepts that are very special but everyday English ones. Moreover, the up-to-date information can be used to provide examples for the general framework information taught. For example, after teaching “regional trade blocs” and members of free trade agreements (FTAs) as one type of “actors” in international business, I informed students about news from several articles concerning very recent APEC forum meetings, a TPP meeting and an East Asian Summit meeting.

VII. Grading: Evaluation of Students Through Examinations and Other Fair Means

Generally the students in the courses are graded based on the following criteria:

- 75% — Examination(s) [and, where applicable, presentation(s)]
- 20% — Class participation, preparation, effort and attitude
- 5% — Attendance

As mentioned above, the examinations are generally take-home examinations. The examinations are carefully prepared based on what we studied in

(10) See, e.g., <http://www.courts.ca.gov/selfhelp-divorce.htm>; http://www.cdcr.ca.gov/victim_services/victim_rights.html.

class. Although there are sometimes some subjective components, emphasis is placed on objective questions to check to see if the students have mastered the information studied.

When grading, emphasis is placed on fairness.

In order to assist students who wish to improve their final grade or who need a second chance to pass the course especially due to their failure to study hard enough, the opportunity to do a special extra credit project to earn extra points is generally offered to students.

VIII. Feedback and Results

As previously mentioned, I always ask students for feedback to help me improve classes and better meet their needs and expectations.

Since many students take more than one of my courses, which are electives, and over the years I have had many auditing students, I take that as feedback that they are satisfied.

Furthermore, with respect to improvement in English skills and English test scores specifically, not only have I noticed improvements through the course activities but also students have reported to me significant increases in their English test scores. For example, one student recently wrote in a university questionnaire that his TOEIC score had increased from 645 to 845 and attributed the improvement to his participation in my courses.

But the best feedback is when former students come back and tell me that they are using what they learned in my courses in their lives and to help them to achieve their goals, such as becoming a New York lawyer, becoming Fulbright Scholars (two students), becoming professors, obtaining master's degrees and doctorates at English-speaking universities, working abroad, becoming police officers and working at trading companies, to name some cases.

That is what makes teaching worthwhile.

IX. Problem Areas and Ways to Address Them

Although the courses I generally teach each year are the same and I am the same instructor, each class is very different. The student composition of each class really makes a difference and it is especially noticeable in small classes using a class-participation method.

There are some problems that are faced or potentially faced by all or almost all of the classes. These are often due to structural or societal / cultural issues. With respect to the former, certain problems are more likely to occur due to the small size and class-participation nature of the courses. In a large lecture course, the instructor can teach a planned lesson even if the students have not prepared and studied in advance. But in a small class which requires class-participation, alternative lessons must suddenly be planned and taught on the spot if the lack of preparation by the majority of students leads the instructor to conclude it does not make sense and is not in the students' best interests to proceed as planned. With respect to the latter, in such a class, getting students to talk and participate when they are not used to doing so, can be a problem.

Other problems that exist for a particular class are due to the specific makeup of that class, for example, noticeable differences in language or knowledge levels.

Many of the problems are interrelated. For example, lack of motivation and rigid university rules and regulations contribute to very small class sizes, some of only one or two students, which in turn discourage some other students from enrolling and are therefore perpetuated. Lack of motivation also results in the students' failure to study and absenteeism.

In any event, no matter how much one prepares or tries, Murphy's Law can apply. The student whose day it is to make a presentation does not show up, or the whiteboard one uses disappears from the classroom as happened last semester. (Fortunately I had a small one as well.) As Robert Burns wrote in a poem, "the best-laid schemes of mice and men oft go awry". The key

is to be flexible and adapt where necessary.

Below are some of the common problems I have encountered over the years and some of the ways I have tried to address them.

A. Students' fear of using English, reluctance to ask questions and give opinions freely, and differences in English levels

1. Students' fear of using English and reluctance to ask questions and give opinions freely

Many Japanese do not have confidence in their English skills and are reluctant to talk or otherwise use it.

I therefore emphasize continually that students should not worry about making mistakes in English or otherwise, that native English speakers do not necessarily speak perfect English, and that native Japanese speakers do not necessarily speak perfect Japanese.

I try to call on each of the students during class, especially if a student is not actively participating.

