



## *The Education of International Arbitration at Japanese Universities*

*James Claxton\**

International arbitration is a primary method for resolving disputes in international commerce. For those who want to practice in the area or understand it better, there are a growing number of opportunities to study the subject at Japanese universities.<sup>1</sup>

This article examines the formal education of international arbitration in Japan. It surveys courses and programs, assesses the benefits of formal study, compares the education of international arbitration in Japan with its education abroad, and predicts how the education of international arbitration might develop in Japan in the years to come. I refer to courses and programs at my home university, Kobe University, to provide concrete examples throughout the article.

### ***1. Undergraduate Education of International Arbitration***

Few Japanese universities offer courses in international arbitration meant for undergraduates.<sup>2</sup> Perhaps this is unsurprising given its international and specialist nature. Japanese undergraduate students may nevertheless gain some exposure to the subject in general courses in international business, civil procedure, private international law, and alternative dispute resolution. These may include one or two lectures on arbitration, though the focus is likely to be domestic rather than international in most of the courses.

The best opportunity for Japanese undergraduates to learn about international arbitration is by participating in international moot competitions.<sup>3</sup> The annual Willem C. Vis International Commercial Arbitration

Moot is a prominent example. Japanese universities that regularly prepare teams for this competition include Doshisha University, Hitotsubashi University, Hokkaido University, Kobe University, Kyoto University, Kyoto Sangyo University, Nagoya University, and Waseda University.

Students competing in the Vis moot are expected to understand the principles and practice of international commercial arbitration. Japanese universities offer varying degrees of support to assist them in their preparations. Kobe University, for example, organizes a seminar for participating undergraduate and graduate students that covers arbitration concepts and provides guidance on legal research, legal drafting, and oral pleading. The university also invites arbitration specialists to Kobe to give lectures on arbitration to the participants and provide them with feedback about their preparations.

### ***2. Postgraduate Education of International Arbitration***

There are more opportunities for students in Japan to study international arbitration at the graduate level. A number of Japanese universities offer degree programs that include international dispute resolution coursework. Hitotsubashi University, Kio University, Kyushu University, Kobe University and Nagoya University offer master's degrees with an international arbitration component. Waseda University will begin a program next spring. Other universities that offer courses in international arbitration include Hokkaido University, Sophia University, and Temple University.

\* Professor of Law, Kobe University.

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<sup>2</sup> This is also true outside of Japan. As a counter example, Kobe University offers a course in legal English for undergraduates that proceeds as a course in international commercial arbitration.

<sup>3</sup> For an article on the experience of Japanese students in international moot competitions, see Prof. Akira Saito, "Catch the Global Headwinds: Japanese Students Encounter the International Arbitration Moot," JCAA Newsletter, No. 36 (November 2016).

Courses at Japanese universities commonly focus on practical aspects of international commercial arbitration. They may be taught by university staff or attorneys practicing international arbitration. In many cases, the instruction is given in English. The lectures tend to be given by practicing attorneys at universities in Tokyo.

Kobe University offers coursework in international dispute resolution as part of a master's program in law taught in English. This includes a survey course in international arbitration as well as courses in international arbitration practice, international arbitration theory, international investment arbitration, and international commercial mediation. The courses are taught by both university staff and visiting lecturers from abroad. The visiting lecturers, comprising academics and lawyers, tend to give courses in intensive one-week sessions.

Where Japanese universities do not offer graduate courses in international arbitration, the options for graduate students are largely the same as for undergraduates. Students can participate in international moot competitions or gain some understanding of international arbitration in courses in related disciplines.

### 3. Extracurricular Education

Some Japanese universities offer extracurricular opportunities for students interested in international arbitration. Options may include seminars, moot competitions, conferences, and study groups.

Kobe University, for example, offers lectures and trainings in international arbitration throughout the year. In the fall, the law faculty hosts a workshop on the administration of international disputes. This event brings together leaders of arbitral and judicial institutions from across Asia for two days of presentations and panel discussions.<sup>4</sup> In the summer, the law faculty organizes a weeklong school of international business and dispute resolution that includes various lectures on international arbitration and an arbitration moot.<sup>5</sup> Participants include students, academics, attorneys, and business leaders.<sup>6</sup>

## 4. Benefits of Study in Japan

Perspective students with interest in international arbitration have many options for study. There are master's programs, arbitration academies, online courses, and various free educational resources. For those who decide to pursue formal study, Japanese universities may offer advantages over universities abroad.

