

# TOKYO LETTER

## A Lawyer by Any Other Name...

Several authors have described the apparent wide discrepancy between the number of lawyers in Japan and various western nations. For instance, Professor H. Tanaka of Tokyo University indicates that population per lawyer in the U.S. is about 14 times what it is in Japan. According to Judge T. Hattori of the Tokyo District Court, the ratio is about 10 to 1. Professor D.F. Henderson of the University of Washington in his study of foreign investment in Japan quotes similar figures.

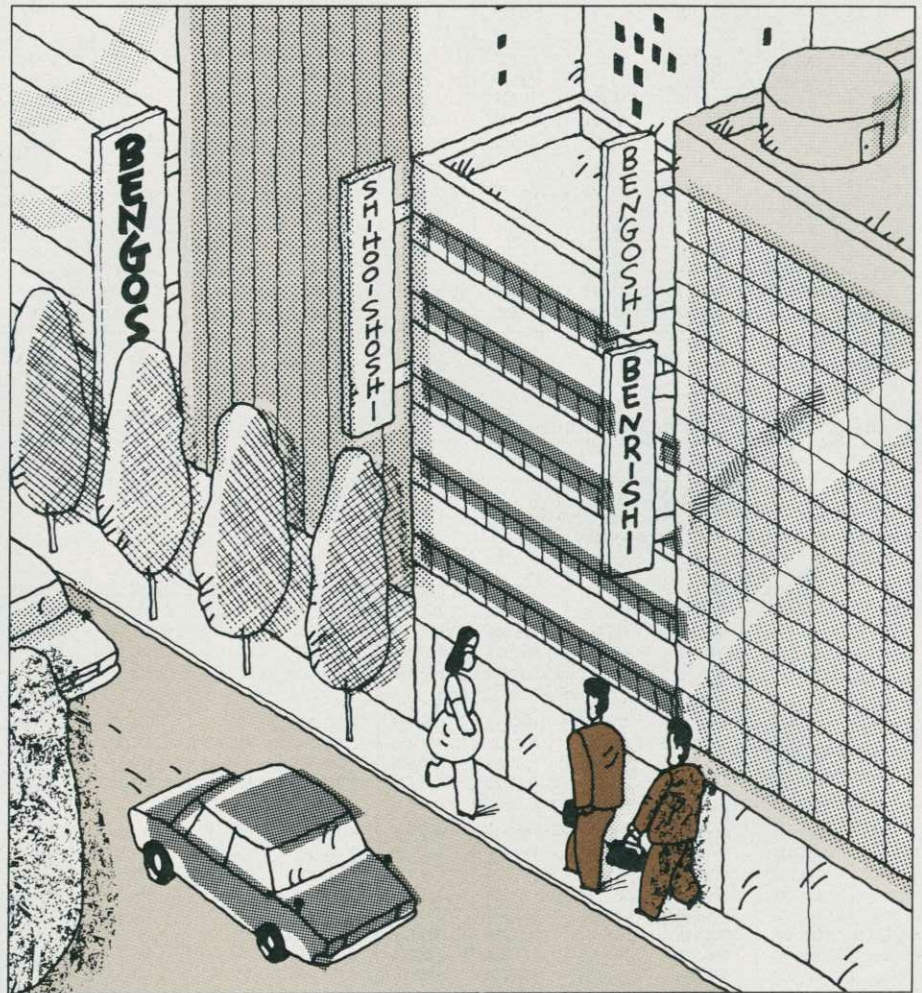
These authors arrive at such wide discrepancies by taking an English word, "attorney," and finding the Japanese translation for it, "bengoshi," without looking at the actual usage of the terms. The danger with such an approach is that while a word such as "bengoshi" may be translated in a certain way, this does not necessarily mean that all the people in Japan who are called "bengoshi" would in the United States or some other Western nation be called an "attorney," or *vice versa*. One term may be more encompassing than the other.