To combat reluctance to ask questions on the part of some students and to encourage questions, I begin each class with, "Do you have any questions about anything we have previously studied?", and then repeatedly ask, "Any questions?", during each lesson. If I see a student checking a dictionary or consulting with another student, I also ask if the student has a question. With respect to the latter behavior, I emphasize to students from the "Advice to Students" on the first day and thereafter that a student who has a question should ask it so the whole class can hear and discuss it because it is possible that other students may have the same question.

I also encourage students to give their opinions and ask them directly if they do not volunteer. If their opinions are simple, such as, "I agree", I always ask them the reasons for such an opinion.

2. Differences in English levels

Because the students are not separated into classes based on their specific language levels, problems arise when there is a significant gap in their levels. This most often occurs in courses where students are not screened in advance, such as the basic courses. As mentioned above, where there is an extreme gap sometimes low-level students themselves have decided not to take a particular course. Also as mentioned, on a number of occasions where possible I have manipulated the composition of the students in given courses to try to mitigate the problem by having students attend other more suitable courses.

The important thing is to try to make all the students feel more comfortable. Where I see that one or more students notice a difference in language skills, I emphasize to the class that each student knows something, such as certain vocabulary, that other students do not. I also try to have the students help each other out; the more advanced students can learn and understand points better by explaining them to other students.

I also extend students a great deal of support. For example, I give extra attention and offer extra information to students when necessary, such as additional explanatory information or materials in English or materials in Japanese, or suggestions on how to find such references. Additionally I invite and urge students to speak to me in my office or e-mail me whenever they have a question.

B. Problems as to knowledge levels

1. Differences in knowledge levels

In addition to different English levels, the knowledge levels of students also differ, presenting another problem. Especially challenging is where some students enrolled in a course have never studied the subject or taken a law course

taught in English whereas others have. This problem often occurs in courses taught as A and B — type courses or spring and fall — type courses where the former is not a prerequisite for the latter. Similarly, students who have not previously studied in my basic courses find my Seminar courses challenging when grouped with students who have taken one or more of the basic courses.

Again, extra support is the key. I encourage or even require certain students who wish to take my Seminar courses to take simultaneously at least one basic course, usually Anglo-American Law, to attempt to address the knowledge differential. Alternatively, I recommend to students that they take my basic courses first and then subsequently take my Seminar courses.

In cases where none or very few of the students who successfully apply for my Seminar course have taken one of my basic courses, I generally teach basic legal concepts and important legal English vocabulary first before discussing specific topics.

2. Lack of basic skills and knowledge on the part of some students

Another problem encountered is the lack of basic skills and knowledge on the part of some students. Amazingly some students have trouble reading Japanese, including information in Japanese law dictionaries. Moreover, a number do not know about basic current events.

In such cases, I encourage the students to study Japanese as well as read news articles or listen to news reports, and remind them that they will need such knowledge for their working lives.

The problem may be alleviated a bit once students who have studied using the new courses of study recently introduced by MEXT to counter educational weaknesses⁽¹¹⁾ become university students.

(11) For information on the new curriculum, see MEXT's website at <http://www.mext.go.jp/english/elsec/1303755.htm> <last visited on May 15, 2012>.

C. Students' dereliction in study and preparation for class

The class-participation courses are premised on the students' preparation and study for class. Students' failure to study at all or their inadequate study and preparation often cause problems for both teacher and student. Students who do not sufficiently prepare have trouble following the class and cannot participate while for the teacher it is difficult to proceed with the lesson.

There are various reasons why students do not adequately prepare and study. From my experience lack of motivation and just plain laziness are among the most common and are freely admitted by the students themselves. The problem of motivation and ideas of how to deal with it are discussed below.

A more challenging reason for the failure to study and prepare adequately is a societal structural issue: the system of job hunting. This system has students spending a large portion of their senior year and now the second half of their junior year devoted to activities such as company information sessions, interviews, and resume writing with the result that they are absent from many classes and do not study adequately. Although there has been a recent change in the agreed schedule so that companies will now start information sessions in December of the students' junior year with the expectation that students will be able to devote more time to their studies,⁽¹²⁾ over the years the length of the time within the school years that the problem has extended has increased, exacerbated by the poor economy. The new system has just been introduced so it is too early to know if it will make a big difference. However, the agreed commencement time of the company information sessions is still highly problematical as it is still in the middle of the school term and about a month and a half before finals.