### 4.1. Cost

The cost of legal education, particularly in the United States and United Kingdom, may be a barrier to candidates wanting to undertake graduate studies. Tuition and fees at many Japanese universities is more affordable, and students may find it easier to secure financial assistance to support their studies.

### 4.2. Convenience

Japanese applicants, in particular, may have professional and personal commitments in Japan. This may make it difficult to spend the one or two years outside the country to complete graduate studies. Domestic programs may be more suitable in these circumstances.

Study in Japan might also be of heightened interest to candidates from East Asia. Japanese universities are well regarded in the region, and Japan might seem a closer, appealing alternative to studies far from home.

Graduate programs in Europe and the United States in international dispute resolution consistently have high enrollment of students from Asian countries. At Queen Mary in London, for example, one-third of the incoming students in the graduate program in international arbitration and dispute resolution tend to come from Asia. If domestic graduate programs in international arbitration were better defined and publicized, some candidates might prefer to study in Japan.

### 4.3. Employment in Japan

Students who intend to work in Japan after their studies may benefit from studying in Japan. As a practical matter, the proximity to potential employers facilitates

<sup>4</sup> At the event in 2016, participating institutions included the China International Economic and Trade Arbitration Commission, the Hong Kong International Arbitration Centre, the International Chamber of Commerce, the Japan Commercial Arbitration Association, the Kuala Lumpur Regional Centre for Arbitration, the Singapore International Arbitration Centre, and the Singapore International Commercial Court.

<sup>5</sup> In 2017, the following lectures on international dispute resolution were given: "Competitive Negotiation and Interest-Based Negotiation," "A Roadmap for Up-and-Coming Arbitral Institutions," "Mediation of International Investment Disputes," "Online Dispute Resolution," "Effective Dispute Resolution Strategies: Business and Legal Considerations," "Recent Developments in International Arbitration in Korea," "Investment Protection and Political Risk Insurance," "The Rise of International Arbitration in Asia," "Sports Law: Disputes and Arbitration," "Cross-Cultural Perspectives on Effective Advocacy in International Arbitration," "Comparative Arbitration Procedure," "International Dispute Resolution and India," and "Latest Innovations in Dispute Resolution in Singapore."

<sup>6</sup> In 2017, speakers on international dispute resolution included Prof. Yun Zhao of the University of Hong Kong, Prof. Fernando Dias Simões of the University of Macau, Mr. Christopher Tahbaz of Debevoise & Plimpton LLP (New York), Prof. Hi-Taek Shin of Seoul National University, Dr. Rishab Gupta of Shardul Amarchand Mangaldas & Co (Mumbai), Mr. Matthew Secomb of White & Case LLP (Singapore), Prof. Jady Zaidi Hashim of the National University of Malaysia, and Mr. Paul Tan of Rajah & Tann LLP (Singapore) in addition to Kobe University staff.

networking, meetings, and interviews. Students might also be able to arrange part-time work or internships with local businesses and law firms to complement their studies. In some instances, the lecturers of the international arbitration courses may themselves be arbitration practitioners with an interest in hiring or promoting promising students.

Japanese employers might also prefer hiring candidates with degrees from leading Japanese universities. For candidates who have not spent considerable time in Japan but who want to work in the country, a graduate degree from a Japanese university might reassure employers of the seriousness of their commitment to work and live in Japan.

#### 4.4. Employment abroad

Studying international arbitration in Japan might also open the doors to employment abroad. Some Japanese universities offer staff and resources to assist students to find jobs overseas. Students may otherwise look to foreign contacts that they make during their studies, including lecturers and classmates, to help them pursue foreign opportunities.

Kobe University requires each student in the global master's program to complete an internship in order to graduate. The students are encouraged to do their internships abroad. The law faculty maintains relationships with foreign law firms and arbitral institutions for this purpose. Through this network, students have secured employment and paid internships in law firms overseas and in foreign international arbitration institutions.