This is precisely the problem with translating the word "bengoshi" as "attorney." Many of the functions which are performed by attorneys, for instance in the United States, are performed by people in Japan who are not *bengoshi*. Therefore, to compare the all-encompassing word "attorney" with the much more limited word "bengoshi" is very misleading.

To arrive at a proper analysis of the role of the legal profession in Japan, one must compare all those in Japan performing the type of work performed by lawyers in Western nations, such as the United States.

The first such group which must be included are judges and prosecutors. Even though these two groups are attorneys in Japan and most other Western nations, some writers (when discussing the legal professions of the two nations) compare U.S. attorneys (including judges and prosecutors) only with practicing attorneys in Japan (which excludes prosecutors, or procurators as they are called in Japan, and judges). Therefore, in Chart 1, we include the figures for judges (2,700) and procurators (1,173) in the total for members of the legal profession in Japan.

The next group (which we can identify



as including persons who are doing legal work in Japan) are the employees of Japanese corporations who work in legal divisions (*Hoomubu*), contract divisions (*Keiyakubu*) or documents divisions (*Bunshobu*). As one scholar has noted, "Such people play an enormously important role in Japan and tend to be neglected in discussions of the role of law and the lawyer in Japan."

Such persons are usually legally trained in a university law faculty, but since they were not admitted to the Legal Research and Training Institute, the sole Japanese law school, they work for corporations advising on legal matters. (Some confirmation that the Legal Institute is in fact not really a law school, can be found in the education one receives at the Institute, which is more devoted to courtroom techniques and practical experience than it is to legal education. One is already expected to have received such education before entering the Legal Institute.) Thus,

calling only graduates of the Legal Institute "attorneys" can be very misleading.

A further indication that corporate legal department employees could be included in the total for the Japanese legal profession is the fact that U.S. law schools will admit them into their L.L.M. programs, to which only citizens who have graduated from a law school can be admitted.

Therefore, in Chart 1, we have included the 1980 figures for in-house counsel (1,320) in the total for the number of people in the legal profession in Japan. However, this number is a very low figure based on a survey of the 350 largest corporations in Japan. It is likely that the figure for all corporations and for all individuals employed by them who devote a substantial part of their time to legal work is much greater.

Besides these in-house legal specialists, there are other groups "who perform tasks left in the United States predominantly to lawyers."



# TOKYO LETTER

First, there are the judicial scriveners or *shihoo-shoshi*. These individuals draft documents to be filed in courts, public procurator offices, or Ministry of Justice offices and arrange for the transfer of title to land for clients. While drafting such documents, the *shihoo-shoshi* often give legal advice. Both types of work (drafting and title transfer) are commonly done in the West by attorneys. The total for the legal profession in Japan, therefore, is adjusted in Chart 1 to include the 14,572 scriveners.

Another type of scrivener who should be included is the administrative scrivener, *gyoosei shoshi*. These individuals draft all documents which are presented to the government, other than those prepared by attorneys or judicial scriveners. Again, this is work that is done in the U.S. by attorneys, and, therefore, we have included in the totals for Chart 1 the 30,121 administrative scriveners.

Next are the *benrishi*, or patent attorneys. As one writer noted, "Rather like the situation in the U.S., patent work in Japan is done by separate specialists. However, unlike our practice, these specialists are ordinarily not lawyers but members of a separate profession called patent agents."

Support for including the *benrishi* in our totals lies in the fact that they are authorized to handle litigation involving patents. Therefore, the total of Chart 1

also includes the 2,600 *benrishi* of Japan.

The next group are the tax attorneys or *zeirishi*. Their function is to "...give advice, legal or otherwise, on matters concerning taxes, to draft papers to be filed in tax offices and to represent other persons in the complaint process within the Tax Office." These individuals are not accountants, since accountants are a separate profession. Therefore, because of their advising and drafting roles which are similar to the work done in most Western nations by lawyers, they (40,860) have been included in the total for Chart 1.