As teachers there is not much we can do except emphasize to the job-hunting students, especially juniors, that they should first concentrate on their studies

(12) For information on the new system and related problems, see, e.g., *Job-hunting students face new challenges*, *supra* note 1.

to ensure that they will have enough credits to be able to graduate and accept any job offer. I also remind students not to use job hunting as a convenient but untrue excuse not to study or come to class, as sometimes occurs.

In addition, MEXT and all the universities combined can put pressure on the companies to change the job-hunting system so that it will not interfere so greatly with the students' studies. Perhaps a more flexible system under which job hunting is not undertaken by all graduating students at the same time, such as the one that exists in the United States and some other countries, can be introduced. Obviously one university will not risk its students' chances of obtaining a job by standing up to the companies by itself. But if the Ministry informs companies that students will not be able to graduate unless they attend a certain number of classes, it can be done. It would also be a win-win situation for all involved; the companies want well-educated workers and the Ministry and universities want to ensure that student graduates are well-educated. Such an action would also be consistent with the Ministry's insistence that students need to study more, as evidenced by the recent requirement that all courses meet fifteen times a week.

On a personal level, I have tried to design some courses that are more likely to be taken by upper-class students to deal with various not-necessarily related topics, for example, by studying newspaper articles, so that the students will not be lost if they miss classes. With respect to individual students and the job-hunting problem, I also try to be as flexible as possible and generally allow them a few extra excused absences. However, I emphasize to them that, just as with other absences excused for a valid reason, they have the obligation to study on their own whatever they missed in class. Because this can be challenging for some students, in some classes where the vocabulary and conceptual studies build on one another or with a relatively heavy workload, I recommend that job-hunting students take the course at another time or take a different course.

D. *Problems as to motivation*

Lack of motivation can be a problem with respect to both getting students to enroll in the first place in courses taught in English due to their more challenging nature and requisite need to study hard, as well as getting the students to study hard once they have enrolled and are attending class. It of course also impacts on and is related to students' attendance levels and even more importantly knowledge levels.

As for the former problem, it is important for teachers and others to emphasize to students the usefulness of taking such courses and the idea of "no pain, no gain". This is especially true given the reported recent rise in insularity and decline in interest in international matters among students and the trend for them to turn their backs on studying abroad⁽¹³⁾ despite the value of doing so.

The latter problem is especially challenging. For a variety of reasons, many Japanese university students do not study hard, a phenomenon which is often acknowledged and commented on by academics, parents, the mass media, society as a whole and not least by the students themselves. In fact, a government panel recently concluded that Japanese university students generally study much less than their counterparts in other countries, studying only about 50% as generally necessary, and called on universities to force students to study harder.⁽¹⁴⁾⁽¹⁵⁾

In my classes, I use both a carrot and a stick approaches to try to get stu-

(13) See, e.g., *Subsidy eyed to promote study abroad / 40 universities could receive 5-year grants*, DAILY YOMIURI ONLINE, (March 26, 2012), <http://www.yomiuri.co.jp/dy/national/T120325003181.htm>. This trend is seen in the views of high school students as well. See *High schoolers relatively reluctant to study abroad*, DAILY YOMIURI ONLINE, (April 8, 2012), <http://www.yomiuri.co.jp/dy/national/T120407002504.htm>.

(14) "Asobu" was one of the first Japanese words I learned after coming to Japan when I asked university students what they usually did.

(15) See *Panel urges colleges to make students study harder*, DAILY YOMIURI ONLINE, (March 8, 2012), <http://www.yomiuri.co.jp/dy/national/T120307006481.htm>.

dents to study hard. With respect to the former, I show them the benefits of the advantages they will have if they work hard and increase their knowledge as well as improve their English skills. As for the latter, I make it very clear and issue frequent warnings both in class in general for all the students as well as in private to particular offenders that my past experience has shown that students who do not study hard generally cannot pass the exams or receive credit for a course.

To motivate my students, I try to make my courses interesting and entertaining and to get them involved through the class-participation method. I strive to show them how what we study is practical and relates to real life.

