

**(DO NOT CITE WITHOUT WRITTEN CONSENT OF THE AUTHOR)**

**JUDICIAL REFORM IN JAPAN:  
JAPAN'S LAST STRUCTURAL REFORM PROJECT IN THE "LOST DECADE"**

**A THESIS**

**SUBMITTED TO THE**

**STANFORD PROGRAM IN INTERNATIONAL LEGAL STUDIES**

**AT THE STANFORD LAW SCHOOL,**

**STANFORD UNIVERSITY**

**IN PARTIAL FULFILLMENT OF THE REQUIREMENTS**

**FOR THE DEGREE OF**

**MASTER OF THE SCIENCE OF LAW**

**By**

**Kaori Daimon**

**May 2004**

**REGISTRAR'S OFFICE**

**MAY 03 2004**

**STANFORD LAW SCHOOL**

## ABSTRACT

Japan commenced the most comprehensive overhaul of the post-war judicial system in the 1990s. It would triplicate the number of legal professionals, adopt a jury-like “citizen judge” system in the criminal justice system, establish graduate law schools, and more. In this paper I examine the causes for the commencement of the judicial reform movement and its creation of the revolutionary reform plan in the 1990s. I argue that this reform was commenced by the LDP (a ruling political party) and the bureaucrats in Japan as one of the components of structural reform in the 1990s, and that Japan’s structural reform in the 1990s is the result of the political symbolism for the LDP and the bureaucrats to restore their legitimacy which had declined after their scandals and long-term economic stagnation. I also assert that the existence of interest groups (especially business federations), weak political power of the legal professionals, and the government’s use of an advisory council all contributed to the commencement of judicial reform and to the creation of the revolutionary reform agenda in the 1990s.

I support my argument with the literature on international judicial reform and on Japanese political economy, with the examination of the minutes of the Judicial Reform Council and the opinions of interest groups, and with the interviews with three Secretariat officers of the Judicial Reform Council.

## TABLE OF CONTENTS

<b>CHAPTER 1: INTRODUCTION.....</b>	<b>4</b>
<b>CHAPTER 2: THE INTERNATIONAL TREND OF JUDICIAL REFORM .....</b>	<b>10</b>
<i>a. The Judicial Reform Movement in Developing Countries.....</i>	<i>10</i>
<i>b. The Judicial Reform Movement in Developed Countries.....</i>	<i>12</i>
<i>c. The Case of Japan – Radical Change as a “Developed” Country.....</i>	<i>14</i>
<i>d. The Political Economy of the Judicial Reform Process - the Basic Theory of the Institutional Reform and the General Pattern of the Judicial Reform Process .....</i>	<i>19</i>
<b>CHAPTER 3: ESTABLISHMENT OF THE JAPANESE JUDICIAL SYSTEM AND PAST FAILURE TO REFORM .....</b>	<b>24</b>
<i>a. Phase 1: Establishment of the Japanese Judicial System: 1890-1950.....</i>	<i>24</i>
<i>b. Phase 2: Postwar Conflict among the Legal Professionals and the Resolution of the Diet: 1960-1980 .....</i>	<i>26</i>
<i>c. Phase 3: The Three Legal Organizations’ Battle over the Increase in the Number of Successful Candidates to the Bar Examination: 1980-1999 .....</i>	<i>29</i>
<i>d. Summary.....</i>	<i>34</i>
<b>CHAPTER 4: THE PRESENT JUDICIAL REFORM PROJECT .....</b>	<b>37</b>
<i>a. Administrative Reform and the Pressure to Deregulate the Legal Service Market: 1994-1998.....</i>	<i>38</i>
<i>b. Economic Organizations and the Political Party’s Support: 1994-2000 .....</i>	<i>41</i>
<i>c. The Establishment of the Judicial Reform Council: 1999 .....</i>	<i>45</i>
<i>d. The Advisory Council – A Smoke Screen or a Substantial Advisory Panel? .....</i>	<i>49</i>
<i>e. The Deliberation at the Judicial Reform Council: 1999 - 2001 .....</i>	<i>52</i>
<b>CHAPTER 5: THE POLITICAL ECONOMY OF JAPANESE JUDICIAL REFORM.....</b>	<b>68</b>
<i>a. The Legislative and Executive Branches’ Motives to Restore Their Legitimacies .....</i>	<i>69</i>
<i>b. The Existence of Interest Groups to Support the Reform – Organized Business, Quasi-Lawyers, Legal Academics, and Foreign Countries.....</i>	<i>87</i>
<i>c. The Legal Professionals’ Weak Political Power, Ideological Conflict, and Long-Term Failure to Reform.....</i>	<i>101</i>
<i>d. Clever Structure of the Judicial Reform Council.....</i>	<i>108</i>
<b>CHAPTER 6: CONCLUSION .....</b>	<b>116</b>