Looking at Chart 1 we see that the total number of individuals in Japan who are performing legal work comparable to the work done in the U.S. by attorneys is not 14,000 but over 100,000.

On the basis of the most recent data for population per attorney, as shown in Chart 2, we see that Japan has 1,119 people per attorney, a number which is twice as large as the figure of 505 people per attorney in the U.S., but is very close to the figure for the United Kingdom. However, it is much smaller than the figure for either West Germany or France.

Thus we see that Japan in fact does not have as small a legal profession as has been commonly believed, if you include all people who are performing legal work and are not misled by the word "*bengo-shi*" or "attorney." The two words are similar, but have a significant difference.

"*Bengoshi*" is a much more limited word, and yet previous writers have used the words interchangeably.

**Chart 1: Persons Doing Legal Work in Japan (1982)**

Judges	2,700
Public Procurators	1,173
Practicing Attorneys	12,233
Company Employees doing legal work	1,320
Judicial Scriveners ( <i>Shihoo-Shoshi</i> )	14,572
Administrative Scriveners ( <i>Gyoosei-Shoshi</i> )	30,121
Patent Attorneys ( <i>Benrishi</i> )	2,600
Tax Attorneys ( <i>Zeirishi</i> )	40,860
Total Persons doing legal work	105,579
Population of Japan (December 1981)	118,107,000
Population per person doing legal work	1,119

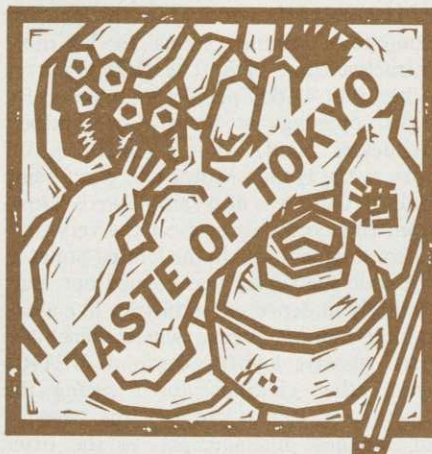
**Chart 2: Comparison of Population per Person Doing Legal Work in Several Countries**

	Population per Legal Person
France (1965)	4,026
W. Germany (1971)	1,561
Japan (1982)	1,119
United Kingdom (1971)	1,023
United States (1978)	505

## Taste of Tokyo-on Tour

When I visited Paris recently for the first time in two years, I was taken to La Tour d'Argent. Because I had always dreamed of enjoying a meal to my heart's content at La Tour, one of the oldest restaurants in Paris (established in 1582), I sat down at the table with my heart pulsating with expectation. However, the creamed duck and *foie gras* wrapped in truffle for which the restaurant is renowned failed to come up to my expectation. It was a great disappointment and all the more regrettable because the perfect atmosphere and service did not betray its three-star rating in the Michelin Guide.

For lunch on the same day, I had Peking duck in a Chinese restaurant. This was far more delicious to me than La Tour's famous duck. This dining experience in Paris impressed on me the fact that while



*nouvelle cuisine* is shaking the foundation of traditional French cuisine, Chinese cooking, the grand champion of the East, is maintaining its tradition with pride and confidence wherever it is served in the world.

The foods whose taste impressed me most during my two-week tour of the United States and Europe were the tuna *sashimi* (sliced raw fish) served at the Japanese restaurant Kitcho in New York and the potato served with the veal stroganoff at the mountain-top Zurich restaurant Sonnenberg overlooking the lake.

I was surprised to see an unexpectedly large number of Americans eating *sushi* (rice-ball topped with raw fish) in a Japanese restaurant in a Washington, D.C. suburb. I returned to Tokyo with the impression that foreign cuisine offered by restaurants in Tokyo is of an internationally high standard.

With the confidence thus gained, I shall resume in the next issue introducing restaurants in Tokyo that will satisfy visitors from abroad not only in atmosphere and service but also in taste and price.

(Yoshimichi Hori)