However, in the end, if a student does not study there is nothing an instructor can do to force him or her to do so. As the old saying goes, “You can lead a horse to water, but you cannot make it drink”.

Unfortunately, a major problem arises when there are great differences in the levels of motivation of students in a class, especially when the class is very small. One very challenging class had two students, one who studied relatively hard and one who did not study at all despite all my warnings. I felt that it was extremely frustrating for the student who studied. Nevertheless, I felt obligated to ask questions to and try to involve the student who had not prepared at all even knowing he was unlikely to be able to answer, lest he complain to the university that I did not give him a chance. In the end, the student who did not study predictably could not pass the exam and failed the course. The errant student happened to have a relatively high English level and was the president of the campus English Speaking Society, proving that it is not a student’s English level but a student’s motivation level that really makes a difference.

E. Attendance problems

Because my courses are seminar-style ones emphasizing class participation, it is a problem for students if they fail to attend classes. Sometimes the failure

to attend is due to a lack of motivation as discussed above. In some cases, however, students are absent due to job-hunting or related activities. Although I try to give students some leeway and help them out as best I can in such cases, in the end it is still their responsibility to make up the work they missed and I point out to them that it will be much easier for them to learn if they come to class.

To try to counter potential problems, I clearly warn students of the attendance requirement in the syllabus and in the first class and will sometimes encourage job-hunting students to take alternative courses where attendance and class participation are not as essential, especially in cases where such students need credits to graduate. In addition, I require students who will be absent to notify me in advance whenever possible so I can make necessary adjustments while teaching.

Absenteeism causes problems not only for students but also for teachers as well vis-à-vis course management and dealing with lesson plans, especially in very small classes where active student participation is emphasized. Over the years on a number of occasions where I have had very small classes with job-hunting students I have adapted the syllabus and lesson plans to their needs. For example, if Student A came twice in a row to classes in which Student B was absent and then Student B came to a class in which Student A was absent, instead of proceeding with the planned topic I would generally repeat what I had already studied with Student A, particularly when dealing with basic information.

F. Students' failure to follow advice

Despite frequent advice to students on the need to study, prepare and come to class and the warning of the likelihood of their not being able to receive course credit if they fail to do so, beginning in the syllabus and emphasized in the first class and repeated during subsequent classes as necessary, students often fail to follow the advice and heed the warning. At one of the universities

where I teach, students who are not used to studying hard and do not wish to do so are at a particular disadvantage because there is no “shopping period” prior to course registration and the only option if one dislikes a course or the course is unsuitable is to drop it without the opportunity to add a replacement.⁽¹⁶⁾ On a number of occasions, some students were really out of luck because they had not read the course syllabus before registering for the course and did not even know that the course was taught in English.

In cases where students are not studying hard enough, to try to make them do so and underscore the negative consequences if they do not, I will use such methods as quizzes, homework checks, a special midterm exam, and warnings, both to the class as a whole and privately as warranted.

G. Rigidity of certain university rules and regulations

Another problem I have faced over the years is concerned with restrictions placed by the universities on enrollment of students in courses.

Although my courses are useful to students in general in that they teach basic everyday life information and skills as well as English, sometimes only law students can enroll and sometimes only certain law students can do so. In one case, a student who had previously studied in one or two of my basic courses wanted to enroll in my 4th Year Seminar course after returning from a leave of absence overseas but was unable to do so because he had not taken my 2nd/3rd Year Seminar course.

Moreover, in recent years one university has become very strict and has required that a Japanese student enroll for a course to be held officially. It would not allow a course to officially exist even though a foreign exchange student who had come to study at the university based on the advertisement of the course in the university’s course listings wanted to take the course. Fortu-

(16) There is apparently a special exception for graduating students who need the credit from a particular course to graduate to add the course to their schedule.

nately, the foreign exchange student in question did not need official credits and an attendance letter sufficed so I taught the course unofficially to the student. This situation may repeat itself because my high-level courses, e.g., my Drafting Contracts in English course, are more likely to attract foreign students with high English levels and knowledge.