#### 4.5. Expertise

Students may feel more confident beginning or continuing their careers in international arbitration with the benefit of formal study. While some skills can be learned on the job, there are practical barriers that can hinder professional growth. In Japan, there are few law firms with active international arbitration practices. Among them, only a small number offer training in international arbitration to junior attorneys. Others may not have a sufficient number or variety of cases to enable junior attorneys to develop diverse skills as arbitration counsel.

Most of the courses in international arbitration

offered by Japanese universities aim to provide students with a comprehensive overview of its practice. In the "international commercial arbitration practice" course at Kobe University, for example, students act as counsel in a simulated dispute. They advise clients, draft memorials, draft witness statements, make document requests, examine witnesses, and plead at a hearing. Practicing lawyers, arbitrators, and valuation experts give lectures to support the course.

#### 4.6. English language

As international arbitrations are frequently conducted in English, it follows that international arbitration courses in Japan are commonly taught in English. This enables students who are not native speakers to improve their spoken and written expression in English as well as increase their legal vocabulary.

At Kobe University, most of the international arbitration courses are taught in English by native speakers. Courses tend to comprise class discussions, case studies, and experiential exercises. Students are expected to express their opinions and answer questions without advanced preparation. This interactive format provides tremendous opportunity for improvement in English. To further assist the students, the law faculty employs a former solicitor who teaches legal English courses and offers informal language assistance.

#### 4.7. Japanese law and language

Prospective students in international arbitration who are interested in Japanese culture or the Japanese legal system are natural candidates for study in Japan. They can benefit from law courses in Japanese, easy access legal materials in Japanese, and opportunities for further language study. Students in the global master's program at Kobe University, for example, can take some courses in Japanese for credit and audit others. The university also provides Japanese language training.

### 5. Alternatives to Study in Japan

The present interest in the education of international arbitration in Japan is part of a broader global trend. Graduate programs in international arbitration and international dispute resolution are available around the world, particularly in Europe and the United States.<sup>7</sup> This gives students a variety of options with differing advantages and drawbacks.

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<sup>7</sup> Master's programs with an international arbitration component are offered, for example, at Columbia Law School; Harvard Law School; London School of Economics; New York University; Stockholm University; Université Paris 2, Panthéon-Assas; Queen Mary, University of London; and the University of Geneva. Graduate programs in international dispute resolution in Asia are offered by such universities as the National University of Singapore, Hong Kong University, and Tsinghua University.

For prospective students from Japan, there are good reasons to consider studying abroad. The experience may improve a student's ability in a foreign language, give them insight into a foreign business culture, and expand their network of international contacts. Foreign study may also give students greater credibility when they apply for international jobs or when they work with international clients.

Studying abroad may have other professional benefits. After completing a master's degree in law in the United States, for example, students may be eligible to qualify as attorney in some states including New York. This may increase the scope of their legal practice. It may also make them more attractive to employers both in Japan and overseas.

It is difficult to generalize about the advantages of studying outside of Japan given the disparate motivations and profiles of potential students. All things considered, study in Japan may be most appropriate for those who have personal or professional connections to Japan, those who intend to work in Japan, and those who plan to work with Japanese companies.

## 6. Future Developments

The proliferation of master's programs with international arbitration components has been building for nearly a decade. A journalist who surveyed the programs available in 2012 remarked, "specialized master's degrees in international arbitration are multiplying at a dizzying rate."<sup>8</sup> Based on the evolution of such programs over time, it is possible to imagine how the education of international arbitration might progress in Japan in the years to come.

### 6.1. Specialization

While a number of Japanese universities offer international arbitration courses, few have dedicated master's degrees or certificate programs in international arbitration or international dispute resolution. The establishment of dedicated degree programs and certifications may attract more students and resources. It may also open up opportunities for collaboration with other universities, businesses, and law firms.

### 6.2. University exchanges

Exchange programs between universities offer students the possibility of studying at different faculties in different countries. Collaborations are increasingly

common among universities offering graduate studies in international business and dispute resolution. Some offer students the possibility of obtaining double degrees on an accelerated basis.

The National University of Singapore and the University of Geneva (MIDS), for example, offer a dual master's program in international arbitration and dispute resolution. Students who spend two semesters in Singapore and one in Geneva receive LL.M. degrees from both universities. Similarly, an arrangement between the Georgetown University Law Center and Tsinghua Law School enables graduate students studying international arbitration to apply credit earned at one university towards a degree at the other.