One problem involving enrollment restrictions in my Drafting Contracts in English course was resolved after a problem arose at a time when a graduate student was required to enroll for the course to officially exist and only an undergraduate student was interested in taking the course (a situation not unexpected given the limited number of graduate students). After I brought this problem to the attention of the faculty, the rule was changed for subsequent years so that undergraduate students could enroll despite there being no graduate students in the course. Prior to the change I taught the course unofficially to the undergraduate student.

In cases where students cannot officially enroll in a course for whatever reason but wish to take it, I allow them to take the course just like a regular student as an auditor. However, there is still a problem because students may not be as motivated if they cannot get credit for a course and in the end if they need credits they will concentrate on the courses they are taking for credit.

Enrollment regulations should be made more flexible and more discretionary for teachers. Generally speaking, American and Canadian universities leave the final say for enrollment in a course up to the course instructor. That is, instructors can allow students to enroll in their respective courses at their discretion even if the students do not meet the official prerequisites or if the courses are officially full. There is no reason why the same cannot be done at Japanese universities.

One enrollment problem that can be easily fixed through rule changes would be for the university that presently does not have a “shopping period” for students to try out courses to adopt one, as well as to change its regulations to

allow all students — not just graduating ones — to add as well as drop courses within a prescribed period. This will prevent students from enrolling in inappropriate courses in the first place or allow them to fix their mistakes, particularly important in cases where the individual students are fourth-year (or fifth-year, sixth year, etc.) students who need to earn credits to graduate. Of course, they would likely not be in the predicament they find themselves in of being enrolled in inappropriate courses if they had actually read the course syllabi before registering for courses, a lapse on the part of some students that not only I but other students have found particularly shocking.⁽¹⁷⁾ Due to this lapse it is particularly important that a “shopping period” be adopted because the ability to add a course will not be sufficient if it is an inappropriate one.⁽¹⁸⁾

H. *Pluses and minuses of very small classes*

Teaching very small classes using a class participation method has both pluses and minuses. On the plus side, the students receive much individualized attention and their weaknesses can be better addressed. They also have a good opportunity to improve their English language skills through active participation with frequent chances to speak in class.

(17) On a number of occasions, some students enrolled in one of my courses but did not know that the course was a relatively high-level one taught in English, a fact clearly stated in all of my syllabi. Although a fourth-year student who needs credits to graduate is generally pitied in such a situation, one also wonders whether such a student is ready to join the working world when he or she does not know enough to read a syllabus before enrolling in a course.

(18) In one recent case, I encountered a graduating student who was in the process of adding one of my courses to his schedule in the Faculty of Law Office even though he had not attended the four classes that had already been held in which important basic concepts and vocabulary had been studied. The student in question had not read the syllabus and did not know the course was taught in English and was considered a high-level one; he knew only that it provided English credit and fit in between two other courses in which he was enrolled. Moreover, he could barely understand me when I spoke to him in English. I gave him some counseling — in Japanese as well as English — and suggested that, although he was more than welcome to try the course, it would probably be in his best interests to enroll in an easier one so he could concentrate on his job hunting.

On the minus side, if students do not study or if there are significant differences in such matters as motivation, attendance, study, preparation, or English or knowledge levels, there can be many problems and challenges as discussed above.

Small classes clearly demonstrate that each class is different and teaching depends on and must be adapted to the particular students in a specific class.

X. Conclusion

It is amazing how quickly time passes and very hard to believe that it has been more than twenty years since I first started teaching law in English at universities in Japan. The passage of time first deeply impacted me when, while giving an example of how the legal systems and law in the United States and Japan are different, I asked the students in the class, “Do you remember the big plane crash in 1985 when a JAL plane hit a mountain in Gumma tragically killing over 500 people?”, and a student raised her hand and answered, “I was born in 1985”. And now many of my students were not even born when I first began teaching law in English.

Over the years I have tried to teach my students in the most effective manner. Based on my experiences with students I have therefore tried to develop and use teaching techniques combining both law and language ones — some gleaned through trial and error — that would work best in specific situations.

A teacher is the same person, but every class varies based on the composition of its students. It is important to be flexible and adapt different techniques to the specific needs of each particular class and its constituent students, especially where small classes are involved.

With respect to teaching law in English, I have found that the key to students’ success is whether or not they are motivated and study hard. It is important to assure students that it is their hard work that will enable them to learn and

progress, and that they can do so regardless of their initial English level so they should not worry so much about it.

By writing this article I hope to share some of my experiences and ideas with others with the hope that they will be of use when teaching law classes in English or other languages, or even other subjects. I also hope it will spark its readers to discuss and share effective teaching techniques and ideas.

APPENDICES

APPENDIX 1 — ADVICE TO STUDENTS

ADVICE FOR MS. KANDELL'S CLASSES

HOW TO SUCCEED IN THE CLASS

1. In order to improve your English skills, understand the class topics and succeed in the class, it is essential that you:
 - always come to class;
 - always participate actively in class;
 - always ask questions when you don't understand something or want further information; and
 - always prepare for class (study the relevant materials beforehand and bring them to class)!
2. *Don't worry about making English or other mistakes!*
3. If there is a point that is difficult for you to understand in English, you may ask questions about it and briefly discuss it in Japanese, with other class members helping in the translation. However, this should be done as a whole class and not just with your neighbors. If you talk just with your neighbors, it is distracting to the class as a whole, you miss other information while you talk and other class members cannot benefit from your questions and discussion.
4. If you have a good excuse for not coming to a class, please inform Ms. Kandell as soon as possible.
Nevertheless, in such case, you are still responsible for the work we have done in the class you missed and for obtaining any new materials distributed in that class and studying them before the next class.

HOW TO STUDY

1. First, study the assigned Materials A before class. Look up any words you

don't know in an English-Japanese dictionary (a law dictionary, business dictionary or regular dictionary as appropriate). If you encounter a Japanese word you don't know while checking the dictionary, look it up in a Japanese dictionary. If you have trouble understanding what is written in English in general, translate it into Japanese. If that is very difficult for you, then find and read materials in Japanese on the same subject, and then restudy the assigned English-language materials.

<CAUTION — Many words in English have more than one meaning. Don't assume you understand a particular word just because you have seen it before. Always think about the context in which each word is being used. Does the meaning you think the word has make sense in that context? If not, check your dictionary.>

2. Then come to class and actively participate. Ask questions about anything you don't understand or about which you would like more information.
3. Go home and restudy Materials A and anything else we have studied in class. At the same time, study the newly assigned Materials B before class using the same procedure as described in #1 above.
4. Then come to class and actively participate. Ask questions about anything you don't understand or about which you would like more information regarding Materials A or B or any other matter we have studied or study in class.
5. Go home and restudy Materials B (and Materials A as necessary) and other matters we have studied in class. At the same time, study the newly assigned Materials C before class, and continue to repeat the procedures described above.

HOW TO CONTACT MS. KANDELL

Please feel free to contact me anytime at my e-mail address: <e-mail address> or come to my office <office location> during my free time on Tuesday and Friday afternoons.

APPENDICES 2A and 2B — SAMPLE SYLLABI

<Note—The format for the syllabi, including the Japanese and English headings, is provided and dictated by the university, which also provides a list of abilities to be selected from for the “Special abilities to be attained” section. Whereas there are advantages of having all the instructors’ syllabi be consistent, such consistency also has a downside in that it might sometimes be difficult for students to choose from among courses with somewhat similar syllabi entries.>

APPENDIX 2A — SYLLABUS FOR A BASIC-LEVEL COURSE (Anglo-American Law)

講義目的（要旨）／Course objectives

The aim of this course is to provide an introduction to the American legal systems and American law while giving students a good opportunity to practice and improve their English.

授業内容・授業計画／Course description / plan

This course will examine some of the fundamentals of American law and the American legal systems, such as the common law case system, federalism, the jury system and legal authorities and sources. We will also study an overview of some specific areas of law.