Many Japanese universities have exchange programs with foreign law faculties and universities in place. Collaborations in graduate studies in international arbitration would provide students the possibility of a more international and diversified academic experience. It might also make study in Japan more attractive to foreign students.

### 6.3. Private partnerships

Some graduate programs in international arbitration are supported by private law firms and outside institutions. The University of Miami in the United States, for example, offers a master's degree in international arbitration that is supported by the global law firm White & Case LLP. From this platform, the law school has expanded its network of lecturers, added research capacity, and increased funding for student scholarships.

The International Chamber of Commerce, the International Arbitration Institute, and the Chartered Institute of Arbitrators have undertaken similar educational initiatives. They offer trainings and accelerated certification programs to support graduate courses offered by universities. Partnerships of this sort may improve university education and increase opportunities for students.

Kobe University, for its part, has recently collaborated with the Centre for Effective Dispute Resolution ("CEDR") to provide education and training in international commercial mediation. This included both courses for academic credit as well as a mediation-accreditation program that was open to participants outside the university community.

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<sup>8</sup> Sebastian Perry, "Mastering the Trade," *Global Arbitration Review*, 26 November 2012.

#### 6.4. Scholarship

At a number of universities, international arbitration is increasingly regarded as a subject of academic rather than purely practical interest. There are now university research centers dedicated to international arbitration,<sup>9</sup> financial grants earmarked for international arbitration scholarship,<sup>10</sup> and courses that explore the relationship between arbitration and other disciplines including global governance, human rights, and international economic law.

In this connection, Kobe University began offering a Ph.D. degree in international arbitration in 2016. The program is supported by seminars taught in English by professors and a lawyer practicing international arbitration in Tokyo. It aims to give legal professionals a holistic understanding of international arbitration, including theoretical aspects of the subject, and increase graduates' capacity for legal scholarship.

#### 6.5. Progressive instruction

Courses in international arbitration can be improved by integrating outside resources. There is wealth of support available to teachers and students ranging from online trainings to free "massive open online courses" that cover international arbitration concepts.<sup>11</sup> These resources could be used to better effect and might even plan a central role in basic instruction, freeing up classes to explore the material more deeply.

The law faculty at Kobe University uses online resources, technology, and interactive teaching in international arbitration instruction. In a class on arbitral practice, for example, students advise clients and plead before an arbitral tribunal in simulated exercises. These exercises are video recorded, and the professor and students meet individually to review the videos and evaluate student performances. The course also uses training videos published by arbitral institutions to support classroom instruction.

Technology is also being used to make classes more accessible to students and the public. Courses in investment arbitration, commercial arbitration, and international arbitration theory have been taught to postgraduate students from Tokyo and Kobe simultaneously through videoconferencing. Some events, including summer schools lectures, are video recorded and published online with open access to the public.

#### 6.6. Flexible study options

In recent years, graduate programs in international arbitration have become more flexible in order to accommodate a wider range of students. The London School of Economics, for example, offers an Executive LL.M. with instruction in one-week modules. Students can join the programs at any time during the course of the year. Hong Kong University offers part-time study of its master's degree in arbitration and dispute resolution. Classes are offered on weeknights, and the program can be completed in one or two years. Queen Mary offers a diploma in international dispute resolution with all courses taught online.

The trend to make study more flexible has already taken root in Japan and is likely to continue. The Kobe University Ph.D. program in international arbitration, for example, is tailored to working professionals. Courses are taught on weekends, and students can join seminars from either Kobe or Tokyo.

### 7. Conclusion

Interest in international arbitration among students and attorneys in Japan seems to be expanding, and Japanese companies increasingly turn to arbitration to resolve their international disputes. A number of universities in Japan offer courses in international arbitration and international dispute resolution. They may better address the growing demand through strategic collaborations, specialized programs, and flexible instruction that accommodates working students.

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<sup>9</sup> For example, there are research centers focusing on international arbitration at Columbia University, the University of Miami, Queen Mary, McGill, and the London School of Economics.

<sup>10</sup> For example, Georgetown University and the University of Miami offer dedicated scholarships.

<sup>11</sup> The international Chamber of Commerce offers arbitration training online for purchase. Popular online platforms for free courses include edX, Coursera, and Future Learn.