Week 1 (2 classes)—Introduction to the class; advice to students; introduction to basic differences between American and Japanese law and legal systems

Week 2 (2 classes)—Basic fundamental aspects of American law and legal systems — federalism

- Week 3 (2 classes)—Basic fundamental aspects of American law and legal systems — common law and jury systems
- Week 4 (2 classes)—Basic concepts and vocabulary; classifications of law— substantive versus procedural law; public versus private law
- Week 5 (2 classes)—Classifications of law — Civil law versus criminal law; actions at law versus actions in equity
- Week 6 (2 classes)—How civil law and criminal law work together to achieve justice: the O.J. Simpson case
- Week 7 (2 classes)—How federal law and state law work together to achieve justice; legal authorities and sources of law
- Week 8 (2 classes)—Legal authorities and sources of law (continued)
- Week 9 (2 classes)—Review of midterm exam; introduction to case law
- Week 10 (2 classes)—Case law (continued)
- Week 11 (2 classes)—Case study
- Week 12 (2 classes)—Product liability — breach of warranty (contract law); basics of contract law
- Week 13 (2 classes)—Product liability — negligence, strict liability, misrepresentation, market share liability (tort law)
- Week 14 (2 classes)—Trial phases and procedure
- Week 15 (2 classes)—Jury system project — You are a juror

(Note—The above schedule is an example for general guidance purposes only and the exact schedule and topics may differ based on the students' prior knowledge, interests, English levels, etc. or as necessary. Students will be informed of the homework assignment and the exact topics to be studied in the following class in each class.)

準備学習等（事前・事後学習）／Preparation and assignments

PREPARATION FOR EACH CLASS IS ESSENTIAL. Students are expected

to study the assigned materials and look up all new vocabulary in a dictionary before class. In addition, students are expected to do all other homework assignments, e.g., Internet research questions.

履修上の注意／ Special notes, cautions

*** THIS CLASS WILL BE CONDUCTED IN ENGLISH USING A CLASS PARTICIPATION METHOD. ***

Because the class will be taught in English, it is recommended only for students with good English skills and who are willing to study very hard. Perfect English ability is not necessary because the class will be taught at a slow pace; however, the lower a student's English ability the harder he or she will have to work. Students will be provided in advance with materials so they can prepare for each class.

Because this class emphasizes class participation, ATTENDANCE IS ESSENTIAL AND REQUIRED.

Fourth-year students may be excused from a limited number of classes during the job-hunting period; however, all students who are excused from class for that or any other valid reason are required to obtain copies of any distributed materials and to learn the topic(s) we have studied in class on their own.

授業の到達目標／ Expected outcome

Provided that a student studies very hard, i.e., prepares for and regularly attends and actively participates in the classes and does assignments, the student should be able to gain knowledge about American law and legal systems and improve English skills as well as gain other skills such as those mentioned below.

身に付く力／Special abilities to be attained

Provided that a student studies very hard, i.e., prepares for and regularly attends and actively participates in the classes and does assignments, the student should be able to acquire or improve skills including, but not limited to, logical thinking and analysis, issue recognition, practical and creative thinking and decision making, comparative thinking and analysis, discipline, ability to work diligently and independently, ability to communicate ideas to others, English language ability (such as reading and listening comprehension, speaking and writing skills and increased vocabulary), ability to do basic Internet research in English and ability to use tools for lifelong learning.

評価方法／Evaluation

Students will be graded mainly on the basis of midterm and final examinations (75%), but also based on class participation, preparation, effort and attitude (20%) as well as attendance (5%).

教材／Text and materials

Materials will be distributed in class. Students may occasionally be given assignments to do research and obtain additional materials.

APPENDIX 2B — SYLLABUS FOR A HIGH-LEVEL COURSE **(Drafting Contracts in English)**

講義目的（要旨）／Course objectives

The aim of this course is to provide an introduction to contract drafting in English from the practical perspective of an American lawyer while giving students a good opportunity to practice and improve their English language skills.

授業内容・授業計画／Course description / plan

This course will focus on the important matters that must be considered when drafting contracts in English for use in international business transactions. After first studying fundamental basics of contracts and contract writing, we will study an overview of the major types of international business activities. We will then examine the general issues and problems that have to be considered and the related contract clauses that are typically used when doing international business. Specific types of international transactions and related contractual provisions will then be examined and discussed, and sample contracts such as a sales agreement, a distributorship agreement and a licensing agreement will be drafted. Some basic principles of American law affecting international business transactions will also be studied.

Week 1—Introduction to the class; advice to students; basics of contract law

Week 2—Basics of contract law (continued); basics of contract writing

Week 3—Major types of international business activities and agreements
— Overview

Week 4—Major types of international business activities and agreements
(continued)

Week 5—Legal authorities and jurisdiction; C.I.S.G. versus U.C.C.; L/C's and
other payment methods; INCOTERMS

Week 6—Issues to consider when drafting international agreements

Week 7—General international contract clauses

Week 8—One-time basic international sales agreements

Week 9—Comparison of purchase and sales agreements based on different
parties' perspectives and interests

Week 10—Long-term international sales agreements

Week 11—Critique and discussion of students' international sales agreement
drafts

Week 12—International distributorship agreements

Week 13—Critique and discussion of students' international distributorship agreement drafts

Week 14—International licensing agreements

Week 15—Critique and discussion of students' international licensing agreement drafts

(Note—The above schedule is an example for general guidance purposes only and the exact schedule and topics may differ based on the students' prior knowledge, interests, English levels, etc. or as necessary. Students will be informed of the homework assignment and the exact topics to be studied in the following class in each class.)

準備学習等（事前・事後学習）／Preparation and assignments

PREPARATION FOR EACH CLASS IS ESSENTIAL. Students are expected to study the assigned materials and look up all new vocabulary in a dictionary before class. In addition, students are expected to do all other homework assignments, e.g., Internet research questions.

Students are also expected to draft several contracts in English.

履修上の注意／Special notes, cautions

*** CLASSES WILL BE CONDUCTED IN ENGLISH USING A CLASS-PARTICIPATION METHOD. ***

*** THE COURSE IS RECOMMENDED ONLY FOR THOSE STUDENTS WHO HAVE EXCELLENT ENGLISH-LANGUAGE SKILLS AND WHO ARE WILLING TO STUDY VERY HARD. ***

*** THIS COURSE REQUIRES A LOT OF WRITTEN WORK. ***

Because this class emphasizes class participation, ATTENDANCE IS ESSENTIAL AND REQUIRED.

Fourth-year students may be excused from a limited number of classes during the job-hunting period; however, all students who are excused from class for that or any other valid reason are required to obtain copies of any distributed materials and to learn the topic(s) we have studied in class on their own.

授業の到達目標／Expected outcome

Provided that a student studies very hard, i.e., prepares for and regularly attends and actively participates in the classes and does assignments, the student should be able to gain knowledge about English-language contracts and contract drafting and improve English skills as well as gain other skills such as those mentioned below.

身に付く力／Special abilities to be attained

Provided that a student studies very hard, i.e., prepares for and regularly attends and actively participates in the classes and does assignments, the student should be able to acquire or improve skills including, but not limited to, ability to understand and draft contracts in English, logical thinking and analysis, issue recognition, practical and creative thinking and decision making, comparative thinking and analysis, discipline, ability to work diligently and independently, ability to communicate ideas to others, English language ability (such as reading and listening comprehension, speaking and writing skills and increased vocabulary), ability to do Internet research in English and ability to use tools for lifelong learning.

評価方法／Evaluation

Students will be graded based on an examination (50%); contract-drafting projects (25%); class participation, preparation, effort and attitude (20%); and attendance (5%).

教材／Text and materials

There is no textbook for this class. Various materials written in English will be distributed in class. The materials will be provided to the students in advance so they can prepare for each class.

APPENDIX 3 — STUDENT QUESTIONNAIRE

CLASS _____ DATE _____

QUESTIONNAIRE

1. What did you like about the class?
2. What did you dislike about the class?
3. What subjects that we did not study would you have liked to have studied?
4. What subjects that we studied did you dislike studying?
5. Please comment on the class-participation teaching method.
6. What changes would you make to the class to improve it for the future?
7. Please write any other comments you have about the class.

PLEASE FEEL FREE TO ATTACH EXTRA SHEETS OF PAPER IF NECESSARY.

**PLEASE HAND DELIVER THIS PAPER TO MS. KANDELL,
SLIP IT UNDER MS. KANDELL'S OFFICE DOOR IN AN
ENVELOPE,**

OR

E-MAIL YOUR ANSWERS TO: <e-mail address>.

THANK YOU.

<Note—the Questionnaire length has been condensed for this article; it is actually 2 pages with spaces under the questions for the students to write their answers.>